

NAAIMS 42<sup>nd</sup> ANNUAL CONFERENCE  
[Formerly the Association of Muslim Social  
Scientists of North America (AMSS)]

“Constitutions and Islam”

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Department of Near Eastern Studies  
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Program in Near Eastern Studies  
Princeton University, NJ

Saturday, September 28, 2013

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**ABSTRACT ONLY – WORK IN PROGRESS**

“The *Mecelle*: Shari’a, State, and Modernity Fashioning and  
Refashioning of Islamic Law in the 19<sup>th</sup>-20<sup>th</sup> Centuries CE”

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This paper addresses one of the key debates in the field of Islamic legal studies concerning the dynamics, incompatibilities, and transmutation of Islamic law into state law. This paper advances two arguments. First, it contends that the codification of Islamic law in the late 19<sup>th</sup> century CE was primarily justified in relation to the already existing legal genres within the Ḥanafī school. The drafters of the *Mecelle* affirmed that it was inspired by the work of the Egyptian Ḥanafī legal authority, Ibn Nujaym al-Ḥanafī al-Miṣrī (d. 970/1562-3). This paper proposes to reevaluate the current scholarship that renders codification, and necessarily the *Mecelle*, to be a merely modern phenomenon and a result of the Westernization policies of the Ottoman Empire. Second, I propose to understand the emergence of the *Mecelle*, not in terms of an epistemic break from the premodern Islamic legal reasoning, but in terms of a continuation and transformation within the structure of a legal tradition. The *Mecelle* cannot exist without dependence upon and articulation with previously existing norms and legal literature. The *Mecelle* did not appear *ex nihilo*, as a legal framework alien and opposed to the existing legal literature and legal order, but rather, it emerged out of an existing legal genre of Ḥanafī legal maxims. Yet, the key distinction between the *Mecelle* and the premodern Ḥanafī jurisprudence is its function (i.e. standardized judicial rules for purposes of litigation).