

International law for survival: teaching international law in the late Ottoman Empire (1859–1922)

Mustafa Serdar Palabiyik

Department of International Relations, TOBB Economics and Technology University, Ankara
spalabiyik@etu.edu.tr

Abstract

This article analyses the teaching of international law in the late Ottoman Empire. It argues that the Ottomans were interested in teaching European international law to equip Ottoman bureaucrats with the skills necessary for evaluating and regulating the complex interrelation between the Ottoman Empire and the European states, to defend the vital interests of the Empire against European legal penetration via extraterritoriality, and to understand the legal basis of the European system of which the Empire had officially been accepted as a part by the European Great Powers since the conclusion of the Treaty of Paris in 1856. The article focuses on the courses, scholars and textbooks in the field of international law in the Ottoman Empire during three periods. The preliminary period (1859–76), witnessed the emergence of the first courses, scholars and literature on international law; in the Hamidian period (1876–1908) these courses were stabilized and systematized in line with higher education reforms in the Ottoman Empire; and finally, in the post-Hamidian period, the opening of new schools of law in the countryside and the reformation of existing schools allowed the teaching and literature of international law to flourish.

Keywords: International law, Ottoman Empire, Higher education in the Ottoman Empire, School of Civil Service (*Mekteb-i Mülkiye*), School of Law (*Mekteb-i Hukuk*)

Introduction

The history of international law (HIL) has a particular significance among the sub-fields of international law. With no understanding of the historical/sociological background to international legal relations between states, the study of international law would be a dry account of treaties, organizations or ambassadorial/consular immunities. Providing the study of international law with a cultural base and a vivid style, HIL has two distinct branches: first, the history of international legal developments, such as treaty-making, the establishment of international organizations, and the determination of the rights and immunities of the diplomatic corps; and second, the history of the study of international law, which analyses the scholarly doctrines and the teaching of international law. Of these themes, the teaching of international law is one of the most important, but least studied, areas.

Studying the teaching of international law is important because it presents significant insights into the perception of international law in particular states and regions. International law is not just a body of legal texts regulating relations between different states: it is also a discourse revealing an intellectual conception of international relations of a state or region's intelligentsia. Therefore, studying the teaching of international law in a particular political entity is extremely useful for understanding the mental construction of the world beyond that entity's borders.

However, the literature on the subject is quite limited. With the exception of a few studies in some European, American and Asian states, this field of international law is generally underrepresented.¹ This is also reflected in the Turkish scholarship: only a few studies exist on the teaching of international law in Republican Turkey, and there is almost nothing in the Turkish literature on the study of international law in the Ottoman Empire.²

To fill this substantial gap in the literature, this article seeks to analyse the teaching of international law in the Ottoman Empire. Unlike many Turkish scholars of international law, who have neglected or denied the Ottoman background to the study of international law in Turkey, this article argues that a strong Ottoman tradition of studying international law emerged from the Ottoman will to defend its international rights vis-à-vis European states. Increasing Ottoman contact with European states in the nineteenth century, which was the result of the Eastern question, the extension of European public law to the Ottoman Empire following the Treaty of Paris, and the problem of extraterritoriality, which had been perceived by the Ottomans as an unlawful intervention in the domestic affairs of the Empire, contributed to the awareness and interests of

- 1 For instance, see H. Chiu, "The development of Chinese international law terms and the problem of their translation into English", *Journal of Asian Studies* 27/3, 1968, 485–502; R.B. Lillich, "The teaching of international human rights law in US law schools", *American Journal of International Law* 77/4, 1983, 855–61; W. Tiewa, "Teaching and research of international law in present day China", *Columbia Journal of Transnational Law* 22/1, 1983, 77–82; A. Orford, "Citizenship, sovereignty and globalisation: teaching international law in the post-Soviet era", *Legal Education Review* 6/2, 1995, 251–61; M. Lobban, "English approaches to international law in the nineteenth century", in M. Craven, M. Fitzmaurice and M. Vogiatzi (eds), *Time, History and International Law* (Leiden: Martinus Nijhoff Publishers, 2002), 65–90; E.Y.-J. Lee, "Early development of modern international law in East Asia – with special reference to China, Japan and Korea", *Journal of the History of International Law* 4/1, 2002, 42–76; W.E. Butler, "On the origins of international legal science in Russia: the role of P.P. Shafirov", *Journal of the History of International Law* 4/1, 2002, 1–41. One of the rare contributions concerning the interrelation between the Ottoman Empire and European international law is a comparative study by R.S. Horowitz, "International law and state transformation in China, Siam, and the Ottoman Empire during the nineteenth century", *Journal of World History* 15/4, 2005, 445–86.
- 2 See C. Bilsel, "Devletler hukuku mu? Devletler arası hak mı?" [International law or rights between states?], *İstanbul Üniversitesi Hukuk Fakültesi Mecmuası [Journal of Faculty of Law of Istanbul University]* 6/4, 1940, 631–44; S.L. Meray, "Devletler hukukunda bazı terim meseleleri" [Some terminological issues in international law], *Ankara Üniversitesi Siyasal Bilgiler Fakültesi Dergisi [Journal of Faculty of Political Sciences of Ankara University]* 11/4, 1956, 52–74; B. Aral, "An inquiry into the Turkish 'school' of international law", *European Journal of International Law* 16/4, 2005, 769–85.

the Ottomans in European international law. Hence the second half of the nineteenth century saw the emergence of international law courses, a group of scholars teaching international law, and a body of literature on various themes in this field of law in the Ottoman Empire.

After an introduction on the reasons for and institutions of international law education in the Ottoman Empire, this article examines the teaching of international law in three chronological sections. The first analyses the preliminary studies on international law, from the establishment of the first international law course in an Ottoman school in 1859 to the reign of Abdülhamid II, when courses and scholarship on international law stabilized. The second focuses on the Hamidian era (1876–1908), during which international law became an important aspect of legal education in terms of both the diversification of courses and the expansion of the literature on international law. Finally, the third section examines the post-Hamidian period (1908–22) when the faculty and courses in the Ottoman higher education system were reformed in a way that increased scholarly attention on the teaching of international law. The article analyses the courses, scholars and literature of international law during each period in order to present a portrayal of the teaching of this particular field of law in the late Ottoman Empire.

Modernization of education and the teaching of law in the late Ottoman Empire

From the late eighteenth century onwards, humiliating military defeats or pyrrhic victories against European states forced Ottoman intellectuals to consider the reasons for the continuing Ottoman retreat from Europe. The ruling elite initially determined that the Ottoman incapacity to adopt European military technology was the main reason for this failure, and argued that the Empire would continue to weaken unless such military technology was adopted. This required knowledge transfer, which necessitated the modernization of existing Ottoman institutions of military education; therefore, by the late eighteenth/early nineteenth century, the Ottomans attempted to reform former military schools and open new ones by employing European military experts. Thus the modernization of education in the Ottoman Empire began with the military.³

In parallel with the modernization of military education, the Ottomans also discovered permanent diplomacy as a means of survival. Before establishing resident embassies in various European capitals, the Ottomans opted for establishing formal alliances with states including Sweden and Prussia as a means of defending their territorial integrity. Ottoman awareness that they could no longer counter the Russo-Habsburg alliance by relying solely on their own military capabilities forced them to establish these alliances, which were incompatible with

3 S.J. Shaw, *Between Old and New: The Ottoman Empire under Sultan Selim III, 1789–1807* (Cambridge, MA: Harvard University Press, 1971), 145–6. For educational reform in the Ottoman military, see İ. Tekeli and S. İlkin, *Osmanlı imparatorluğu'nda eğitim ve bilgi üretim sisteminin oluşumu ve dönüşümü* [*The Transformation of Systems of Education and Knowledge Production in the Ottoman Empire*], 2nd ed. (Ankara: Türk Tarih Kurumu Yayınları, 1999), 60–62.

the traditional Islamic international law disallowing any kind of formal alliance with a non-Muslim political entity. However, these military alliances did not work effectively owing to a failure of realization of terms of alliances.⁴ Similarly, the first resident Ottoman embassies abroad, established in the 1790s, did not last long because Ottoman diplomats failed to serve effectively as a result of their inexperience in permanent diplomacy and their inability to master foreign languages.⁵ The latter led to an increased emphasis on foreign language education and an awakened interest in international affairs, which resulted in the establishment of the Chamber of Translation (*Tercüme Odası*) in 1822.⁶

The modernization of military and language/diplomacy education resulted in the emergence of the “forerunners of the modern Ottoman intelligentsia” during the reigns of Selim III and Mahmud II.⁷ These Ottoman intellectuals were curious to learn not only about European technological achievements, but also about European politics and international relations. This intellectual awakening flourished particularly during the reign of Mahmud II, who believed in modernizing education both vertically by establishing modern primary and secondary schools, and horizontally, either by reforming existing institutions of higher education or by creating new ones.⁸

These developments in the 1830s paved the way for the Tanzimat period, during which Ottoman intellectuals perceived “science” as a catchword for understanding the reasons for the economic and technical supremacy of European civilization over the Ottoman Empire. One of the most important examples of this new understanding was a report on educational reform, dated 21 July 1846 and prepared by the Temporary Commission of Education (*Meclis-i Ma‘ārif-i Muvakkat*), a sub-organization of the Supreme Council of Judicial Ordinances (*Meclis-i Vâlâ-i Ahkâm-ı Adliyye*). This report advocated the establishment of a university in the Ottoman Empire not only for “teaching all fields of science” but also for “providing perfection of humanity”.⁹ In other words,

- 4 For Ottoman alliances with Sweden and Prussia, see M. Şükrü Hanioglu, *A Brief History of the Late Ottoman Empire* (Princeton: Princeton University Press, 2008), 48. For the full text of the treaty of alliance with Sweden, see Ahmed Cevdet Efendi, *Tarih-i Cevdet*, 12 Volumes (Istanbul: Takvimhane-i Amire, 1273 [1858]), Vol. 4, 289–91. For the full text of the treaty of alliance with Prussia, see *ibid.*, 348–55.
- 5 Ö. Kürkcüoğlu, “The adoption and use of permanent diplomacy”, in A.N. Yurdusev (ed.), *Ottoman Diplomacy: Conventional or Unconventional?* (London and New York: Palgrave Macmillan, 2004), 134–5.
- 6 S. Paker, “Turkish tradition”, in M. Baker and G. Saldanha (eds), *Routledge Encyclopedia of Translation Studies*, 2nd ed. (London: Routledge, 2009), 551–2.
- 7 N. Berkes, *Development of Secularism in Turkey*, 2nd ed. (London: C. Hurst & Co., 1998), 101.
- 8 For Mahmud II’s educational reforms, see S.A. Somel, *The Modernization of Public Education in the Ottoman Empire, 1839–1908: Islamization, Autocracy, and Discipline* (Leiden: Brill, 2001), 1–13. For a detailed account of the transformation of the Ottoman education system, see B. Fortna, *Imperial Classroom: Islam, the State and Education in the Late Ottoman Empire* (Oxford: Oxford University Press, 2002).
- 9 M.A. Aynî, *Darülfünûn tarihi [The history of Dar‘ül fûnûn]*, transliterated and edited by A. Kazancıgil (Istanbul: Kitabevi Yayınları, 2007), 8.

education was perceived as both a medium for material development and an ideal.

Education was one of the many catchwords in the Ottoman Empire in the mid-nineteenth century. Another significant concept at the core of the Tanzimat reforms was law. Indeed, the ultimate aim of the Tanzimat reforms was to administer the state through codified laws to prevent arbitrary rule. For the Ottoman bureaucratic elite, codification and the rule of law would foster administrative centralization and avert the peripheral disintegration of the Empire.¹⁰ However, this bureaucratic elite were also aware that the establishment of the rule of law was an insufficient solution to the Empire's structural problems; the consolidation of the administrative system by well-trained officials was equally important. Thus, the two significant targets of the Tanzimat, education and the rule of law, were combined and the Ottoman ruling elite reorganized the teaching of law either by reforming the existing institutions of legal education or by establishing new institutions to create a new generation of able and educated officials.

In the late Ottoman Empire, law was taught in three different types of schools. The first of these was designed to modernize the teaching of classical Islamic law, for example the School of Canon Law Judges (*Mu'allimhâne-i Nüvvâb*, later renamed *Mekteb-i Kudât*), established in 1854. When Tanzimat reforms limited the scope of sharia to private law and gave the execution of public law to the secular courts, students of this school focused on Islamic private law and, upon graduation, were employed in the sharia courts.¹¹ The second type of school was opened within the Ottoman Ministry of Justice to educate ministerial bureaucrats. Accordingly, the Department of Laws and Regulations (*Kavânîn ve Nizâmât Dâ'iresi*) was established in 1870 to teach new laws and regulations to the new Ministry recruits.¹²

The third type of school were the higher education facilities, which provided students with proper teaching of both Islamic and secular laws. The first of these, the School of Civil Service (*Mekteb-i Mülkiye*), was established in 1859 with the aim of supplying the Ottoman bureaucratic administration with well-trained officials.¹³ The *Mekteb-i Mülkiye* (MM) was followed by the Imperial School (*Mekteb-i Sultânî*) in 1868, which was designed as an intermediate school between high school and university. Law was among the courses

10 Avi Rubin's study on the Ottoman legal reform in the nineteenth century is a valuable contribution; however, instead of focusing on international law, it examines how a dual legal structure emerged, one secular and one religious, not competing with each other but acting as entwined components of a single judicial system (A. Rubin, *Ottoman Nizamiye Courts: Law and Modernity*, New York: Palgrave Macmillan, 2011). Also see R.A. Miller, *Legislating Authority: Sin and Crime in the Ottoman Empire and Turkey* (London and New York: Routledge, 2005); Z. Toprak, "From plurality to unity: codification and jurisprudence in the late Ottoman Empire", in A. Frangoudaki and Ç. Keyder (eds), *Ways to Modernity in Greece and Turkey: Encounters with Europe, 1850–1950* (London: I.B. Tauris, 2007), 30–33.

11 Tekeli and İlkin, *Osmanlı İmparatorluğu'nda Eğitim*, 70.

12 F. Demirel, *Adliye Nezaretî'nin Kuruluşu ve Faaliyetleri [The Establishment and Activities of the Ministry of Justice]* (Istanbul: Boğaziçi Üniversitesi Yayınları, 2007), 100.

13 A. Çankaya, *Yeni Mülkiye Tarihi ve Mülkiyeliler [A New History of the School of Civil Administration and Its Students]*, 8 vols (Ankara: Mars Matbaası 1968–69), Vol. 1, 30–31.

taught in this school.¹⁴ The third school, the School of Law (*Mekteb-i Hukūk*), was first established within the *Dār'ül fünūn* ("the House of Sciences", which denoted the Ottoman University) in 1874. Although the *Dār'ül fünūn* (DF) was suspended in 1880, the *Mekteb-i Hukūk* (MH) survived through its attachment to the Ministry of Justice and became the first higher education facility engaged in the continuous and systematic study of law in the Ottoman Empire. The MH was once more structured under the DF in 1900; however, it retained much of its autonomy.¹⁵

The teaching of law expanded to the periphery of the Empire with the establishment of schools of law in several Ottoman provinces. The first of these was opened in Thessaloniki in 1907, surviving until 1912 when the city was occupied during the Balkan Wars.¹⁶ Two further schools of law were opened, in Konya and Baghdad in 1908, but these were closed in 1919 after the Ottoman defeat in the First World War.¹⁷ Finally, upon the suspension of the Thessaloniki Law School, the teaching staff and course materials were transferred to the Beirut Law School, which opened in 1913 and survived until the end of the First World War.¹⁸

Together, these schools formed the institutional basis for the teaching of civil, criminal, commercial, and administrative law. However, from the early nineteenth century onwards, it was international law that attracted the attention of Ottoman intellectuals. There were three major reasons for this: the intensification of multilateral diplomatic networks between the Ottoman Empire and the European states; the question of extraterritoriality; and the formal inclusion of the Ottoman Empire in European public law with the Treaty of Paris in 1856.

The intensification of multilateral diplomacy was a direct consequence of increasing European interest in the survival of the Ottoman Empire, namely the Eastern question. Rivalry among European states over the very existence of the Empire made the Ottomans important actors in the complex European balance of power. Moreover, three interrelated international crises forced the Ottomans to join multilateral diplomatic negotiations at an unprecedented frequency. These were the Greek War of Independence (1821–29); the rebellion of the Ottoman governor of Egypt, Kavalalı Mehmed Ali Paşa (1831–41), who revolted on Mahmud II's refusal of his demands for intervention in the Greek War of Independence on behalf of the Sultan; and the question of the Turkish Straits (1833–41), which emerged as a result of increasing Russian influence in the Ottoman Empire following the Ottoman–Russian alliance

14 T. Timur, *Toplumsal Değişme ve Üniversiteler* [Social Change and Universities] (Ankara: İmge Kitabevi, 2000), 104. For the curriculum of *Mekteb-i Sultānī*, see *Mekteb-i Sultānī Ders Programı* [The Curriculum of the Imperial School] (Dersa'adet: Matba'a-i Āmire, 1327 [1909]).

15 E. İhsanoğlu, *Darülfünun: Osmanlı'da Kültürel Modernleşmenin Odağı* [Dar'ül fünūn: The Center of Ottoman Cultural Modernization], 2 vols (Istanbul: İslam Tarih, Sanat ve Kültür Araştırma Merkezi, 2010), Vol. 1, 141.

16 Tekeli and İlkin, *Osmanlı İmparatorluğu'nda Eğitim*, 77–96; Osman Ergin, *Türk Maarif Tarihi* [History of Education in Turkey], 5 vols (Istanbul: Eser Matbaası, 1977), Vols 3–4, 1116.

17 İhsanoğlu, *Darülfünun*, Vol. 2, 659–61.

18 İhsanoğlu, *Darülfünun*, Vol. 1, 72.

against Kavalalı. During these crises, the Ottomans understood the importance of having able diplomats who were masters of European languages and European international law.¹⁹ In other words, the increasing importance of multilateral diplomacy based on European international law contributed to Ottoman interest in the teaching of this particular field of law.

The second reason for Ottoman reliance on European international law was the problem of extraterritoriality. In the nineteenth century, the idea of European supremacy over the non-European world directed European states to believe that Europe was the realm of the rule of law and that the non-European world had primitive and arbitrary legal structures. Therefore, instead of being subjected to the jurisdiction of these “primitive” legal structures, the European states preferred to claim jurisdiction over their citizens living and trading in the non-European world. This jurisdictional claim was defined as extraterritoriality.²⁰

Extraterritoriality was a significant problem for the Ottoman Empire; it was contrary to the principle of sovereign equality, and the European states used it as a pretext to intervene in Ottoman domestic politics. The European consulates and embassies in the Ottoman Empire abused extraterritoriality to provide non-Muslim communities of the Empire with judicial immunity, and this abuse exacerbated the Ottoman fear of disintegration. Thus, the Ottoman ruling elite attempted to prevent European intervention via extraterritoriality by employing officials who had mastered European international law. Ironically, therefore, the Ottomans attempted to resist extraterritoriality by adopting European international law, requiring further emphasis on the teaching of this field of law.²¹

The final reason for Ottoman interest in teaching international law was the signing of the Treaty of Paris in 1856. Article seven of this treaty stipulated that the contracting powers admit the Ottoman Empire to participation in the advantages of the public law and concert of Europe.²² Although this admittance required that the Ottoman Empire be treated equally, inequalities through extraterritoriality continued. Nevertheless, the treaty acquainted Ottoman intellectuals with European international law, and increased their interest in teaching the subject to a new generation of officials.

Ottoman interest in the teaching of international law was clearly reflected in a report of 27 April 1858 submitted by the Supreme Council to the Sublime Porte, on the necessity of opening new schools to provide well-educated officials for administrative posts. The report underscored that officials should be educated in two distinct fields: civil administration and the methods of diplomatic relations. It also distinguished between the domestic and external affairs of the

19 Kürkçüoğlu, “The adoption and use of permanent diplomacy”, 140–43.

20 T. Kayaoğlu, *Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire, and China* (Cambridge: Cambridge University Press, 2010), 18.

21 On Ottoman discontent over extraterritoriality, see N. Çiçek, *Young Ottomans: Turkish Critics of the Eastern Question in the Late Nineteenth Century* (London: I.B. Tauris, 2010), 109–71.

22 For the full text of the treaty in Turkish, see *Mu‘âhedât Mecmû‘âsı [The Compilation of Treaties]*, 5 vols (Istanbul: Ceride-i Askeriye Matba‘ası, 1293 [1877]), Vol. 4, 242–58.

Empire; mastery of domestic affairs required knowledge of the new secular laws of the Empire, whereas mastery of external affairs required knowledge of international relations and international law.²³ Moreover, the report criticized the existing officials of the Empire for their ignorance of international law and for being "... incapable of corresponding even with a low-rank translator of a foreign consulate". Because of their incapacity, the Ottoman officials "... had no prestige and credit in the eyes of foreign officials". Thus it emphasized that the Ottoman officials were responsible for protecting the dignity and eminence of the state, and this responsibility could only be ensured through the mastery of international law. Finally, the report presented international law as a means of preventing foreign intervention and stated that able officials should study political economy, history, geography, mathematics, writing skills and domestic laws for internal administration in addition to the treaties that the Ottoman Empire concluded with other states for international relations. The report also advised the government to bring these treaties out from the archives and use them as textbooks in imperial schools. Such a study of former treaties would increase the knowledge of Ottoman officials about the external world as well as the diplomatic negotiation processes.²⁴

In sum, by the second half of the nineteenth century, the Ottoman bureaucratic elite began to argue that officials needed to learn international law not only for practical reasons, such as corresponding with European diplomatic representatives, but also for a more vital motive, i.e. defending the interests of the Empire vis-à-vis the European states, which were not eager to extend European international law to the Ottoman Empire despite the Treaty of Paris. This vital motive forced Ottoman intellectuals to study and teach European international law in Ottoman higher education facilities.

Preliminary teaching of international law before the establishment of the *Mekteb-i Hukūk* (1859–80)

The teaching of international law in the Ottoman Empire began with the statute of the MM, approved on 5 December 1858. Article eight of this statute stipulated that the "law of nations" (*hukūk-u milel*) and the "treaties of the Ottoman Empire" (*mu'āhedāt-ı devlet-i āliye*) were to be included in the second-year curriculum of this school.²⁵ However, the international law course could not be maintained and it appears to have been cancelled at some point between 1858 and 1863. In a dispatch from the Ministry of Education to the Sublime Porte, dated 9 March 1863, Minister Edhem Paşa wrote that an international law course should be added to the curriculum of the MM and this advice was fulfilled.²⁶ Later, in 1868, the curriculum included a course on the treaties of the Ottoman Empire as a third-year course, whereas the international law course

23 For the full text of the report, see Çankaya, *Yeni Mülkiye Tarihi*, Vol. 1, 31–2.

24 Çankaya, *Yeni Mülkiye Tarihi*, Vol. 1.

25 Initially, the period of education in the MM was two years. Ergin, *Türk Maarif Tarihi*, Vols 1–2, 599.

26 Çankaya, *Yeni Mülkiye Tarihi*, Vol. 1, 82–3.

was once more excluded.²⁷ This discontinuity shows that there was no systematic teaching of international law in the MM until 1877, when the school was reformed and its structure and curriculum were stabilized.

In the MM, the international law course was taught by Mehmed Emin Efendi. According to the Register of Ottoman Officials (*Sicill-i Osmanî*), Mehmed Emin was born in Bohemia as a citizen of the Habsburg Empire, graduated from a military school in Austria and was part of an unknown faculty of law in London or Paris. In 1851, he came to Istanbul and was renamed Mehmed Emin Efendi after converting to Islam.²⁸ He was then appointed to the Chamber of Translation as a teacher of the German, English and French languages; he also taught international law.²⁹ Upon the establishment of the MM, he was appointed as professor (*müderriis*) of several courses including international law and treaties of the Ottoman Empire. Mehmed Emin's later career included membership in the Court of Appeals and directorate of the MH, until his dismissal in 1888.³⁰ His mastery of foreign languages and his experience in European universities made him the first choice as a scholar, since the Ottoman bureaucratic elite might have remembered the failure of the first resident embassies in Europe as the result of a lack of mastery of foreign languages and experience in the European system of international law.

An international law course was taught in the *Mekteb-i Sultânî* (MS) as well as the MM. Teaching international law at high-school level demonstrates Ottoman interest in international law in the mid-nineteenth century; however, in 1874, the Minister of Education, Safvet Paşa, ordered the suspension of the international law course at this school because it exceeded the capacity of the students and therefore had to be moved to the newly established DF.³¹ Thus, when the MH was established under the DF in 1874, international law became one of the courses taught there.³² In the MH, the international law course was taught by the French assistant director of the MS, M. Vicomte d'Hollys, who became the Dean of the Faculty in 1876.³³ It is again possible that the Ottoman bureaucratic elite preferred foreign recruitment because there were few Ottoman scholars in this particular field of law. Education in the DF was suspended during the Ottoman–Russian War of 1877–78, and the university was closed in 1880; which shows that the teaching of international law in this school was discontinuous.³⁴

The Ottoman literature on international law was quite primitive during this period, but several studies of European treatises on international law did exist. The first study on European international law in the Ottoman Empire was the partial translation of an eighteenth-century treatise by the Swiss jurist Emerich de Vattel, called *Droit des gens* (the Law of Nations). The third and fourth

27 In 1868, the period of education became three years. *Ibid.*, Vol. 1, 99.

28 Mehmed Zeki Pakalın, *Sicill-i Osmanî Zeyli [Addition to the Ottoman Registers]*, 19 vols (Ankara: Türk Tarih Kurumu Yayınları, 2008), Vol. 5, 99.

29 Ergin, *Türk Maarif Tarihi*, Vol. 3–4, 1097.

30 Pakalın, *Sicill-i Osmanî Zeyli*, Vol. 5, 100.

31 İhsanoğlu, *Darülfünun*, Vol. 1, 140.

32 Ayni, *Darülfünun Tarihi*, 32.

33 İhsanoğlu, *Darülfünun*, Vol. 1, 147.

34 Timur, *Toplumsal Değişme ve Üniversiteler*, 115.

books of Vattel's treatise on the law of war and peace were translated in 1839 by a servant of the Grand Vizier, Hüsrev Mehmed Paşa.³⁵ In this manuscript, there is no mention of why Vattel's treatise was chosen or why such a translation was made. Arguably, Hüsrev Mehmed Paşa was attempting to introduce the fundamental and most practical aspects of European international law to the Ottoman bureaucratic elite, who were desperately in need of such knowledge to defend the interests of the Empire against the European states. However, this translation was not published and Ottoman scholars of international law appear to have been unaware of it.³⁶

Following this manuscript, the first printed book on international law in the Ottoman Empire was Ottokar Schlectha's *The Law of Nations (Hukük-u Milel)*. Schlectha was an Austrian Orientalist studying philosophy and Eastern languages in Vienna, and upon graduation, he served in the Austrian Embassy to the Ottoman Empire.³⁷ He published *The Law of Nations* before he came to Istanbul, but whether he wrote this book at the request of the Ottoman administration or presented it to the Ottoman administration after writing it is unclear. Whatever his motive, Schlectha published the book in two volumes, first in Vienna in 1848 and then in Istanbul in 1878.³⁸ The first volume addresses a range of topics including the definition and classification of states, the laws of territory acquisition, the law of the sea and the law of diplomatic representation and treaties. The second volume focuses on the law of war and peace. Most Ottoman scholars of international law found Schlectha's treatise primitive and insufficient; however, they cited it as the first significant study of international law in Ottoman Turkish.³⁹

Another compilation of European international law treatises was published in 1874 by Mahmud Tevfik, entitled *The Practices of States (Mu'amelât-ı Düvel)*. In its introduction, Mahmud Tevfik wrote that the first volume was on the law of peace, whereas the second volume would address the law of war. Although he mentioned two volumes, the second was not cited in the records of the Turkish libraries.⁴⁰ It is likely that Mahmud Tevfik published the first volume and failed to publish the second.

In summary, the third quarter of the nineteenth century witnessed growing Ottoman interest in international law. However, no systematic teaching or study in this field occurred despite the fact that the teaching of international

35 Emerich de Vattel, *Hukük-u Milel*, National Library of Turkey, 06 Mil Yz A 1275, 1255 [1839].

36 Later, in the 1860s, the eminent Ottoman man of letters and journalist İbrahim Şinasi partially translated Vattel's treatise and published these translations in his *Tasvîr-i Efkâr [the Description of Ideas]* newspaper, thus making Ottoman intellectuals aware of Vattel and his treatise. Şerif Mardin, *The Genesis of Young Ottoman Thought*, 2nd ed. (Princeton: Princeton University Press, 2000), 261.

37 Walther Killy, Rudolf Vierhaus and Dietrich von Engelhardt (eds), *Dictionary of German Biography*, 10 vols (Munich: K.G. Saur, 2001–2006), Vol. 8, 698.

38 Ottokar Schlectha, *Hukük-u Milel* (Vienna: Darü't-Tiba'âtü'l-imparatoriye, 1264 [1848]); Ottokar Schlectha, *Hukük-u Milel* (Istanbul: El Cevâ'ib Matba'ası, 1295 [1878]).

39 For instance, see İbrahim Hakkı, *Medhâl-i Hukük-u Beyn'ed-düvel* (Istanbul: Karabet ve Kasbar Matbaası 1303 [1886]), 1.

40 Mahmud Tevfik, *Mu'amelât-ı Düvel* (Istanbul: Dar'üt-tiba'ât-ı Âmire, 1291 [1874]), p. 2.

law in the Ottoman Empire began in the late 1850s. In the preliminary period of higher education, between 1859 and 1877, the Ottomans failed to establish durable institutions with a stable curriculum including international law courses. Stability and continuity in the teaching of international law could only be sustained with the systematization of Ottoman higher education during the Hamidian period.

Systematization of the teaching of international law in the Hamidian period (1880–1908)

The Hamidian period was key to the quantitative and qualitative development of the Ottoman higher education system. In this period, either existing higher education institutions, such as the MM, MH and DF were reformed, or new institutions of higher education, such as schools of law in various parts of the Empire, were established. This institutionalization was accompanied by the systematization of the curricula, which made international law courses more stable and continuous.

In 1877, with the adoption of a new statute, the MM was reformed and the duration of education increased to five years. After this reorganization, the international law course was taught in the fourth and fifth years. Except for compulsory French-language courses, international law was the only course taught for two years, which shows the priority given to international law. Moreover, there was an additional fourth-year course on the treaties of the Ottoman Empire.⁴¹ In 1880, however, the curriculum was once again revised, dropping the course on the treaties of the Ottoman Empire and teaching the international law course only in the fifth year.⁴² This practice continued until 1891 when the duration of education was reduced to three years, with the international law course being taught in the second year.⁴³ The Registry of the Ministry of Public Education (*Salnâme-i Nezâret-i Ma'ârif-i Umûmiye*) indicated, however, that international law was taught in every year of the MM in 1899, demonstrating that the teaching of international law was exceptionally important at the turn of the twentieth century.⁴⁴

Compared to the MM, far greater attention was given to the teaching of international law in the MH. The duration of education in this school was three years. The international law course was taught in the first and second years, and a specific course on treaties of the Ottoman Empire was taught in the third year.⁴⁵ This curriculum continued until 1903, when the MH was transformed into the Faculty of Law of the DF.

An excellent source on the study of law in the MH in general and the study of international law in particular can be found in the memoirs written by a student

41 Çankaya, *Yeni Mülkiye Tarihi*, Vol. 1, 120–21.

42 Çankaya, *Yeni Mülkiye Tarihi*, Vol. 1, 147.

43 Çankaya, *Yeni Mülkiye Tarihi*, Vol. 1, 242.

44 *Salnâme-i Nezâret-i Ma'ârif-i Umûmiye* (Istanbul: Matba'â-i Âmire, 1316 [1898]), 76–7.

45 *Salnâme-i Nezâret-i Ma'ârif-i Umûmiye*, 81–2.

of this school, Mehmed Nâzım, who attended the MH between 1895 and 1890.⁴⁶ During Mehmed Nâzım's studentship, international law was taught only in the second year, by Hasan Fehmi Paşa. Arguably, the emphasis given to the teaching of international law had increased by the end of the nineteenth century, but it was only on the eve of twentieth century that this priority was reflected in the duration of courses on international law. Like the MM, the Registry of the Ministry of Public Education shows that international law was taught in all three years of this school between 1898 and 1900.⁴⁷ Second, Mehmed Nâzım's memoirs explain the methods of legal education in the MH. In a written communication to students, cited in these memoirs, the school administration offered three methods of education: reviewing lectures after classes; analysing and debating on written sources; and oral exercises for debating a legal issue.⁴⁸ These methods were valid for all courses in law, including international law. The students were expected to review the lectures given; to analyse and debate on the sources of international law, particularly the treaties signed between the Ottoman Empire and other states; and to discuss topics of international law with their classmates and teachers. Third, the memoirs show that there were no specific textbooks assigned for the international law courses, which meant that students had to follow the lecture notes of the scholar. Although some treatises on international law had been published before 1880, none was perceived to be sufficient for the students of international law. Finally, the memoirs include the examinations in international law, as Mehmed Nâzım recorded all of the questions asked and his own answers. There were two examinations on international law: the first was for passing the course on international law, and the second was for graduation. The questions reflected the significance given to some sensitive international legal issues for the Ottoman Empire, such as extraterritoriality, the interpretation of treaties, consular law and extradition.⁴⁹

The international law course was taught in the Hamidian period by various scholars, indicating that Mehmed Emin's monopoly on the teaching of international law was broken. Indeed, when the MH was reorganized under the Ministry of Justice in 1880, Mehmed Emin was appointed director of this new school and continued to teach international law in both schools until 1888, when he was dismissed because of student protests in the latter school.⁵⁰ After his dismissal, four scholars, Ali Şehbaz, İbrahim Hakkı, Kemalpaşazade

46 This manuscript has recently been published by the Turkish Historical Society. M. Nazım, *Mekteb-i Hukuk Günlerim* [Days of My Life in the School of Law], transliterated and edited by A.A. Yörük (Ankara: Türk Tarih Kurumu Basımevi, 2012).

47 *Salnâme-i Nezâret-i Ma'ârif-i Umûmiye*, 78–9; 1899 version, 77–9; 1900 version, 76–7.

48 Nazım, *Mekteb-i Hukuk Günlerim*, 86–7.

49 *Ibid.*, 114, 181–2.

50 These student protests emerged after Mehmed Emin had declared a Greek Orthodox student the holder of the highest grades, even though a Muslim student had the same marks. Although Mehmed Emin preferred the Greek Orthodox student for his better mastery of the French language, the students noted the Christian origins of the director, arguing that the Greek Orthodox student was preferred for his religion. Given these protests the Minister of Justice, Ahmed Cevdet Paşa, dismissed Mehmed Emin. Ergin, *Türk Maarif Tarihi*, Vol. 3–4, 1102–3.

Said and Hasan Fehmi, began to deliver the international law courses in these schools.

Ali Şehbaz was born Karabet Kirkorian Shahbazian in Kayseri in 1838 to a wealthy Armenian merchant. After studying theology in Armenian seminaries in Venice, he graduated from the Faculty of Law of the University of Paris. Shahbazian returned to Istanbul in 1872 and was appointed dragoman of the French consulate in Aleppo. There, he met Ahmed Cevdet Paşa, the Governor of Aleppo, and the two became close friends. With the endorsement of Cevdet Paşa, Shahbazian was appointed professor of international law and commercial law in the MM in 1884. Four years later, after the dismissal of Mehmed Emin, Shahbazian assumed Mehmed Emin's tenure as professor of international law in the MH. Meanwhile, he converted to Islam and was renamed Ali Şehbaz.⁵¹ His lectures on international law continued until his death in 1898.

Kemalpaşazade Said, the colleague of Ali Şehbaz Efendi, was born in 1848. He was the son of Kemal Paşa, the first Minister of Education of the Ottoman Empire. Although Kemalpaşazade Said had no formal education, intense private lectures endorsed by his father made him a well-known polyglot. His mastery of Arabic, Persian, German and French resulted in his appointment to the Ministry of Foreign Affairs. Additionally, he was assigned as a professor of law in the MM in 1873. Kemalpaşazade Said continued to teach constitutional, administrative and international law in this school until 1883.⁵² His professorship was overshadowed by his literary career, as he was perceived to be one of the most important literary critics of late Ottoman literature.⁵³

Another scholar of international law, Hasan Fehmi, was born to a local notable in Batumi in 1836. He went to Istanbul, where he studied the Arabic, Persian, and French languages in addition to law, with private tutors, rather like Kemalpaşazade Said. Although Hasan Fehmi had no formal education, his mastery of French provided him with a career first in the Chamber of Translation and then in various commercial courts. Upon the institution of the constitutional regime, Hasan Fehmi was elected as a deputy of Istanbul on 12 November 1877, and later appointed as Minister of Public Works. In addition, he taught international law in the MH until the end of the nineteenth century.⁵⁴

Mehmed Emin and Ali Şehbaz were graduates of European universities, whereas Kemalpaşazade Said and Hasan Fehmi had no formal education. İbrahim by contrast, was the first scholar of international law who graduated from an Ottoman school of higher education. Born in 1862 to the former governor of Chios, Mehmed Remzi Efendi, İbrahim Hakkı graduated from the MM in 1882 before being appointed professor of international law in the MH in 1886. While teaching at this school, he was also appointed legal counsel to

51 Çankaya, *Yeni Mülkiye Tarihi*, Vol. 3, 945–6. Although Ali Şehbaz justified this conversion using his extreme admiration of Islam following his studies on the virtues of this religion, Mehmed Nazım argued that he was excommunicated by the Armenian Patriarchate of Istanbul for marrying a woman other than his wife, and included the patriarchal document of excommunication dated 22 June 1887. Nazım, *Mekteb-i Hukuk Günlerim*, 81.

52 Çankaya, *Yeni Mülkiye Tarihi*, Vol. 3, 1068.

53 Pakalın, *Sicill-i Osmanî Zeyli*, Vol. 16, 39–51.

54 Pakalın, *Sicill-i Osmanî Zeyli*, Vol. 8, 101–3.

the government in 1894, as Minister of Education and Minister of the Interior in 1908 and finally as Grand Vizier in 1909. His career as a scholar continued until 1908, but his career as a politician declined with his resignation after the failure of his government to handle the Ottoman–Italian War of 1911. Later, he was appointed Ottoman ambassador to Berlin in 1915 and died there in 1918.⁵⁵

İbrahim Hakkı continued to teach international law in the MH after the death of Ali Şehbaz, even though Ali Şehbaz's position in the MM was filled by another professor, İbn'ül Emīn Mahmūd Es'ad Seydişehirī. Among the Ottoman scholars of international law, Mahmūd Es'ad was the only one transferred to the bureaucracy from the ranks of the 'ulama'. Born to an 'ulama' family in 1855, Mahmūd Es'ad attended the madrasa of Fatih Mosque and became a scholar there in 1881. However, he was also interested in military education, and with the endorsement of Edhem Paşa, the director of the Military Academy, he was admitted to the Military Academy as the first civilian student in the history of the school. Mahmūd Es'ad also attended the MH and graduated in 1886.⁵⁶ He took advantage of all types of formal education offered in the Ottoman Empire, whether theological, secular or military. After some judicial posts in various parts of the Empire, he was appointed professor of international law in the MM in 1898 following the death of Ali Şehbaz, and kept this tenure until 1908. After the re-proclamation of the Ottoman constitution, the students of the MM protested against some of the old-fashioned scholars, including Mahmūd Es'ad, who then resigned.⁵⁷

These five scholars taught only international law, but a sixth scholar, Örikağasızade Hasan Sırrı, was the first to teach international private law (*hukūk-u husūsiye-i düvel*) in the MH between 1893 and 1903, as well as a course on the treaties of the Ottoman Empire. Hasan Sırrı was the son of the governor of Muş, Ahmed Nafiz Paşa. Born in 1861, he graduated from the MM in 1882. After serving in various schools as a teacher of history and geography, he was appointed professor of international private law in 1893 in the MM and continued teaching both international public and private law until 1909, when he was appointed Director of the Ottoman Customs Administration.⁵⁸

These scholars were the initial academic corpus of the Ottoman Empire on international law teaching. Most of them were members of wealthier families, having the opportunity to take formal or private education; moreover, most of them mastered one or more foreign languages, essential for following the literature on European international law. Because of the scarcity of bureaucrats with knowledge of European languages and European international law, most of these scholars occupied other governmental posts as well. Thus, they were not only scholars, but also bureaucrats.

In the Hamidian era, scholars of international law and also publications in the field proliferated tremendously. The first international law treatise published in this period was a translation of a relatively modern European international law treatise by the Swiss jurist Johann Caspar Bluntschli, entitled *The Modern*

55 Pakalın, *Sicill-i Osmanî Zeyli*, Vol. 7, 136–47.

56 Pakalın, *Sicill-i Osmanî Zeyli*, Vol. 11, 18–23.

57 Çankaya, *Yeni Mülkiye Tarihi*, Vol. 3, 1021–3.

58 Çankaya, *Yeni Mülkiye Tarihi*, Vol. 3, 129–30.

International Law of the Civilized States (Das moderne Völkerrecht der civilisierten Staaten). This book attracted the attention of Yusuf Ziya, who translated it as *The Treatise on International Law (Hukük-u Beyn'ed-düvel Kânûnu)*.⁵⁹ With this translation, the word *beyn'ed-düvel* was used for the first time to denote “international”: prior to this, international law had been translated either as *hukük-u milel* (law of nations), or *hukük-u düvel* (law of states). Yusuf Ziya used the word *beyn'ed-düvel* instead of *milel* or *düvel*, creating a clearer and more accurate translation.

Following this treatise, the first authentic international law textbook in Ottoman Turkish appeared in 1882. This text was written by Kemalpaşazade Said and Cebraîl Gregor, a lawyer assisting with Kemalpaşazade's lectures in the MM. This textbook, entitled *Hukük-u Düvel*, was a compilation of these lectures, making it the first book written by a scholar of international law. In the foreword, the authors wrote that international law should not be studied only within the confines of the MM, but rather, that everyone should have access to knowledge of this field of law. Moreover, for the first time, the authors clearly underscored the importance of international law for the Ottoman Empire and criticized the lack of appropriate studies on this discipline.⁶⁰

This important contribution was followed by another compilation from the lectures of Hasan Fehmi. Like Kemalpaşazade Said, Hasan Fehmi criticized the lack of sources available to students of the MM and MH, and decided to publish his lecture notes as an introductory textbook on international law. Entitled *A Summary of International Law (Telhîs-i Hukük-u Düvel)*, it was published in 1883. In the introduction, Hasan Fehmi drew attention to the vital significance of international law, professing its teaching as being even more important than the teaching of domestic law.⁶¹

İbrahim Hakkı was another prolific author of international law textbooks. His two treatises on international law, *Introduction to International Law (Medhâl-i Hukük-u Beyn'ed-düvel)* and *History of International Law (Tarih-i Hukük-u Beyn'ed-düvel)* were published simultaneously in 1886. In his introductory study, İbrahim Hakkı emphasized that international law had become a field of study in Ottoman schools for only a few years and that it was still quite primitive. He indicated that the previous treatises on international law written by Ottoman scholars had hardly moved beyond lecture compilations, and he therefore engaged in a more detailed and thorough study of international law.⁶² *Tarih-i Hukük-u Beyn'ed-düvel* was the first book in Ottoman Turkish specializing in the history of international law. In this book, İbrahim Hakkı distinguished between the history of the study of international law, which commenced with the writings of Hugo Grotius, and the history of international

59 J.C. Bluntschli, *Hukük-u Beyn'ed-düvel Kânûnu*, translated by Y. Ziya (Istanbul: Vakit Gazetesi Matba'ası, 1297 [1880]).

60 K. Said and C. Gregor, *Hukük-u Düvel* (Istanbul: Matba'â-i Ebüzziyâ, 1299 [1882]), 101.

61 H. Fehmi, *Telhîs-i Hukük-u Düvel* (Istanbul: Matba'â-i Osmaniye, 1300 [1883]), 8–9.

62 İ. Hakkı, *Medhâl-i Hukük-u Beyn'ed-düvel* (Istanbul: Karabet and Kasbar Matba'ası, 1303 [1886]), 1–2.

law, which he labelled as the “political part of the history of mankind”.⁶³ In addition to these two significant contributions to the Ottoman literature on international law, İbrahim Hakkı compiled and published his lecture notes as a textbook with the aid of one of his students, İsmail İrfan. Published as *Hukûk-u Düvel* in 1911, this textbook became an important source for students at the MH.⁶⁴

A contemporary of both İbrahim Hakkı and Hasan Fehmi, Ali Şehbaz too published his lecture notes through the publication house of the MM, in two volumes in 1889 and 1890.⁶⁵ Moreover, another compilation of his lecture notes was published in Candia, Crete, in 1893. It is unclear whether the latter, the first international textbook published outside of Istanbul, was prepared personally by Ali Şehbaz or by one of his students.⁶⁶ However, hardly anyone except for the students of the MM could access these sources. Ali Şehbaz’s lecture notes were therefore compiled in a single volume and republished posthumously by Mehmed Âdil, one of his students, making his writings available for ordinary readers. The first edition, entitled *Hukûk-u Düvel*, was published in 1908, and the second, entitled *International Law in Detail (Mufasssal Hukûk-u Düvel)*, a year later.⁶⁷ This latter edition included obituaries written by two other famous students of Ali Şehbaz Efendi: Ahmed İhsan, the publisher of the *Journal of the Riches of Sciences (Mecmu’â-i Servet-i Fünûn)*, and Hüseyin Cahid, one of the most renowned journalists of the late Ottoman Empire.⁶⁸

In summary, the systematization of the teaching of international law in the Ottoman Empire occurred in the Hamidian era. First, analogous to the institutionalization of higher education, international law began to be taught more academically. The curricula of the MM and MH were standardized, and students were able to follow international law courses continuously. Moreover, in addition to the former courses on international public law and treaties of the Ottoman Empire, a third course on international private law was initiated. Second, there emerged a new generation of scholars of international law who were not only eager to teach, but also eager to write in this field. For the first time, authentic textbooks on international law emerged instead of translations of European international law treatises, allowing students to diversify their

63 İ. Hakkı, *Tarih-i Hukûk-u Beyn’ed-düvel* (Istanbul: Karabet and Kasbar Matba’ası, 1303 [1886]), 3.

64 İ. Hakkı, *Hukûk-u Düvel*, compiled and edited by İ. İrfan (Istanbul: Matba’â ve Kütübhâne-i Cihân, 1327 [1911]).

65 A. Şehbaz, *Hukûk-u Düvel*, 2 vols (Istanbul: Mülkiye-i Şâhâne Litoğrafya Destgâhı, 1306–07 [1889–90]).

66 [A. Şehbaz], *Hukûk-u Düvel* (Kandiye: Matba’â-i Ma’ârif, 1310 [1893]). The extremely limited Turkish literature on international law failed to identify the author of this edition. However, another Ottoman scholar of international law, Osman Sermed, wrote that it was Ali Şehbaz’s edition. O. Sermed, *Hukûk-u Umûmiye-i Düvel* (Selanik: Asır Matba’ası, 1324 [1908]), 1.

67 A. Şehbaz, *Hukûk-u Düvel*, compiled and edited by M. Adil (Istanbul: Bağdadlıyan Matba’ası, 1324 [1908]).

68 A. Şehbaz, *Mufasssal Hukûk-u Düvel*, compiled and edited by M. Adil (Istanbul: Jirayir ve Keteon Matba’ası, 1325 [1909]).

reading lists. Thus, the Hamidian period was critical for the establishment of international law as an academic discipline.

Reformation of the teaching of international law during the Second Constitutional Period (1908–22)

The second constitutional period was an era of change not only for the Ottoman political system but for all of the institutions created or transformed during the Hamidian period. In 1913, the MM underwent a comprehensive revision that established a period of education lasting four years.⁶⁹ The first two years consisted of compulsory courses for all students, but in the third and fourth years, students were compartmentalized under the departments of administration, finance and politics. Accordingly, students in the department of administration took courses on international public and private law in both the third and fourth years, whereas students in the department of politics took international law courses as well as specialized courses on diplomatic correspondence, consular law and the treaties concluded between the Ottoman Empire and other states.⁷⁰ Graduates of the department of politics were generally employed by the Ministry of Foreign Affairs or in those Ottoman institutions having close contact with European states, such as the Public Debts Administration (*Duyūn-u Umūmiye*) or the Administration of the Ottoman Tobacco Monopoly (*Reji İdaresi*). These students needed a mastery of all fields of international law, and thus, this department had the most intense international legal education, even more so than the MH.

In addition to the MM, the DF was reformed through a new statute prepared by Emrullah Efendi, the Minister of Education, and adopted on 21 April 1912. According to this statute, the MH was cited as one of the five faculties of the university and other schools of law established in the countryside were also attached to the university.⁷¹ The courses on international law and treaties of the Ottoman Empire remained on the faculty curriculum. This structure continued almost until the end of the Empire and these reforms made the DF a more stable institution.⁷² Moreover, the number of students increased tremendously after 1908. In 1907, the MH had 681 students; one year later, this number had almost tripled.⁷³

Not only did curricular and administrative structures change, but so did most of the scholars in the MM and the DF in the second constitutional period. Some former scholars, such as Mahmūd Es'ad, were forced to resign, while others, such as Hasan Fehmi, were appointed to other government posts. Moreover, because of the increasing number of students and the establishment of new schools of law in the countryside, new scholars of international law had to be appointed. As a result of the dramatic increase in the number of students in

69 Çankaya, *Yeni Mülkiye Tarihi*, Vol. 1, 348.

70 Çankaya, *Yeni Mülkiye Tarihi*, Vol. 1, 348–50.

71 Aynî, *Darülfünun Tarihi*, 37.

72 Aynî, *Darülfünun Tarihi*, 57.

73 E. Dölen, *Türkiye Üniversitesi Tarihi* [History of the University in Turkey], 5 vols (Istanbul: Bilgi Üniversitesi Yayınları, 2009), Vol. 1, 166.

the MH after 1908, the international law course was divided into five sections, taught by Ahmed Selahaddin, Ahmed Şuayb, Ālī Bey, Mehmed Cemil and İbrahim Hakkı.⁷⁴

Ahmed Selahaddin graduated from the MM in 1900 and held appointments in various government posts, including the Public Debts Administration and the Administration of the Ottoman Tobacco Monopoly, where he encountered European officials as well as European practices of international law. After 1908, he was appointed professor of international law in the Faculty of Law, and in 1913 became the dean of the faculty until his unexpected death from a heart attack in 1920.⁷⁵

Mehmed Cemil was born in 1879, the son of a former governor, Ahmed Kadri Bey. Mehmed Cemil was a student of Ahmed Selahaddin and a 1903 graduate of the Faculty of Law. Probably with the endorsement of his tutor, Mehmed Cemil was appointed as a scholar of international law in 1908 and taught this course for nearly thirty-five years until 1943. His career in Republican Turkey included the presidency of the University of Istanbul and he was one of the best-known professors of international law in Turkey.⁷⁶

Unlike other post-Hamidian scholars of international law, and despite his law education, Ahmed Şuayb was more a sociologist and man of letters than a scholar of international law. Born in 1876, he graduated from the MH and became assistant to İbrahim Hakkı. In 1908, he began teaching international law and his lectures continued for two years until his untimely death in 1910, the result of a delayed operation for appendicitis. Although his lecture notes were published posthumously, Ahmed Şuayb was renowned not for his studies of international law but for his biographical works and his publication of one of the most significant social science journals in the Ottoman Empire, *The Journal of Economic and Social Sciences* ('*Ulūm-u İktisādiye ve İctimā'īye Mecmu'ası*).⁷⁷

Unfortunately very little is known about Ālī Bey. He was probably a graduate of the MH, and held a bureaucratic post in the Ministry of Public Works and Trade while also teaching international law in the DF.⁷⁸

These five scholars taught the international law course in the DF, while in the MM, the course was taught by Mehmed Nusret. Born to a district treasurer in Ioaninna in 1877, Mehmed Nusret graduated from the MM in 1898, and in 1909 he was appointed professor of international private law in this school.

74 S.L. Meray, *Lozan'ın Bir Öncüsü: Prof. Ahmet Selahattin Bey (1878–1920)* [*A Pioneer of Lausanne: Prof. Ahmet Selahattin Bey (1878–1920)*] (Ankara: Türk Tarih Kurumu Yayınları, 1976), 91.

75 Meray, *Lozan'ın Bir Öncüsü*, 121–2.

76 Çankaya, *Yeni Mülkiye Tarihi*, Vol. 3, 963–5.

77 Pakalın, *Sicill-i Osmanî Zeyli*, Vol. 2, 50–56.

78 One of the rare records regarding his political and academic activities was his speech to the Ottoman Parliament in 1909, in which he spoke against the right to strike. His mastery of Ottoman laws and regulations, as demonstrated in his speech, creates the impression that he had an advanced legal education. See *Meclis-i Meb'usân Zabıt Ceridesi* [*The Journal of Proceedings of the Ottoman Parliament*], 104th plenary meeting, 18 June 1325 (1909), <http://www.tbmm.gov.tr/tutanaklar/TUTANAK/MECMEB/mmbd01ic01c005/mmbd01ic01c005ink104.pdf> (Last access: 10 December 2012)

Moreover, Mehmed Nusret delivered lectures on international law in the Military Academy. In the Republican period, he was appointed counsel in the Ministry of Foreign Affairs and president of the Council of State and the Central Bank of Turkey until his death in 1946.⁷⁹ In addition to Mehmed Nusret, an Armenian scholar of international law named Hamayak Hüsrevyan also taught international law courses at the MM. Although little biographical information is available, archival documents reveal that Hamayak Hüsrevyan was a 1901 graduate of the MH and that he worked as a lawyer in addition to his academic career.⁸⁰

There were scholars of international law in the newly established schools of law in the countryside. Osman Sermed taught international law at the Thessaloniki Law School, whereas Hulusi Efendi, Director of Education in Konya, and Selim Sabit, a local lawyer working in the same city, taught the same course at the Konya Law School.⁸¹

Unlike earlier Ottoman scholars of international law, the new generation were not generally from wealthy families; rather they were sons of low-level bureaucrats. Moreover, almost all of them were graduates of Ottoman higher education facilities; in other words, they took formal education either in public administration or in law. Finally, unlike the earlier scholars, who had generally been appointed to other bureaucratic posts, most of these scholars remained solely academics. This shows increased professionalization in the teaching of international law in the post-Hamidian period thanks to the increasing number of graduates from the Ottoman higher education facilities filling bureaucratic ranks.

During the second constitutional period, former scholars of international law continued to write new treatises on international law, and completely new translations and compilations were published by the new generation of international law scholars. In the immediate post-Hamidian period, five new textbooks on international law emerged. The first did not appear in Istanbul, but in Thessaloniki in 1908, where the Thessaloniki Law School had opened a year previously. The author was Osman Sermed, scholar of international law, and the title of his book was *International Public Law (Hukük-u Umümiye-i Düvel)*. This was the first book on international law bearing this title, which indicated the distinction between international public and private law. In the introduction, Osman Sermed called attention to the existing literature on international law in the Ottoman Empire, and emphasized the need for writing an updated textbook. He underscored the importance of mastering international law for diplomats, as well as for all officials and officers, because international relations could only be understood through international law.⁸²

The second textbook was published in 1908 by Ālī Bey. The book contained no preface stipulating the motives behind its writing or mentioning the sources cited. However, the structure of the book closely resembled the international law

79 Çankaya, *Yeni Mülkiye Tarihi*, Vol. 3, 761.

80 BOA.MF.MKT/1136/19, 26 Ra 1319 (13 July 1901).

81 İhsanoğlu, *Darülfünun*, Vol. 2, 655–63. Unfortunately, scholars of international law of the Baghdad Law School and the Beirut Law School could not be determined from the archival documents.

82 Sermed, *Hukük-u Umümiye-i Düvel*, 2–3.

treatise published by Henry Bonfils, which would later be partially translated by Mahmud Es'ad and then completely translated by Ahmed Selahaddin and Mehmed Cemil.⁸³ Ālī Bey's book was published in two volumes by different publishers.⁸⁴

These studies were followed by three separate compilations of lecture notes: one by Ahmed Halid from Hamayak Hüsrevyan's lecture notes, one by Ahmed Talat and Mehmed Tahir from Ahmed Şuayb's lecture notes, and one by Mustafa Nuri from Mehmed Nusret's lecture notes.⁸⁵

Henry Bonfils' treatise appeared to influence many Ottoman scholars of international law in the post-Hamidian period, because they directly translated this treatise or indirectly cited it in their compilations. One of the translations of this treatise was made by Mahmud Es'ad, and published in 1910.⁸⁶ The translation was an abridged version of the original book and a complete translation by two prominent professors of international law, Ahmed Selahaddin and Mehmed Cemil, appeared in eight volumes between 1910 and 1913.⁸⁷ These two scholars considered the existing Ottoman literature on international law to be extremely deficient and decided to translate a current international law treatise.⁸⁸ According to Meray, this translation soon became popular, with 2,000 copies selling in a short time period.⁸⁹

In addition to these textbooks, specific studies on international law emerged during this period. First, there were treatises translated or written for specific groups of people, particularly for military personnel. A captain from the Ottoman army, Arīfī Bey, wrote a small treatise in 1911 entitled *International Law in Time of War (Vakt-i Harbde Hukūk-u Milet)*. This was the first specific study on the law of armed conflict in the Ottoman Empire.⁹⁰ This treatise was followed by similar original or translated works written for soldiers or mariners. Ahmed Vahid's translation of Charles Stockton's *A Manual of International Law for the Use of Naval Officers* and Mehmed Hayri's treatise on the law of war were among these works.⁹¹

83 H. Bonfils and P. Fauchille, *Manuel de droit international public* (Paris: A. Rousseau, 1894).

84 Ālī, *Hukūk-u Düvel* (Istanbul: Cihān Matba'ası, 1324 [1908]), Vol. 1; Ālī, *Hukūk-u Düvel* (Dersa'adet: Ahmed Saki Bey Matba'ası, 1325 [1909]), Vol. 2.

85 H. Hüsrevyan, *Hukūk-u Umūmiye-i Düvel* ([Istanbul]: Matba'-ā-i Kütübhāne-i Cihān, 1325 [1909]); A. Şuayb, *Hukūk-u Umūmiye-i Düvel*, compiled and edited by A. Talat and H.M. Tahir (Istanbul: Matba'ā-i İkbāl, 1328 [1912]); M. Nusret, *Hukūk-u Düvel* (Istanbul: Mekteb-i Mülkiye Matba'ası, 1336 [1920]).

86 M. Esad, *Hukūk-u Düvel* (Istanbul: Merkez Matba'ası 1326 [1910]); M. Esad, *Hukūk-u Düvel* (Istanbul: Hilal Matba'ası, 1326 [1910]); M. Esad, *Hukūk-u Düvel* (Istanbul: Matba'ā-i Osmanīye, 1326 [1910]).

87 H. Bonfils and P. Fauchille, *Hukūk-u Umūmiye-i Düvel*, ed. and trans. A. Selahaddin and M. Cemil, 8 vols (Istanbul: Matba'ā-i Jirayir ve Keteon, 1326–1329 [1910–13]).

88 Bonfils and Fauchille, *Hukūk-u Umūmiye-i Düvel*, Vol. 1, 1–6.

89 Meray, *Lozan'ın Bir Öncüsü*, 91.

90 Arīfī, *Vakt-i Harbde Hukūk-u Milet* (Istanbul: Keteon Bedrosyan Matbaası, 1327 [1911]).

91 C. Stockton, *Bahriye Zābitānna Mahsūs Hukūk-u Düvel*, ed. and trans. A. Vahid (Istanbul: Matba'ā-i Bahriye, 1328 [1912]); M. Hayri, *Hukūk-u Harbiye-i Düvel [International Law of War]* (Istanbul: Araks Matba'ası, 1330 [1914]); *Zābitāna Mahsūs Hukūk-u Harbiye-i Düvel. Muhārebāt-ı Berriye Kavānīn ve Ādābına Mütte'allik Lahey Nizamnāmesi Şerhi [International Law of War for the Use of Soldiers. A Commentary on the Hague*

Second, there were studies focusing on the theoretical aspects or practical applications of international law. Ahmed Selahaddin's treatise on the theoretical evolution of European international law, Hasan Sırrı's treatise analysing the Ottoman–Italian War of 1911 in terms of international law, and Abdurrahman Adil's study on the codification of international law were important contributions to the existing Ottoman literature on international law.⁹²

Third, there was a very important compilation by Celal Nuri, who was not a scholar but one of the most important journalists of the late Ottoman and early Republican periods. Celal Nuri contributed to the popularization of international law by publishing several articles in the *Tanin* newspaper and by compiling them in a book entitled *International Law from My Point of View (Kendi Nokta-i Nazarımdan Hukuk-i Düvel)*. In these articles, he touched upon interesting themes such as the teachings of Machiavelli, the treaties of the Ottoman Empire and international legal interpretation of the “clash between cross and crescent”.⁹³

During the second constitutional period, the Hamidian legacy of teaching international law largely continued, although institutions were transformed and the scholars changed. A new generation of international law scholars emerged from the existing Ottoman higher education facilities, and publications on international law developed both qualitatively and quantitatively. Numerous authentic works on specific aspects of international law, such as theoretical debates and practical applications of this field of law, were written. Moreover, popular international law treatises, such as Henry Bonfils' edition of international law, were translated. All of these developments show that the emphasis given to international law and its teaching survived in the post-Hamidian period.

Conclusion

The modernization of education and the secularization of the Ottoman legal system were the two basic components of Ottoman intellectuals' search for a solution to the structural problems of the Empire. The modernization of education began with the military and later expanded to other fields, including domestic and international law. The development of the Ottoman higher education system and the establishment of new schools to provide the imperial bureaucracy with well-trained officials was one of the strongest motives for the prevention of

Convention on the Laws and Customs of War on Land], ed. and trans. M. Hayri (Istanbul: Araks Matba'ası, 1330 [1914]).

92 See A. Selahaddin, *Hukuk-i Beyn'edd-üvelin Mukaddemât-ı Nazariye ve Safahât-ı Tekâmüliyesi [Theoretical Premises and Phases of the Evolution of International Law]* (Istanbul: Kanaat Matba'ası, 1331 [1915]); H. Sırrı, *Hukuk-u Düvel Nokta-i Nazarından Osmanlı-İtalya Muhârebesi [The Ottoman–Italian War from the International Law Point of View]* (Istanbul: Matba'â-i Ebüzziya, 1330 [1914]); A. Adil, *Lahey Konferansı yâhud Taknîn-i Hukuk-u Düvel [The Hague Conference or the Codification of International Law]* (Istanbul: Matba'â-i Ebüzziya, 1331 [1915]).

93 C. Nuri, *Kendi Nokta-i Nazarımdan Hukuk-u Düvel* (Istanbul: Osmanlı Şirketi Matba'ası, 1330 [1914]).

extraterritoriality and the preservation of the territorial integrity of the Empire against domestic and external threats.

Within this framework, the teaching of international law was a critical endeavour. Not only the complex diplomatic network, but also the legal interrelationship based on the inequality between the Ottoman Empire and the European states forced Ottoman intellectuals to learn European international law. Ironically, the Ottomans adopted European international law in order to defend their interests vis-à-vis the European states, which were eager to intervene in the domestic affairs of the Empire through extraterritoriality. Therefore, teaching international law became a vital concern for the Ottomans, resulting in the inclusion of international law and various supplementary courses in the curricula of Ottoman schools in the second half of the nineteenth century.

Although the teaching of international law was not systematic until the late 1870s, when Ottoman higher education facilities were reformed and stabilized, primitive studies introducing European international law to young Ottoman students did exist. The earliest publications on international law were not authentic works, but, rather, translations from European textbooks. Nevertheless, this preliminary period was critical for creating an awareness of the importance of international law for the Ottoman Empire.

The teaching of international law became more systematic in the Hamidian period, with the reformation of the education system and the stabilization of the curricula in Ottoman schools. Moreover, a group of scholars of international law who were either graduates of European universities or self-educated Ottoman intellectuals emerged. However, towards the late 1880s, graduates of Ottoman institutions of higher education were being employed as scholars of international law. The increasing number of scholars also resulted in an increase in the number of publications on international law, and Ottoman textbooks on international law, either as compilations from lecture notes or as authentic works based on European international law treatises, were published.

The 1908 Revolution transformed the cadres and curricula of Ottoman higher education facilities; however, the emphasis given to the teaching of international law intensified in this period because the Ottoman Empire became involved in international crises such as the Ottoman–Italian War of 1911, the Balkan Wars of 1912–13 and, finally, the First World War. During this period, almost all of the scholars of international law were graduates of Ottoman schools, proving that these schools were able to produce educated cadres. What is more, in this period, specific studies on the theory and practice of international law and systematic translations from European treatises also emerged.

In summary, Turkish experience regarding the teaching of international law had a significant Ottoman background. Ottoman intellectuals were aware of the importance of international law for the survival of the Ottoman Empire. Although the Empire could not survive the catastrophic First World War, the newly established Republic of Turkey inherited Ottoman scholarship on international law in terms of both cadres and literature. Thus, Turkish scholarship on international law did not emerge haphazardly, rather, it had a strong tradition – this should never be forgotten even if it is buried in the ashes of the Empire.

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.