

# CRITICAL ANALYSIS OF THE OTTOMAN CONSTITUTION (1876)

Huseyin Korkut  
Kırklareli University, Turkey

## Abstract

The conceptions of an individual and the nation-state gave birth to modernity and certainly shaped the socio-political systems in European countries. Newly founded European socio-political system gradually influenced social, political and legal structures of countries under the sphere of colonial and imperial influences of great powers. In this regard, such developments coupled with intensive westernization process influenced the Ottoman society, especially during the last decades of the empire. An analysis of the *Ottoman Constitution (Kanun-u Esasî)* (1876) within last few decades of the empire will show such socio-political and legal changes and developments. This paper, within the framework of constitutional acts, attempted to analyze two works that were critical about the *Ottoman Constitution* (1876). It is indicative that these two sources were also addressing western socio-political and legal influences on the Ottoman society. These two works deal with range of modern issues such as freedom, equality and justice by considering their very roots in the Islamic legal traditions. Therefore, this paper will analyze these two works in light of the *Ottoman Constitution* (1876) that preserved in essence the Islamic legal principles.

**Keywords:** *Constitutional Acts; Ottoman Constitution (1876); Socio-Political System; Legal System; Pan-Islamism*

## Introduction

Developments during the Age of Enlightenment and the Age of Revolutions contributed to significant constitutional changes across Europe. On the other hand, the Ottoman Empire was lagging behind these developments and changes. Ottoman classical constitutional models that shaped political, legal, social and economic institutions were entirely based on Islamic Law (*Sharia*) and Custom. According to the archival documents since the foundation of the Ottoman Empire, perhaps with minor Western influence, the Islamic Law and Custom were firmly shaping the Ottoman political, legal, social and economic institutions. Beginning from the 17<sup>th</sup> century, the Ottoman Empire was under the influence of modernity, which contributed to the emergence of new socio-political, economic and legal challenges that the state had to grapple and deal with.

The legislative branch, which is perhaps the most significant one in terms of protection and maintenance of social integrity, had been forced to carry out reforms related to the new balance of “international relations.” These reform initiatives and eventual adoption of the constitutional acts contributed to the development of the institutional legal framework based on the *Ottoman Constitution* (1876) and the formation of the Ottoman National Assembly (*Meclis-i Mebusan*). In this regard, constitutional and democratic changes were not result of internal socio-political changes and transformations but they were imported from abroad, whereby emerging modernists and upper part of social stratum, within the empire, carried out their implementation (Gözübüyük, 1986, pp. 93-94). Furthermore, constitutional and democratic changes were carried out separately by different governors in top-down approach and as such could not be properly integrated

within the traditional society. Then, the pressures by European states on the weakening Ottoman Empire, on the pretext of protecting citizens' rights, significantly contributed to artificial implementation of constitutional and democratic changes. Certainly, the *Tanzimat Edict* and *Reform Edict* are the most evident examples that support the notion of disparity between constitutional and democratic changes and the society. The *Ottoman Constitution* (1876) was also far away from the social need, whereby imported *social contract* from the West utterly failed in the Ottoman Empire.

However, very adoption of the *Ottoman Constitution* (1876) was the birth of a new notion within the Ottoman Empire, called *constitutionalism*. Most of intellectuals of that period were inevitably interested in constitutionalism as new political, social and legal phenomenon worth examining and studying. Both intellectuals and public officials produced early studies and works on this subject. However, this paper aims to analyze two works on the subject of *the Ottoman Constitution* (1876) and various issues related to constitutionalism. Although numerous studies and works on this study were written, selected two works or the treatises in our paper are the most important because of their in-depth analysis of various socio-political and legal issues. Another novelty of this paper is (re)addressing the Islamic principles in the context of *Ottoman Constitution* (1876) and subjects ranging from justice, equality, freedom, political representation to political participation.

### **Constitutional Acts in Late Ottoman Era**

Constitutional Acts determine the scope of rights and freedom of individual and public life. They also define issues and activities related to state's structure of political power and as such provide the quality regulations that have constitutional, administrative, legal, sociological and even economic and military dimensions. Therefore, the term "constitutional acts" includes a range of activities that have a goal to sanction through documents or at least to determine the administrative order of the state, the citizens and their freedom (Gözübüyük, 1986, p. 93). Thus, according to the definition constitutional acts primarily define activities and rights of individual and state, which include both administrative and public laws. In this regard, the *Ottoman Constitution* (1876), in the context of constitutional acts, certainly included these two areas. The following sections of the paper will present and analyze specific constitutional provisions related to both an individual and the state. These include the provisions regarding state and caliphate as a part of administrative law and assessments such as justice, freedom and equality that fall within the scope of public law.

In the second half of the 18<sup>th</sup> century, the Western Europe gradually began introducing the constitutional acts that spread to other parts of the world. Constitutional acts did not only consist of activities related to the structure of power, fundamental rights and freedom, but also had a significant impact on the settlement of ascendancy of law which is the cornerstone of the democratic system that is ideally based on the notion of pluralism (Gözübüyük, 1986, pp. 93-94). As its definition demonstrates the constitutional acts do not only determine rights and freedom in the form of legal demand but also function through legislation in the form of political and even ideological demand.

The above-mentioned specifics of the constitutional acts were clearly illustrated in the *Tanzimat Edict* that has emerged because of multidimensional circumstances in the late Ottoman period. One should understand why the Ottoman Empire faced with a "legislation problem" for a better comprehension of the topic. Answers to this and similar

questions lay in the structure of the Ottoman Empire. Actually, the basis of constitutional acts in the late Ottoman period depended significantly on legal and political processes, which eventually resulted in the adoption of the *Ottoman Constitution* (1876). In the same way, these developments contributed to the deterioration of social harmony by the end of classical period, economic, technical and military retrogression, changing world and changing “international” balance.

According to the work of Akgündüz (1997), some researchers claim that human rights and freedom did not exist before *Tanzimat Edict*, based on the claim that the country was ruled by autocracy. However, state government of Ottoman Empire cannot be called “unconditionally” monarchy, because the sovereignty in absolute monarchy is in the hands of emperor and emperors are not subject to any binding rules (p. 22). These views and similar arguments are grounded on “ideological historiography” and understanding of law that acknowledges Western norms as ‘authority’ in human rights and freedom.

The Ottoman Empire as an Islamic state cannot be easily compared to the Western conception of absolute monarchy, needless to mention the pluralist values of justice, freedom and equality that are integral part of an Islamic state. The Ottoman Empire based its legislation on the Holy Qur’an and the Tradition (*Sunnah*). In addition, the Ottoman Sultan did not have right to intervene in *Shariah* provisions and consequently individual and state rights could not have been violated. Perhaps there were only few instances of violations of *Shariah* provisions. The judicial power was not granted to the Sultan because he was governing the empire in conformity with *Shariah* provisions by unifying all executive powers. Therefore, *Tanzimat Edict* had some deficiencies in execution and ideal implementation of the human rights and freedoms based on the Holy Qur’an and the Tradition of Prophet Muhammad (pbuh) (Akgündüz, 1986, pp. 19-20).

Since the foundation of Ottoman Empire, its administrative and institutional systems were firmly based on the “*Shariah* legislation,” the relationship that has been articulated very little by the modern and contemporary scholarship. Mostly Ottoman administrative and institutional systems were represented as “monarchical” and “theocratic” that greatly depended on the reign inherited from father to son (Arsel, 1975, pp. 6-19). Such misrepresentations of the Ottoman institutional and administrative systems have been often rejected because they only reflect political and legal models applicable on Western monarchies. Therefore, Western “monarchy” and “theocracy” experiences were subjectively applied in judging and explaining the Ottoman administrative and institutional systems. Moreover, it is extremely difficult to explain the sovereignty of “one person” within the Ottoman context by using western models of sovereignty. Considering these predicaments, I strongly argue that the Ottoman administrative and institutional systems should be studied and evaluated as they are; independently from other administrative and institutional models.

In the first period of Ottoman Empire, administrative and institutional systems were designed in conformity with the religion of Islam. Therefore, these institutional and administrative systems, together with their structures, components and the laws, stayed unchanged until the 19<sup>th</sup> century. The organization of the state and its accompanying laws incorporated meaningfully both the religion and custom. However, due to westernization processes, during the last few decades of the Empire, religion and custom were reconsidered as parts of institutional and administrative systems, and thus the constitution. Most probably, the events during the declaration of *Tanzimat Edicts* were irreversible developments from the historical perspective and they reshaped the position

of religion and custom within administrative and institutional systems and within the society. Although such changes started with the declaration of the *Tanzimat Edict* in the 19<sup>th</sup> century same trends had continued throughout the 20<sup>th</sup> century, whereby modern Turkish Republic began to distance law, politics, governance and society from the religion and custom.

Most of historians would agree that the Ottoman Empire began to decline after signing the Treaty of Karlowitz (1699). However, some historians claim that this decline process began even earlier because of Naval Battle of Lepanto (1571). Consequently, the Ottoman military decline negatively affected socio-political, legal, administrative and economics aspects of the state. Accordingly, by the end of the 17<sup>th</sup> century administrative and institutional systems in the Ottoman Empire had shown signs of deficiency. Leading Ottoman intellectuals and state officials prepared several reports that included the recommendations of how to do away with administrative and institutional deficiencies.\* Therefore, Ottoman Sultans, governors and civil society were aware of these deficiencies; however, decline of the empire could not be stopped despite reforms or reform initiatives undertaken because of well-prepared reports by the intellectuals and state officials. It is important to mention that these reports pointed to the problem of juristic regulations that gradually began to exclude *Shariah* provisions. Search for a new “law” was clearly not the case in any way yet.

The flow of “constitutional acts” for two centuries till the adoption of the *Ottoman Constitution* (1876), passed through breakpoints such as *Charter of Alliance (Sened-i İttifak)*, *Tanzimat Edict* and *Reform Edict*. Actually, these developments contributed to the adoption of the *Ottoman Constitution* (1876). Concerning the constitutional acts, it is important to mention that they were changed and reshaped even after the adoption of the constitution in 1876. However, these developments were important because with the adoption of the *Ottoman Constitution* (1876) the notion of modern constitutionalism began to flourish within the state. Modern constitutionalism was very much visible throughout the constitution and its articles (see Kili & Gözübüyük, 1982, pp. 25-42). The *Ottoman Constitution* (1876) as a legislation in modern sense and as a constitutional act, became milestone document for all constitutions of Turkish Republic in years and decades after (Kara, 2013, pp. 20-21).

### **The Ottoman Constitution (1876) within Pan-Islamist Context**

Based on the military reforms, the Ottoman Empire modeled numerous administrative, political, economic and institutional reforms. However, the military reforms by the end of the 17<sup>th</sup> century were perceived as failure because the Ottoman Empire could not achieve desired changes throughout these reforms. Military defeats were also associated with socio-political and economic decline and overall the collapse of the whole system, which were especially visible at the end of the 17<sup>th</sup> century. As mentioned in the above, due to such negative developments some intellectuals and public officials had prepared reports, which contained recommendations and steps of curbing emerging military, administrative, economic and institutional problems of the state. In the course of developing and suggesting remedies, different writers developed approaches and concepts such as: Ottomanism, Turkism, Westernism and Islamism. They became prominent also because

\* See the following studies and works: Kâtip Çelebi, *Mizanü'l Hakk fi İhtiyaru'l Hakk (The balance of truth in the choice of the truest)*; Koçi Bey, *Koçi Bey Pleading*; Sarı Mehmet Pascha, *Nesayihu'l-Vüzerâ Ve'l-Ümerâ (Advices of viziers and statesmen)* and Koca Sekbanbaşı, *Koca Sekbanbaşı Pleading*.

of the declaration of the constitutional monarchy at the end of the 19<sup>th</sup> century and the beginning of the 20<sup>th</sup> century. Although these approaches were favoring constitutionalism as a model for resolving the Ottoman dilemmas, they were differently addressing specific problems and proposing different solutions. Therefore, in order to limit this study, this paper will analyze Islamist approach in defining the declaration of the constitutional monarchy and the *Ottoman Constitution* (1876).

During this period, the Islamist movement was acting within the Ottoman framework. The movement propagated an ideology of development and liberation, pre-nationalism and even pre-Turkism to some degree (Kara, 2001, pp. 18-19). This is because Islamists firstly defended Unity of Ottoman Constituents or Ottomanism (İttihad-ı Anasır), and then Unity of Islam or Islamism (İttihad-ı İslam) (see detailed discussion in Kara, 2001, pp. 18-19; Ülken, 1966, p. 13 and Tunaya, 1962, pp. 7-8). Islamists who argued that *Shariah* sources should be applied again welcomed the declaration of constitutional monarchy and stated that the *Ottoman Constitution* (1876) was the right course of the state (Kara, 2001, p. 41).

Islamists believed that the constitutional monarchy, which is according to them politically in accordance with the principles of Islam, should function along the principles of Islam. Accordingly, they held belief that the decline of Ottoman Empire could only be stopped if the principles of Islam are meaningfully incorporated into the constitutional monarchy (Okandan, 1959, p. 451). They also argued that if the situation does not change despite the constitutional monarchy defined within the principles of Islam, this constitutional model must be replaced. Instead, new constitutional government should search for an alternative as to meet the needs of people and requirements of Islamic principles. New model should aim towards the unity of religion and state, superiority of human rights and freedom, national consensus, qualified governors and avoidance of cruelty and pressure (Kara, 2001, pp. 39-40).

Islamists were favorable of constitutional monarchy and the *Ottoman Constitution* (1876) with belief that both were already defined by the Islamic principles that were in the course of the implementation corrupted. The main reason why Islamists held positive views the *Ottoman Constitution* (1876) was based on the assumption that the *Shariah* law and fundamental rights such as freedom, equality and justice were not violated (Gencer, 2013, pp. 81-82). However, there were other Islamists too who openly expressed deep concerns about linking the constitutional monarchy and the Islamic principles. For instance, Said Halim Pasha in his works examined intellectuals and public officials who expressed deep concerns about the *Ottoman Constitution* (1876) (pp. 50-55). Actually, Halim Pasha was one of the most famous Islamists who represented an Islamic and public interests with a sense of deep analysis, assessments and self-criticism. In the book *Our Crises*, he claimed that key public officials through the adoption of the *Ottoman Constitution* (1876) primarily aimed at limiting the powers of sultan by using the constitutional mechanisms as to balance his domination and power. Besides, Halim Pasha argued that the main reason that hinders the development of the country is unlimited power in the hands of personal and arbitrary state administration. Supporters of government reforms thought that people were neglected as constituent part of the system of governance. The people must become a part of governance so that the system can be either be changed or improved. According to Halim Pasha, reformists were convinced that due to weakness of the nation the Ottoman Constitution (1876) should grant them the rights and freedom on behalf of the people (Kara, 2001, p. 39).

The adoption of the *Ottoman Constitution* (1876) was not the product of social

change. On the contrary, there were significant influences from the Western countries on the Ottoman Empire and its administration, coupled with direct diplomatic pressure on Ottoman politics, law, economics and culture. In addition, due to modernization process, there were targeted demands of intellectuals inside and outside the country who were asking for change. Overall, a combination of these and similar factors contributed to the adoption of the *Ottoman Constitution* (1876), which significantly neglected the grassroots and the social dements of the nation. Discussions carried out within the framework of the *Ottoman Constitution* (1876) that was not firmly rooted in the Ottoman society failed to produce genuine reforms. Therefore, the *Ottoman Constitution* (1876) could not put forward a permanent solution, since many other factors had been neglected.

In the following sections of the paper, we will argue why the Islamist intellectual studies on constitution, politics and law during this period were considered as the most critical. Since other views and studies are not the subject of this study, we have meaningfully selected the texts written by leading Islamists on the *Ottoman Constitution* (1876). Proper analysis of these two studies will eventually provide us with clear ideas about constitution and law within socio-political context. Indeed it is interesting to find out how the thinkers of that period were addressing various problems and how they were finding the solutions. For this purpose we will analyze the following studies: Dergüzinizâde, *Political Shariah Commentary of Ottoman Constitution of 1876*” and Kolçalı Abdulaziz, *Quran Karim and Ottoman Constitution of 1876*.

### ***Political Shariah Commentary of Ottoman Constitution of 1876***

The work *Political Shariah Commentary of Ottoman Constitution of 1876* was written by Hasan Rıza b. Muhammed Derviş (Dergüzinizâde) and was published in Istanbul by Matba-i Amire in 1910. This work consists of 40 pages, with in-depth analysis and inclusion of key concepts and terms. The first five articles of the *Ottoman Constitution* (1876) are annotated. As the title suggests, the work compares *Shariah* norms with the *Ottoman Constitution* (1876). Actually, the work argued that the *Ottoman Constitution* (1876) is firmly grounded in the Ottoman legal system and the Islamic law. The author’s arguments are occasionally supported by the Qur’anic verses and the Tradition. It is important to indicate that authors of these works on the *Ottoman Constitution* (1876) were using critical approaches because they were discussing both *Shariah* and different studies. This approach was new because they discussed the *Ottoman Constitution* (1876) in the context of the Islamic principles. Actually, constitutional and legal forms of the Ottoman Empire were considered as an indivisible whole from which no part can ever be detached for any motive whatever. On one hand, this approach was similar to traditional approach of using the Qur’anic principles by theologians, traditionalists and jurists who were considering the Islamic sources as a whole. On the other hand, there were instances of partial and selective interpretation of the constitution far away from the social need and common legal principles. Two concepts called unity (*vahdet*) and unity of law (*kanun-i vahdet*) are mentioned in the introductory parts of this work on the Ottoman Constitution (1876). The conception of unity (*vahdet*) is essential in the Holy Qur’an whereas unity of law (*kanun-i vahdet*), although closely linked to the concept of unity (*vahdet*), is the fundamental for regulating this-worldly social, political, economic, legal matters. Therefore, analyzed work indicated that the unity of law already includes religious dimension and as such defines clearly the ethics and morality within the state.

In introductory part named “*tezkiye*,” Dergüzinizâde broadly reviewed the *Ottoman*

*Constitution* (1876) by arguing that this was not new legal document arrangement but on the contrary the principals of this constitution already existed within the Ottoman legal system, being not properly understood and implemented. Dergüzinizâde argued that the Ottoman constitution based on the Islamic principles had always been the part of the state. He argued that the Holy Qur'an was the constitution by stating: "It is a constitution that is sent by Allah, unchangeable by any human being; without the need for any change; telling the justice; bringing happiness into this world, real and eternal life." He claimed that concepts of justice, freedom and equality are indeed presented in distorted way but with the adoption of the *Ottoman Constitution* (1876) their original meanings were restored. After the introduction to the Ottoman Constitution (1876) the work deals with the following articles:

First Article: "The Ottoman Empire comprises the actual countries and possessions and privileged provinces. It forms an indivisible whole from which no part can ever be detached for any motive whatever."

In the annotation of first article, the author mentioned and explained the following: provinces, state and definition of the state, government, government by constitutional monarchy and law guardianship.

*Second Article: "Istanbul is the capital of the Ottoman Empire. This city does not possess to the exclusion of other cities of the Empire any privilege or immunity peculiar to itself."*

The annotation of second article features the possessed by Istanbul which is the capital city unlike other cities of the Ottoman Empire. The author also mentioned constitutional changes concerning the status of Istanbul. However, the author articulated the view that the difference between capital city Istanbul and other cities has been minimized within the constitution. The rights and privileges of "Muslims" and "Non-Muslims" together with the question of state decentralization are also analyzed by the author.

Third article: "The Ottoman sovereignty which is united in the person of the sovereign of the supreme Caliphate of Islam belongs to the eldest of the princes of the dynasty of Osman conformably to the rules established ab antique."

Author's annotation of third article analyzed the following topics: the purpose of Islam, Caliphate, Chief Imam, (Head of the State), obligation to nominate Imam, methods to elect Imam, allegiance, law regarding allegiance, qualifications needed to be eligible for Imam, the differences among the concepts of "sovereignty", "imamate" and "caliphate" and how caliphate and sovereignty are inherited. It is remarkable how the author explained by giving numerous examples from the Holy Qur'an and Hadith how this article of *Ottoman Constitution* (1876) is coherent with Shariah, Holy Qur'an and Hadith.

Fourth Article: "His majesty the Sultan is by the title of Caliph the protector of the Muslim religion. He is the sovereign and the Padişah of all Ottomans."

In the annotation of the fourth article, it is mentioned that finding real freedom by serving Allah is possible. Muslims as individuals and collectively as the society are all legally responsible of the veneration of Allah and Caliph. Dergüzinizâde was also discussing the issues of war in Islam by mentioning greater war (*jihad-i akbar*) and smaller war (*jihad-i asgar*) together with different responsibilities upon them by the common people, intellectuals and public officials. Dergüzinizâde reminds that two-dimensional 'joint struggle' is indispensable and calls both Muslims and their representatives to fulfill their responsibilities they have undertaken principally. Everybody who has responsibility and power within the Muslim community (family, military, government) is in joint and

legitimate struggle. One dimension of this struggle for people intended to be part of it is ‘smaller war (*jihad-ı asgar*) that they are supposed to be in consistent intention, thought and behavior; other dimension is greater war (*jihad-ı ekber*) which means perpetuation of work and family life.

Fifth Article: “His majesty the Sultan is irresponsible: His person is sacred.”

In the last part of pleading in which fifth article of *Ottoman Constitution* (1876) is annotated, the coherence of this article with *Sharia* is expounded. Etymological study of the word “Holy” is primarily analyzed by pointing out its meaning as “pure” and “blessed”. It is explained in the text that though this is different than the term “innocence” which is “virtue” attributed to the prophets and the term exempted from mistakes” attributed to revivalists, therefore, it does not mean “holiness” in this sense. There is a difference that *Imam* should not be questioned about matters regarding his leadership and should not be responsible for practices in this manner. More explicitly, it cannot even be possible for Emperor to be questioned about using his authority that has been legitimately entrusted to him to fulfill his duties. This assessment is supported by the principle “*It is incumbent on Muslims to obey the Imam.*” When these considerations are taken into account, especially the Qur’anic verse “He is not questioned about what He does, but they will be questioned” (see *Al-Anbya* 21, 22 and 23) and Hadith “*You are all shepherds and all responsible for what you shepherd*” the conclusion consequently follows that the *Ottoman Constitution* (1876) was enriched with the Islamic principles.

### ***Quran Karim and Ottoman Constitution of 1876***

The work titled *Quran Karim and Ottoman Constitution of 1876* was written by Kolçalı Abdulaziz and it was published in Istanbul in 1910 (Birekul, 2010, pp. 149-179). It consists of few pages meaningfully explains how *Ottoman Constitution* (1876) is coherent with the Holy Qur’an. This work is expanded edition of the article published in the newspaper named “*Metin*”. Therefore, compared to the work written by Dergünizade, this one has a limited content. The author began with an introduction titled “Expression of Purport” as follows:

The article published in *Metin* Newspaper dated 11 Saban 1326 (1910) and number 29 edition about how independence, equality, counsel and Ottoman Constitution of 1876 are coherent with Quran from the standpoint of contents and principles of Islamic civilization is expanded and published as a pleading about Quran and Ottoman Constitution of 1876, liberty, equality, counsel, Independence and its Limits... The reason this article is turned into a pleading is because I am encouraged to verify and expand the edition about Quran and Ottoman Constitution of 1876 (*Kanun-u Esasî*), liberty, equality, consultancy, independence and its limits since it was recommended to me by people both Muslims and Christians who I am proud to receive their kind compliments.

Kolçalı argued that some Muslim and Christian groups were influencing the publication of the article. He wrote to show how the Holy Qur’an and the *Ottoman Constitution* (1876) are coherent. For that reason, he dealt with the following concepts: independence, equality, freedom participation in administrative and political decision-making process, method of counseling and political participation. As the citation in the above, clearly illustrate the author dealt with important concepts such as liberty, equality, independence and sovereignty.

These concepts were presented in the light of the Holy Qur’an and within the Ottoman historical context, with belief that the Holy Qur’an and the *Ottoman Constitution* (1876) are considered to be coherent. In the regard the author argued:



After observing the current situation of Islamic civilization, Glorified Khilafah of Islam and Great Ottoman Nation took action for renovation by implementing Ottoman Constitution of 1876 (Kanun-u Esasi) which embraces independence, equality, counselling that were told before by Quran Karim and there is no suspicion that Islamic civilization of Ottoman Empire will get its former high position and glory back by the permission of Allah and help from the soul of Prophet.

The author was firm in arguing that regulations implemented by *Ottoman Constitution* (1876) are coherent with the principles of the Holy Qur'an. Therefore, the reason for the decline of Ottoman Empire was due decline in implementing these regulations and values. In addition, these two works clearly indicated that the Ottoman Constitution (1876) was adopted under strong influence of *Tanzimat Edict* and *Reform Edict*, a view that has also been supported by several leading intellectuals on the history of constitutional law.

### Conclusion

The above discussion and analysis of the *Ottoman Constitution* (1876) has indicated that two works that emphasize the Islamic principles were in favor of constitutional changes as to prevent the violation of fundamental rights such as independence, equality and justice. Actually, they held belief that the *Ottoman Constitution* is in harmony with the religion of Islam and as such is important to preserve administrative and institutional systems of the empire. Therefore, Islamists considered the declaration of *Ottoman Constitution* (1876) as a positive development and a remedy to emerging constitutional, legal and administrative problems the empire. Under the influence of several factors, Islamists passionately advocated constitutional acts and the establishment of Ottoman Parliament, making a great effort to determine the coherence of these initiatives with religious sources. Actually, as discussed throughout the paper both authors Dergüzinizâde and Kolçalı attempted to establish and show the coherence of the *Ottoman Constitution* (1876) with religious source. The *Ottoman Constitution* (1876) maintained the traditional structure of Ottoman law and the *Shariah* law. However, due to political circumstances and the implementation methodology of Committee of Union and Progress there was serious deficiencies in the implementation of the constitution. In this regard, Said Halim Paşa observed that the *Ottoman Constitution* (1876) could not achieve its goal because of questionable enforcement. Concerns regarding politics and law in today's Turkey do not seem to be different from the concerns of Islamists during the last decades of the Ottoman Empire. Actually, the nature of the problems did not change at all and the search for solutions has not fundamentally changed. Methods to solve legal and constitutional problems are not effective and it is unfortunate that endless and often futile discussions regarding constitutional changes continue without specific solutions. These stagnant approaches should be replaced with radical changes as to prevent the decline and decadence of the Muslim societies.

### References

- Akgündüz, Ahmet. 1986.** *Corpus of Islamic and Ottoman Law*. Diyarbakir: HFY.
- Akgündüz, Ahmet. 1997.** *Our Former Constitution and Supreme Islamic Law*. Istanbul: Foundation of Ottoman Research.
- Arsel İhan. 1975.** *From the Understanding of Theocratic to Democratic Approach*. Ankara: University of Ankara Publications of Faculty of Law.
- Birekul Mehmet. 2010.** "Changing Society, Unchanging Problems: Debate on Bibliographical Review in Turkey in the Beginning of 20th Century." *Journal of Istanbul University Islamic Studies*. Fall

2010/11(2): 149-179.

- Dergüzinizade. 1910.** *Political Shariah Commentary of Ottoman Constitution of 1876*. Istanbul: Matba-i Amire.
- Gencer Bedri. 2013.** "Islamism from Shariah to Civilization: Towards a Typology of Islamism." In *Islamic Thought and Movement in Turkey*. Istanbul: Zeytinburnu Municipality Cultural Publications.
- Gözübüyük A. Şeref. 1986.** *Constitutional Law*. Ankara: Publications of Sayıştay.
- Kara İsmail. 2001.** *Islamic Thought in Turkey*. Istanbul: Gerçek Hayat.
- Kara İsmail. 2013.** "Several Notes on Islamic Thought in Turkey." In *Islamic Thought and Movement in Turkey*. Istanbul: Zeytinburnu Municipality Cultural Publications.
- Kili Suna & Gözübüyük A. Şeref. 1982.** *Turkish Constitution Texts 1839-1980*. Ankara: University Publications of Faculty of Political Sciences.
- Koçi Bey. 1985.** "Pleading of Koçi Bey" (Simplified by Zuhuri Danışman). Ankara: KTBY.
- Kolçalı Abdülaziz. 1910.** *Political Shariah Commentary of Ottoman Constitution of 1876*. Istanbul: Matba-i Amire.
- Okandan R. Galip. 1959.** *Outlines of Public Law*. Istanbul: Istanbul University Publications of Law Faculty.
- Said Halim Paşa. Our Crisis.** (Prepared by M. Ertuğrul Düzdağ), Tercüman 1001 Temel Eser, Tarihsiz.
- Sekbanbaşı Koca.** "Pleading of Koca Sekbanbaşı", (Prepared by A. Uçman), Tercüman 1001 Temel Eser. İstanbul: Tarihsiz.
- Tunaya T. Zafer. 1962.** *Islamism Movements*.
- Ülken H. Ziya. 1940.** *Ideological Movements after Tanzimat Edict*. Istanbul: Maarif Press.