GOVERNANCE AND SOCIAL CONTROL IN THE OTTOMAN EMPIRE: *NEZR*

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ABSTRACT

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The aim of this thesis is to generate a comprehensive map of the nezir (vow) which had been used a penal mechanism since the seventeenth century in the Ottoman Empire. Considering early practices of the nezir, this customary tool was taken from pre-Islamic Arabs and incorporated into Islamic culture. The nezir was considered a religious practice in Islamic tradition and developed by various sources of Islamic law. This was mainly a folkloric practice and could be seen in many cultures. However, the Ottoman Empire witnessed gradual change of the nezir, and its renewed form came into sight in the fatwas and the Ottoman courts. Moreover, the Ottoman Empire used this gradual change and transformed the nezir into a penal mechanism that had a collective binding in particular. Through the seventeenth to the nineteenth centuries, the central government mainly used the nezir for provincial communities, but this practice also became a power in the hands of the provincial power-holders and their communities. Within the interests of the state and the province, the eighteenth and early nineteenth centuries have a crucial role to explain role of the nezir in the shifting balances between the central government and provincial communities and their leaders. This question also intends to shed light on the changing state ideology of the Empire from the seventeenth to the nineteenth centuries.

ÖZET

OSMANLI İMPARATORLUĞU'NDA YÖNETİŞİM VE SOSYAL KONTROL: *NEZR*

MUSTAFA MELİH KAYAR

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Anahtar Kelimeler: nezir, toplu cezai yaptırım, yönetişim, sosyal kontrol

Bu tezin amacı, Osmanlı İmparatorluğu'nda on yedinci yüzyıldan itibaren bir ceza mekanizması olarak kullanılan nezrin kapsamlı bir haritasını oluşturmaktır. Nezrin erken uygulamaları göz önüne alındığında, bu geleneksel araç İslam öncesi Araplardan alınmış ve İslam kültürüne dahil edilmiştir. Nezir, İslam geleneğinde dini bir pratik olarak ele alındı ve çeşitli İslam hukuku kaynakları tarafından geliştirildi. Bu esas olarak folklorik bir uygulamaydı ve birçok kültürde görülebiliyordu. Ancak Osmanlı Devleti nezrin kademeli olarak değişimine tanık olmuş ve nezrin yenilenen formu fetvalarda ve Osmanlı mahkemelerinde ortaya çıkmıştı. Üstelik, Osmanlı Devleti bu kademeli değişimi kullanarak neziri özellikle kolektif bağlayıcılığı olan bir ceza mekanizmasına dönüştürdü. On yedinci yüzyıldan on dokuzuncu yüzyıla kadar merkezi hükümet neziri esas olarak taşra toplulukları için kullandı; ancak, bu uygulama aynı zamanda taşra güçlerinin ve topluluklarının elinde de bir güç haline geldi. Devletin ve taşranın çıkarları çerçevesinde, on sekizinci yüzyıl ve on dokuzuncu yüzyılın başları, merkezi hükümet, taşra toplulukları ve liderleri arasındaki değişen dengelerde nezrin rolünü açıklamada çok önemli bir role sahiptir. Bu sorgulama aynı zamanda imparatorluğun on yedinci yüzyıldan on dokuzuncu yüzyıla kadar değişen devlet ideolojisine de ışık tutmayı amaçlamaktadır.

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To the voice of my father
inside my head

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LIST OF ABBREVIATIONS

BŞM. Başmuhâsebe Kalemi (Registers of the Finance Bureau) .....

C Cevdet .....

C. ZB. Cevdet Zabtiye (Police Reports) .....

C. ML. Cevdet Mâliye (Financial Affairs) .....

C. HR. Cevdet Hâriciye (Foreign Affairs) .....

C. DRB. Cevdet Darbhâne (Imperial Mint) .....

C. DH. Cevdet Dâhiliye (Internal Affairs) .....

C. BLD. Cevdet Belediye (Municipal Affairs) .....

C. BH. Cevdet Bahriye (Naval Affairs) .....

C. AS. Cevdet Askeriye (Military Affairs) .....

C. ADL. Cevdet Adliye (Judicial Affairs) .....

DABOA Devlet Arşivleri Başkanlığı Osmanlı Arşivi (The Presidency of the State Archives the Ottoman Archive) .....

MAD Mâliyeden Müdevver Defterler (Register of the Finance Department) .....

1. INTRODUCTION

Nezir (vow) originally indicated engagement of the individuals in a binding pledge with the divine power for private purposes. Pre-Islamic societies used votive practices to fulfill their expectations by dedicating something to the divine power. This was a process through which one put him/herself completely under obligation. Such practices, as seen in many cultures, were incorporated into Islamic culture; but Islam did not encourage or recommend the *nezir* practices because of extra-canonical customs of pre-Islamic Arabs. Instead, Islam aimed to promote the *nezir* as a ritual practice, which would strengthen close and private relationship between believers and God. In other words, the *nezir* indicated a contract between the individuals and God within the rules of Islam. Islamic jurisprudence integrated this practice into Islamic culture regarding main sources of Islam, and also considered different *nezir* practices changing in time. Ottoman Empire changed this practice unusually in the seventeenth century, and the *nezir* was transformed into a penal mechanism in the hands of the state. More precisely, the Ottoman government borrowed this practice from Islam or took possession of a religion-based commitment mechanism. In this thesis, I aim to discuss these different *nezir* practices throughout the pre-Islamic period until the nineteenth-century Ottoman Empire. Transformation of this practice into a penal system and its changing roles in the hands of the state and provincial communities constitute main subjects of this thesis. Based on such issues to be examined, this thesis intends to generate a comprehensive map of the *nezir* with its all aspects, because the lack of previous studies on this issue necessitates such a basis.

Although many scholars, who particularly study public order and security in the eighteenth-century provinces of the Ottoman Empire, have frequently come across the *nezir* documents and shared them in their studies, this issue has not been examined in detail in Ottoman studies.[1] Up to the present, only Suraiya Faroqhi, Işık Tamdoğan, Hülya Canbakal, Cemal Çetin and Antonis Anastasopoulos have con-

[1]For these studies, see. (Gül 2015, 1-33); (Tok 2007, 203-214); (Demirci and Arslan 2012, 74-103); (Satıcı 2008, 175-203); (Karagöz 1994, 193-207); (Uluçay 1955); (Halaçoğlu 1991); (Orhonlu 1990); (Orhonlu 1987); (Özkaya 1994); (Çetin 2013); (Tatar 2005); (Öztürk 2002, 850-860); (Nagata 1999).

centrated on the *nezir* in the Ottoman context from different points of view[2] The works of these scholars shed light on legal, political and social aspects of this issue in particular and constituted the main corpus of studies that we have on the *nezir*.[3]

Suraiya Faroqhi is the first scholar who focused on the *nezir* in the Ottoman context. According to Faroqhi, the *nezir* was likely to have been established by the state in order to fight the bandits in the seventeenth century, and so its establishment was parallel to the struggle of the state against banditry. In addition, Faroqhi particularly highlighted that the term bandit was widely used for all unlawful people in the Empire. The state, in this manner, forcibly used the *nezir*s in order to take collective warranty from the bandits. The collective guarantees provided self-supervision of the Ottoman subjects by force of the state, and so the state strengthened its authority (Faroqhi 1995, 163-178). The pecuniary punishment of the *nezir* was herein effective to prevent public disturbance or disobedience (Faroqhi 1995, XXII).

The work of Işık Tamdoğan has followed a similar path to that of Faroqhi by emphasizing collectivity concerning security matters to control the bandits and nomadic groups, but also discussed the *nezir* as a commitment mechanism. Tamdoğan has mainly considered the *nezir* as a control mechanism of the state on nomadic groups of Çukurova such as bandits and seasonal workers. Controlling mobile groups was difficult for the state because of their uncertainty and instability, and so the state has taken several measures to control them. The *nezir*, according to Tamdoğan, was herein constituted by the state to fights with the bandits by creating negotiation areas between people and the government. Such a negotiation, in fact, constituted an intermediary area between people and the state, so that face to face connection between these two sides became even more prevalent. Furthermore, the collective responsibility, which was already implemented in the Empire, ensured integration of the people in the state orders. Even though collective punishments were commonly carried out by the government, according to Tamdoğan, the state availed sacred meaning of the *nezir* term to create more impact on society (Tamdoğan 2006, 135-146).

Hülya Canbakal has touched on the *nezir* in her doctoral thesis first. She has mainly questioned transformation of this practice into the public sphere as an instrument of contractual commitment, and that transformation, from private areas to the publicity, was possible with the engagement of the third parties that were named as

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[2](Faroqhi 1995, 163-178); (Faroqhi 1995, XIX-XX); (Tamdoğan 2006, 135-146); (Canbakal 2011, 85-115); (Çetin 2015, 287-310); (Anastasopoulos 2011, 127-142).

[3]I am grateful to Suraiya Faroqhi, Işık Tamdoğan and Hülya Canbakal, who discussed and shared their ideas on the *nezir* with me. Cemal Çetin also made a significant contribution to this issue by introducing several primary sources, but I could not discuss these sources with him.

beneficiaries in the contract. The publicity of the *nezir* came into use by the state as a new consensual method of taxation in the seventeenth century; but it was not only composed of that, also created obligation in public life (Canbakal 2007, 162-164). Canbakal has considered the *nezir* in her other works as well. She particularly questioned the transformation of the *nezir* into the public sphere in legal, social and political areas through different uses of the *nezir* in public life. These investigations mainly involved the expansion of legal sphere over custom and morality, the recognition of customary device of contract and the redefinition of center-periphery relations in the seventeenth and eighteenth centuries through the culture of consent and contractual politics. By asking these questions, Canbakal first examined *fatwa*s to grasp the transition from private to public vows and changing legal status of the *nezir*. It can be understood that the *fatwa*s involving public vows or oaths were very limited, and many Shaikh al-Islams and pre-Ottoman jurists did not allow their transformation into legal obligations; in other words, expanding authority of the state into the domain of the rights of God was not acceptable (Canbakal 2011, 88-100). If the sharia did not introduce a legal basis to the state's use, why did people make a contract through the *nezir*, or, more precisely, what was the performative power of this practice? She herein investigated the performative power of the *nezir*s when they lacked legal enforcement. According to Canbakal, the flexible boundaries between the law and the custom should be questioned at this point. This interface more likely produced partial answers to these questions and enabled a basis to implement the *nezir* in a different form such as social needs could constitute new forms of the contract in Muslim societies (Canbakal 2011, 103-107).

The *nezir* as a penal surety involved two legal principles in the seventeenth century: collective penal responsibility and criminal surety. These features were similar to the oath of compurgation (*kasâme*) and the criminal surety (*kefâlet*). The collective liability became prominent in such practices and moreover, some *nezir* practices included functions of both practices. However, not all *nezir* practices functioned like these penal systems. More precisely, some *nezir* cases were a novel combination (Canbakal 2011, 90-94). That novel combination should also be examined through new discourses of the eighteenth century, which would generate consensual and contractual politics in the Empire. Particularly second half of the eighteenth century had a strong consensual discourse through people's participation and consent in the local elections. Could the *nezir*, whether its coercive dimension or willful agency of the vow-takers, match with consensual and contractual local politics in the eighteenth century? According to Canbakal, the *nezir* was mostly involved in such a political culture (Canbakal 2011, 109-112). This consensual policy played an essential role in the works of Canbakal and Tamdoğan; however, while Canbakal has

stated that the *nezir* may have been established because of this political culture, Tamdoğan pointed out different matters to question why the contracts were named the *nezir*. According to Tamdoğan, the *nezir* increased the faith to the words and pledges because of its religious base, and so the central government intended to use that aspect of the *nezir* in order to constitute a strong effect in Ottoman subjects (Tamdoğan 2006, 145). Nevertheless, Canbakal has argued that the *nezir* was desacralized by non-Muslims' use of that practice. Considering that a vast majority of the Muslim jurists did not allow such a use, the non-Muslims' use eliminated sacral meaning of the *nezir* (Canbakal 2011, 96).

Two other scholars, Antonis Anastasopoulos and Cemal Çetin, have discussed the *nezir* in relation to political encounters between the central government and provincial communities. While Anastasopoulos focused on the political initiatives increasing in the eighteenth-century provinces, Çetin has touched on the *nezir*s of different groups in the Empire to indicate various political encounters. Anastasopoulos has considered the *nezir* cases occurred in Crete of the seventeenth and eighteenth centuries to question political participation in the provinces and new intersections between the state and the subjects. Although the studies of political participation in early modern context have particularly emphasized conflicting aspects of the relationships between the state and the provinces, such a political encounter should also be examined more thoroughly, including cooperation and bargaining (Anastasopoulos 2011, 127-132). In the cases of Crete, the negotiation between the state or its agents and the subjects was one of the political participations, regardless "active" or "passive", in the Ottoman political culture (Anastasopoulos 2011, 134-136). The *nezir*, which enabled such a negotiation, was used by the state to discipline local populations through pecuniary punishment in particular, but still this intention implicitly triggered the "politicization" of Ottoman subjects. That politicization did not constitute major alterations in the state policy, but it had an impact on the government's attitude to eighteenth-century Crete. While such increasing political initiatives could be used to engage in the imperial order by provincial communities, they could also politicize themselves against the state order. For instance, not to pay the *nezir* money was an indication of the disobedience, and such *nezir* cases probably discredited the effectiveness of this practice. This more likely depended on the local conditions such as the extent of "politicization" of provincial communities and their leaders (Anastasopoulos 2011, 137-142). Based on these politicizations in different scales, Anastasopoulos has mainly concentrated on increasing political participation of the Ottoman subjects vis-à-vis the state in the eighteenth century. However, the study of Cemal Çetin has considered this issue through a state-centric perspective only. He substantially asserted that the *nezir* was initiated by the state

for restoration of order and authority between last quarter of the seventeenth century and the Tanzimat. He has examined several primary sources to illustrate different implementation areas of the *nezir*, and argued that some *nezir*s were used as a solution and a negotiation tool in certain areas. This practice sometimes enabled the provinces to negotiate with the state, but that penal system was state-centric and mainly carried out to maintain the public order (Çetin 2015, 288- 308). Besides, similar to Anastasopoulos, Çetin has stressed that effectiveness of the *nezir* depended on the prevalence of the state authority in a province in particular; in other words, the *nezir*, which was initiated by the state to increase its authority, also needed the state power in order to constitute its effectiveness in provincial communities (Çetin 2015, 305-307).

Beyond these secondary sources on this issue, it is possible to encounter several *nezir* documents in the state archives and the court registers. The first registers of these documents could date to as early as the last quarter of the seventeenth century in the court records.[4] The documents from the seventeenth century are limited. The *nezir*s were substantially registered in the state archives and the court records in the eighteenth century. In this period, the central authorities have kept special *nezir defterleri* containing several cases from all over the Empire, and registered these documents in the Register of the Finance Department (*Mâliyeden Müdevver Defterleri*).[5] Besides, there is a separate catalogue named *nezir* in Registers of the Finance Bureau (*Başmuhâsebe Kalemi*).[6] It is possible to reach the collected *nezir* registers pertaining to certain date ranges through these catalogues in the state archive. It should be noted that some *nezir* documents in these catalogues were registered as surety (*kefâlet*) probably they had close discourses and acts, and so some *nezir*s can be found within *kefâlet* documents.

Another part of the *nezir* documents in the state archive is located in *Cevdet* Collection. I have found two hundred and eighty-six *nezir* documents in this catalogue, and a vast majority of them is situated in Internal Affairs (*Cevdet Dâhiliye*) and Police Reports (*Cevdet Zabtiye*). They usually consisted of singular documents, did not have the collected registers pertaining to a certain date range like the documents in *Mâliyeden Müdevver*. On the other hand, the collected registers could only date to the eighteenth century. The state authorities probably did not collect

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[4] For these documents I have found, see. (Kısa 2015, 208-209); (Çiftçi 2017, 139-140, 250-251). Also see. (Canbakal 2011, 88-98).

[5] I have detected four registers in this catalogue, see. (DABOA. MAD. 10377, H. 1196, M. 1782); (DABOA. MAD. 4017, H. 1141, M. 1729); (DABOA. MAD. 8538, H. 1178, M.1764); (DABOA. MAD. 8458, H. 1138, M. 1726).

[6] *Bâb-ı Defteri, Başmuhâsebe Kalemi, Nezir Hücceti* (DABOA. D.BŞM. NZR).

the *nezir* documents within a register in the nineteenth century; however, *Cevdet* Collection contains both periods. The documents in the state archives do not contain all *nezir*s made by the state or the people either, because all of them were not registered in the archive or notified by kadis or the governors. Therefore, the court registers constitute another crucial source for the *nezir*. Provincial courts actually contained all *nezir* documents. As distinguished from the state archives, the *nezir*s that did not relate to the state authorities or institutions or special incidents, and unilateral contracts can be found in the court registers to a large extent. Studies on that subject, therefore, should be covered with the documents from both sources. Although the state archives and the court records constitute main primary sources of the *nezir* to grasp its use from the seventeenth century to the nineteenth century, the *fatwa*s should not be failed to notice to examine transformation of this practice and attitude of Islamic law on that change.[7]

Through these primary sources, this thesis aims to introduce a comprehensive discussion in three chapters, all of which consider the use and the evolution of the *nezir* throughout pre-Islamic Arabs to the nineteenth-century Ottoman Empire. The first chapter considers how the *nezir* was located in Islamic culture through the attitudes of Islamic law and different sects in this practice in particular. The votive offerings, which were transferred across cultures, were incorporated into Islamic culture from pre-Islamic Arabs, and Islamic law adopted this customary tool as a ritualistic practice against the prevalence of un-Islamic votive offerings. This chapter primarily considers the engagement with and discussions of Islamic sects on a dilemma between religious and non-religious practices within Islamic culture. Herein, the *nezir* was considered as a kind of contract between the individuals and God for private purposes within Islamic rules. How was this contractual tool be treated in Islamic tradition, or what was the legal and moral power of the *nezir* as a binding contract in both Islamic law and society? There was no doubt a moral enforcement, which was constituted by one's pledge, but the legal status of this practice in Islamic law was quite controversial. I particularly discuss this issue through an interface between custom and law produced within Islamic law. More precisely, the *nezir* should be discussed through a triangle between custom, morality and law. Herein, development of the custom in Islamic law played a crucial role to redefine the elements of this triangle. New genres produced within Islamic law have influenced that development, and changing faces and uses of the *nezir* were a subject of these genres, as seen in the Ottoman *fatwa*s in particular. Lastly, the first chapter questions the transformation of the *nezir* together with its new appearance in the

[7] In this thesis, I mainly consider the *fatwa*s of Ebussuûd Efendi and Çatalcalı Ali Efendi on the *nezir*. As far as we know, Ebussuûd Efendi was first Shaikh al-Islam who treated changing face of the *nezir* practices and after him, many Shaikh al-Islam also addressed this issue.

*fatwa*s.

The second and the third chapters constitute the main discussions of this thesis, which concentrate on the renewed appearance of the *nezir* in the Ottoman Empire. The gradual transformation of this practice, from private to the public domain, is questioned through its new faces in the *fatwa*s and the Ottoman courts in the second chapter. The *fatwa*s dealt with the *nezir*s, which gradually moved away from the Islamic rules, and did not allow the transformation of this ritual practice into a legal obligation in different forms. However, people began to use this tool in the Ottoman courts in the seventeenth century. Besides, the central government transformed this religion-based practice into a penal system in the last quarter of the seventeenth century. This was a completely unusual change within the historical development of the *nezir*. The second chapter follows the traces of this gradual change through the early cases of the *nezir* in the Ottoman courts. These early practices illustrated that the *nezir* could be used in both collective and individual scales, but this penal mechanism was explicitly a collective tool in the hands of the state. Moreover, the central government implemented two collective penal tools in the same period: oath of compurgation (*kasâme*) and surety (*kefâlet*). Why did the state need another collective penal mechanism, or what was the hallmark of the *nezir*? The second chapter seeks answers to these questions from within a new political culture in the eighteenth century. This period, which witnessed new relations and shifting balances between the state and the provincial power-holders, put forward a collective identity through increasing political participation of provincial communities. Could the *nezir* be produced and used for such a political culture?

The third chapter examines various *nezir* practices, throughout the seventeenth century to the nineteenth century, to question the political and social atmosphere of the Empire by generating a comprehensive map from the primary sources located in the state archives and the court records. This map introduces an extensive knowledge in its own right about all aspects of the *nezir*. Considering the sources, the *nezir* became a contractual power in the hands of both the central government and provincial communities. Therefore, this thesis not only introduces the interest of the state through the *nezir*, but also discusses the interests and the increasing political initiatives of provincial communities. In other words, I question mutual interests between these two sides, which may have generated a soft-pedaling government in the eighteenth century. However, such a state ideology gradually changed after the first quarter of the nineteenth century and besides, use of the *nezir* decreased during this time and completely finished in the second half of the nineteenth century. Was there a parallelism or a relationship between the change of the state ideology and the abolishment of the *nezir*? Did the tools of the early modern-state play a role

in the way in which the rule changed during Tanzimat? Addressing such questions, this thesis aims to spark a debate about the state ideology of the Ottoman Empire between governance and administration between the seventeenth and the nineteenth centuries.

2. THE TRANS-HISTORICAL EVOLUTION OF A SOCIO-CULTURAL PRACTICE IN ISLAMIC TRADITION: THE NEZİR (VOW)

2.1 The Votive Practices in Pre-Islamic Arabia

The *nezir* had appeared in numerous ways and forms from the Pre-Islamic Arabs to the Ottoman Empire. Before the vow's integration into Islamic culture in particular, pre-Islamic Arabs generally used the *nezir* as a vow and an oath in the form of dedicating something to the divine power. Animals, jewelries, rare foods and clothes could be involved in a vow. All these were dedicated to the divine powers in order to receive their support both in troubled and good times, and this dedication procedure was named *nezir* (Ar. *nadhr* or colloquially *nidr*, Per. *nazr*). Besides, the *nezir* practices could also be called votive practices or offerings. Pre-Islamic Arabs generally used their sacrificial customs as votive offerings. Shearing of a newborn's hair (*akîka*) was one of the most important examples of pre-Islamic Arabs' votive sacrifice.[1] Through these votive offerings, pre-Islamic Arabs engaged in a binding pledge with the divine power. Moreover, these practices could involve certain prohibitions such as avoiding to eat meat, drink wine, and sexual intercourse until they realized their requests. For instance, they pledged to eat no meat or drink no wine till they slain any clan members or revenge them (Esen 2003, 1-3; Özel 1988, 338; Pedersen 1993, 846-847). The *nezir*, in its initial form, became a vow including an act or purpose and a condition to follow out the act on behalf of getting support from the divine powers in general, and the vowers aimed to constitute a debt to realize their expectations.

The primary form of the *nezir* revealed itself for private purposes and thus an individual made the vow used it as a means of private connection with the divine powers. It was provided that special connection through promissory words of an

[1] This practice was continued in Islamic societies as well (Gruber 2016, 251).

individual to God. In this manner, staying true and keeping words played a significant role for pre-Islamic Arabs, and so the *nezir* embodied the principle of pacta sunt servanda on an individual scale (Esen 2003, 3-4). As I mentioned above, the conditions to realize the vow such as not drinking wine or not eating meat were used as a means of recruiting pledges, keeping words and importantly to reach God without any problems. This process was ensuring moral concentration of the people and influencing the deity (Pedersen 1993, 846). Keeping words and promissory words, as with strengthening the abstinences, also provided self-discipline of the people. An individual preferred to turn his/her wishes or necessities into a vow and thus s/he consolidated his or her self-organization and discipline together with its private relationship with God. Aside from a private connection between an individual and God, the *nezir* was used as a repression tool to bind one's family members. For instance, a mother pledges not to comb her hair till her son or daughters fulfils her wish (Pedersen 1993, 847). To sum up briefly, for pre-Islamic Arabs, the *nezir* literally was a crucial tool for making connection with God and strengthening self-discipline and moral concentration.

2.2 Integration of the *Nezir* into Islamic Culture

The *nezir* was integrated into Islamic culture and illustrated itself through Islamic history by preserving its initial meaning to a great extent. In Islamic history, the *nezir* corresponded to the vow as was the case for the pre-Islamic Arabs.[2] To oblige oneself or to undertake also included the meaning of the vow (Esen 2003, 7). The *nezir* here had etymologically the same meaning as the vow, and roughly meant to oblige oneself for something that is not binding for oneself (Esen, 7; Pakalın 1971, 690; Özel 1988, 337). Since the pre-Islamic Arabs, the vows had been dedicated to the divine powers, and the Islamic authority, Quran and Sunnah, also stressed that the vows have to be dedicated to God. Therefore, the initial meaning of the *nezir*, which was used as a means of private connection with an individual and God in the pre-Islamic Arabs, played an essential role for its usage in the Islamic history as well. However, Islam approached the *nezir* with caution because of extra-canonical

[2]Some scholars like Pakalın have assumed that there was a small meaning difference between the *nezir* and the vow. Although the *nezir* meant contingent undertaking, the vow did not have a condition in itself. Nevertheless, the latter scholars like Tanyu have claimed that the *nezir* was used for both conditional and unconditional situations. This discussion, in fact, derived from the different opinions of sects which concentrated on the bindingness of the *nezir* and the vow regarding its being conditional or unconditional. However, both conditional and unconditional *nezir*s were accepted obligatory for all sects, just unconditional *nezir*s were not seen as binding as in Shafiis. Here, I prefer to use the *nezir* and the vow as synonymous. For this discussion, see. (Pakalın 1971, 690-691), (Tanyu 1967, 9-12), (Esen 2003, 7-8).

practices of pre-Islamic Arabs on this issue.[3] Sanctified animals and dedication process except for God were one of the examples which were not adopted by Islam. Islam considered appropriate vows with regard to its own practices such as fasting and sacrificing. Therefore, vows initially were limited and predisposed to Islam within Islamic fiqh system. The vows in Islamic practice were made significant for closeness of an individual to the God to a large extent.

In Islamic fiqh system, the position and clear meaning of the *nezir* were questioned, and its two important concepts, *îcâb* and *kurbet*, became prominent to express it clearly. While *îcâb*, which meant to oblige oneself unnecessary things as seen by Islam, constituted the one side of the *nezir*; the other side, *kurbet*, expressed *nezir* acts that come close to God (Esen 2003, 10). Its two important concepts, therefore, in Islam enabled self-organization and discipline of an individual to an extent that permitted by Islam as well as pre-Islamic Arabs and also provided the *nezir* acts that come closer to the God of an individual. Vows, in the Islamic fiqh system, were assumed personal as was seen in between a person and God and its characteristic enabling self-discipline. In this manner, the moral responsibility of every human being became prominent in the Islamic tradition through the *nezir*, and also this solemn covenant procedure positioned vows throughout private area (Mottahedeh 2001, 41-43). The two crucial concepts, *îcâb* and *kurbet*, which identified the core of the *nezir*, strengthened the moral responsibility to God and oneself in its own initial form through Islamic fiqh system.

Aside from the main sense of the *nezir* in Islamic history, the Islamic tradition specified the certain patterns, features and conditions of the *nezir*. For the elements of the *nezir*, it primarily needed a dedicant (*nâzir*) who had to have a free will, be at full age, Muslim and have financial competence to realize own vow, and the dedicant expressed own intention with a promise (*sıyga*) such as that animal is going to be sacrificed. The promise played an important role in order to occur the *nezir* act because binding of the *nezir* was only possible with its pledge, not just intention. The clarity in promise was also required in the form of 'I vowed' or indirectly 'If that issue happens, I am going to sacrifice it', but this promise should not contain any exception such as 'If God permits'. The subject of the *nezir*, in other words votive deposit or offering, (*menzûrun bih* or *menzûr*) also had the same meaning with *kurbet*, which *nezir* acts that come close to God. An individual had to be clearly express own subject which was not an obligation or necessary; that is to

[3]These extra-canonical practices can be considered popular practices of the people, and these practices are not particular to a society; rather, they are transferred to different societies or next generations. For instance, the warnings against these practices can be seen in the shrines even today. In the shrine of Şehabeddin Sivasi where located in Selçuk, Turkey, there are some warnings written at the entrance of the shrine to avoid superstitions (*hurâfe*) such as lighting candles, pasting stones and money, expecting healing or intercession (Gruber 2016, 246-247).

say that possibly obliging to or undertaking unnecessary things seen by Islam was expected by a person. The beneficiaries (*menzûrun leh*) constituted last element of the *nezir*. They were not seen in all *nezir*s, but some involved the beneficiaries after their usage in Islamic culture in particular. A dedicant indicated a person or an institution as own beneficiaries and vows own alms to them at the end of the dedication process; they were here named *menzûrun leh* (Esen 2003, 11-12).

The quadruple circle around nâzir, sıyga, *menzûrun bih*, *menzûrun leh* and form of the *nezir* also shed light on the its features and position in the Islamic tradition. The dedicant had the right of the oral disposition because the stated promise in the dedication process is binding; however, the status of the *nezir* in Islamic law created a complicated situation. The *nezir* in Islamic tradition illustrated unilateral or one-sided intention; in other words, the dedicant, with own will and promise, formed a unilateral contract (*'aqd*) including only one promisor and promisee.[4] The unilateral contracts in Islamic legal system can be particularly viewed in the committed promises of an individual to the supernatural as were seen in the *nezir*s through connection between a person and God (Nabti 2007, 66-67). The vows, in this manner, were concluded with a unilateral will.[5] To oblige oneself regarding not being necessary or religious duty constituted an important feature of the vows. More important premise here was transforming supererogatory prayer to obligatory for oneself; however, religious duties or obligations already existed within the sharia and thus they could not be vowed. Because of becoming obligatory prayer of the *nezir* subject or act, the dedicant could not dissolve own vow because when the dedicant promised, the adjudication occurred and could not be ignorable afterwards (Esen 2003, 16-17). In all its aspects, the *nezir*, in Islamic legal system, was mainly parallel with unilateral contract which was embodied with one-party will as obliging oneself and irrevocably the right of oral disposition.

In Islamic tradition, the prominence of the *nezir* through prayers and closeness to God impacted its legal and religious nature. At the end of the *nezir* process, the adjudications regarding its discharge or not, in fact, gave a clue about its aspect, earthly or ethereal, overrode in Islamic tradition. If the vow of an individual did not occur, the dedicant naturally did not have to fulfill his/her promise. However, keeping a promise was expected when his request occurred, but the fulfillment of

[4]Islamic law generally divided contracts into two parts as bilateral and unilateral. Two-party transactions, which signified an offer on one side and an acceptance on the other, were frequently used in Islamic law. Nevertheless, unilateral transactions such as gifts, bequests, and more importantly the vows played an active role in the Islamic law. They were only generated by an offer. Vows, we observe here in its initial form, maintained one-party transactions through connection with the supernatural and to oblige oneself as using beneficiaries of the vow (*menzûrun leh*). For detailed explanations, see. (Hassan 2002, 257-297), (Nabti 1998, 65-82).

[5]The unilateral will was approached in the cause of obligation in the Islamic law. In this manner, the vows also can be seen in this category.

the vow was up to the dedicant. The Islamic legal system on this issue stated that there was not a legal enforcement on the *nezir*s; rather, it was between an individual and God, and thus the *nezir* was a religious issue (Esen 2003, 18-19; Nabti 2007, 66-67). Islamic fiqh system divided adjudications into two parts as judicial and religious to express these issues clearly. Considering the fulfillment or nonfulfillment of the vow, the judge had not any compulsory or legally binding authority on this issue (Bilmen 1998, 322). However, the dedicant who did not keep his/her promise was considered a sinful person. The supreme religious aspect of the *nezir*s was constituted because of its connection with prayers, and thus the *nezir*s in Islamic tradition were considered a means of increasing moral responsibility and closeness to God of an individual. This attitude of Islamic legal system regarding the issue on the fulfillment of the vow also constituted another reason to strengthen religious aspect of the *nezir*s in the Islamic tradition.

The *nezir* had been discussed by Islamic scholars and particular sects considering varieties of the vow and its adaptation to the Islamic fiqh system. Vows were generally divided into two parts as conditional and unconditional *nezir*s.[6] If the dedicant just indicated own vow to God without any request, this vow named unconditional as in the example of 'I will sacrifice an animal to God'.[7] This kind of vow put the aim of getting closer to God and self-discipline in its the center. The second one is the conditional vow which included certain expectations of the dedicant as distinct from unconditional vow. The will of God, which included expectations from God such as recruiting, and also individual will, which contained to oblige oneself for things regarding oneself, constituted two main bases of the conditional vow. The conditional vow here did not only illustrate itself in its positive meaning or expectations, but was particularly used as a means of self-discipline. It meant that the dedicant could vow in order to break with habits or behaviors, such vows called *lecâc*, such as lying (Esen 2003, 31-33; Özel 1988, 339-340). The *nezir* considerably was seen in the conditional vow, particularly regarding *lecâc*. The two parts of the vows, promise and expectation, illustrated each other in order to strengthen or en-

[6]The Islamic scholars from different sects separated the vows under different titles and sorts, but all of them was associated with roughly distinction of the vows as conditional and unconditional. Kâsâni distinguished the vows considering its subject (*menzûrun bih*) as certain and uncertain. İbn Hacer el-Heytemî, who is a Shafii scholar, viewed the vows in order to come close to God (*teberrür*) and prohibit oneself from bad habits or behaviors (*lecâc*). He, in this manner, claimed that *lecâc* constituted a close link between the vow and oath. Ebu'l-Kasım el-Hırakî, who is a Hanbali scholar, also stated different sort of the vows as disobedience to God (*masiyet*) in addition to those. For detailed discussion on this issue, see. (Esen 2003, 27-33), (Özel 1988, 337-340).

[7]The debate, stated by Mihaly Nabti, on the question of 'is charity conditional or unconditional vow?' also illustrated different opinions out of its technical form. Shaikh Shams al-Dîn, who is a Shî'a scholar, made a distinction between the vow and charity because charity involved a free choice of an individual and was considered unconditional vow; however, the vow was obligatory and conditional. The *nezir* was the charity of an individual who would not expect something in return. However, Shaikh Salâh al-Dîn Fakhrî, who is a Sunni scholar, was opposed to this interpretation asserting that it lacked compassion in both giving and receiving *nezir* (Nabti 1998, 76).

sure self-discipline. Self-discipline, in this manner, had become a main tool of the *nezir* through conditional vow and important prominence of vowing for undesirable things in Islamic tradition. It should be kept here that self-discipline could be considerably adopted in Islamic society rather than getting closer to God because the *nezir* that contained closeness to God was already obligatory to be approved, but the vowing for undesirable things and strengthening self-discipline were only related to free choice of an individual.

The *nezir* had constituted an extensive and more controversial area among sects in Islamic fiqh system and thus they could not meet on a common ground on decretal of the vow as well. Hanafi scholars assumed that the vows were lawful regardless of whether conditional or unconditional. According to Shafi'is and Hanbalis, the vows were closer to the lawful (*mubâh*) than the unlawful (*harâm*), in other words, religiously lawful or permitted (*tenzîhen mekruh*). Malikis, who had difference of opinions, evaluated the decretal of the vows regarding its conditionality or unconditionality. The conditional vow was acceptable, but it could be *mekrûh* when it continued such as vowing to fast every Monday; however, unconditional vow was lawful (Özel 1988, 339).[8] These different views, in fact, derived from disadvantages of the vow in relation to the practices of pre-Islamic Arabs and the possibility of its misconstruction. The vow practices, which were not recognized or approved by Islam such as distributing halva and sugar, lighting candle in shrines, were widespread in society for that reason that the Islamic authority, Quran and hadiths, discreetly approached this issue. Moreover, such vows constituted a sense regarding the change of the destiny thanks to own vows. The several hadiths already restrained the vows including earthly desires and requests. This situation also gave the impression of a 'bargain' between an individual and God as was seen in conditional vows in particular. The dedicant expected actualization of own request or wish in return for own promise and thus most Islamic scholars named a person who made a conditional vow as a stingy individual. Lastly, transformation of supererogatory prayers to obligatory was considered one of the main reasons to remove primary and fundamental intend of the prayers. It was considerably criticized by the Islamic scholars because of exerting oneself and also frequently and regularly practicing (Esen 2003, 34-40; Özel, 339-340). All that was considered objectionable by Islam, in fact, was constituting different opinions between the sects and thus they created a controversial area regarding the position of the vows in Islamic fiqh system and tradition.

[8]There was a difference of opinion on the unconditional vow among Malikis. Bâcî stated that the unconditional vow was *mekrûh* while İbn Rüşd claimed its being lawful. The opinion of Ibn Rüşd was widely acclaimed among Malikis.

2.3 The *Nezir* as a Contract in Islamic Tradition

In Islamic legal system, the contracts (*'aqd*) were divided into two parts as two-party transactions and one-party transactions. Bilateral contracts, which consisted of an offer and an acceptance, were generally used rather than one-party transactions considering just one offer. Like gifts and guarantees, the private vows also rated among one-party transactions in the form of unconditional and conditional vows. Both of them, unconditional and conditional vows, were involved in the 'root of obligation' as well as entire Islamic contracts. The contracts in Islamic legal system whether including one's religious obligations to God or the interpersonal obligations mainly represented obligations in any case (Hassan 2002, 257).[9] Within the main principles of the Islamic contracts providing such obligations, they were constituted by three crucial elements as the parties, the form of the offer and the acceptance, and the subject-matter or the object as was seen in the conditional and unconditional vows (Hallaq 2009, 239).[10] The parties, who had the ability to enter into a contract, declared their offer as the first step and when it was accepted by the second party then was an acceptance as a second step. Such contracts of the two-party transactions naturally occurred in a similar manner. However, the unconditional and conditional vows were realized with a declaration of only an offer, namely unilateral contract. The third party, as distinct from unconditional vows, could be determined as beneficiaries of a vow in the conditional vows. This feature of the conditional vows did not illustrate itself as two-party transactions, but spread own contractual commitment over other people, as seen in appearance of third parties, and thus its private area quietly gave rise to its impact on public matters.

The private vows as one-party transaction also had a legal effect because of its binding through an offer. A party had not the authority to annul the contract because the offer entered into an agreement with own word without recourse, unlike non-binding contracts (*jâ'iz*). Furthermore, the Islamic sects shared same views on this issue considering that the binding of the contracts constituted its foundation in order to provide pacta sunt servanda and also social order (Ceylan 2017; Hallaq 2009, 245-246). Such concerns on the Islamic contracts referred the power of unilateral

[9] Some scholars did not share the same opinion on the core of Islamic contracts as its obligations. Chehata has focused on the object of the contracts rather than its obligations as arguing that the obligation is missing in any definition of consent in the classical jurists. Sanhûrî was claiming that, contrary to his first view, the Islamic contracts focused on the subject-matters, not obligations. It is important that the connection between an offer and an acceptance rather than creating obligations. For detailed information on this discussion, see. (Hassan 2002, 257-297).

[10] The Islamic sects also had different opinions on this issue. The Hanafites only kept the form of an offer and an acceptance in the case of shaping a contract. The existence of that form already determined the subordinated factors of the Islamic contracts.

and bilateral contracts in the Islamic tradition because they received support from these principles like ensuring pacta sunt servanda, social order, and completing prayers. The binding of such contracts, in this manner, was strengthened among society under the favor of its close relationship between moral and legal area. Like all binding Islamic contracts, the private vows as a unilateral contract were used as a means of binding or obliging oneself in both moral and legal frame.

The Islamic law (sharia), which was roughly rooted in Quran as its main source, determined specific and unambiguous rules or laws, and also provided moral and ethical teachings or principles among society. Some prohibitions in sharia such as consumption of alcohol and pork and commands like fasting in Ramadan constituted several of unquestionable rules of the sharia, and also involved ethical and moral principles in itself. In addition to such obligatory (*wâjib* or *fard*) and proscribed or prohibited (*mahzûr* or *harâm*) acts, recommended (*mandûb*), discouraged or odious (*makrûh*) and permitted (*mubâh*) acts, which was mainly determined by Quran and Sunnah, significantly removed the 'bi-polar view of moral categorization as simply good and bad' (Reinhart 1983, 195-196; Abou El Fadl 2017, 14-15). Rather, these intermediate forms, beyond good and evil, illustrated extensive ethical and moral teachings of the Islamic law that did not only remain limited to strict distinctions. The dual inclusive and hierarchical system, morality into the law and the law into the morality, of the Islamic tradition presented a transitional and an intricate structure that had concerns including moral and ethical teachings and principles in itself as well. The Islamic contracts, we mentioned above, also involved the common moral teachings into the legal system. The principle of the consent (*rızâ'*) constituted the main foundation of all Islamic contracts because they were held separate from coercion and fraud, but within God's commands. Whether in two-party or one-party transactions, the parties strove to fulfill their responsibilities in good faith (Abou El Fadl 2017, 15; Arı 2010, 46-48). In this manner, the moral responsibility in the Islamic contracts would be evaluated that it was involved in legal liability, and also the moral responsibility could become even more important as a main factor of the contracts.

In Islamic tradition, the private vows as a unilateral contract took shape within both the consent of an individual and the specific rules of the Islamic law. The sharia and Islamic sects discreetly approached this issue because of its established un-Islamic practices that importantly enabled backsliding so much so that hadiths had prohibited vows. They, therefore, had determined specific rules such as particularly its providing closeness to God in order to get rid of its previous practices coming from pre-Islamic Arabs. Such rules were signifying certain measures of the Islamic law on the private vows but yet the vows were not a contract under legal liability

that was implemented from on high. However, an individual obliged oneself with his own consent and so his moral/religious responsibility became a significant part of his effort in order to fulfill his own promise. The moral/religious responsibility had played an essential role during the dedication process, from beginning to end, over legal liability. The closeness to God and to oblige oneself through supererogatory prayers, which determined the main features of the private vows, had already involved a certain morality at the beginning of the dedication process in itself because the determination of these vows was binding in terms of no interrupting prayers and promise. Besides, its binding through these determinations did not constitute a total legal effect or legal liability in the Islamic contractual law, but the moral/religious responsibility should be evaluated as a main and initial tool of the dedicant to fulfill the dedication process and also created a de facto legal recognition. It does not mean that the private vows in Islamic tradition had only the character of morality or religion; however, the moral/religious responsibility had played a more dominant role on this issue.

2.4 A Triangle: Custom, Morality and Legal Liability

In Islamic legal system, custom had constituted another crucial element in addition to morality and legal liability, particularly in private vows. The custom (*'urf*) linguistically included any good or bad common practices, but juristically referred to any common practice that has been established as good (Shabana 2010, 50).[11] The private vows, which were regarded as continuous practices in several societies, were a common practice spreading among society as from pre-Islamic Arabs to Islam. These vows, in this manner, had constituted a source or practice of the custom as a significant element of society. Even though the custom had played an essential role among society, the Islamic legal system was always dissociated from this important source and importantly it was not seen as a formal source of the legal system until post-classical period of the Islamic law (Libson 1997, 131-132; Libson 2000, 887; Hallaq 2004, 213-217). The connection between legal theory and quotidian or social reality was considered through their required close relationship by virtue of its established problems on the gap between theory and practice. Jewish law, for instance, solved this problem by recognizing the custom (*minhag*) as a formal source of the law; however, the Islamic law did not approve the custom as a formal

[11] Some jurists used *'urf* and *'âdah* as synonymous words as was seen in Hanafi jurists, at least in the pre-classical and classical periods. However, there was a meaning difference between them. While *'urf* referred to collective actions, *'âdah* could be used as either individual or collective. The *'urf* is more general than the *'âdah*. Moreover, *'âdah* was explained as normative custom, but *'urf* was only seen as social reality. For detailed information, see. (Shabana 2010); (Libson 1997, 131-155), (Johansen 1995, 135-156).

source but as a material source, in other words de facto recognition (Libson 1997, 136).[12] Likewise, the private vows as a common practice had not a formal status within Islamic legal system. It was approached as a material source by determining its Islamic boundaries on the account of its uncontrollably social reality.

In order to fill the gap between theory and practice in the legal systems, it was possible to accept and evaluate social reality and humanistic considerations at one point. The Islamic jurists were always aware of that issue and thus they indirectly used or utilized the practices of Muslim community in order to shape legal norms and develop Islamic law. Even though they considered the custom significant, they did not cross the line of basic assumptions of the Islamic law by way of accepting it as a material source, not formal source (Hallaq 2002, 42). Particularly two ways to attach the custom to the legal system were juridical or personal preference (*istihsân*) and necessity (*darûra*). Without reference to the custom, these ways were involved in the Islamic legal system, and they used them for just one issue that had filled the gap between theory and practice thanks to the custom (Libson 1997, 138). Apart from these tools, the Islamic jurists had roughly benefited from the custom within the Islamic law through three ways: identifying the custom with Sunnah, consensus of the jurists (*ijmâ'*), and also approaching it so-called written stipulation (Libson, 138). The incorporation of the custom through them, by their association with *istihsân* and *darûra*, had made possible transfer of the custom into the Islamic law with no reference to the custom. The Sunnah was already accepted as the main source of the Islamic law in conjunction with the Quran, and other elements were valid to develop Islamic legal system and methodology. Therefore, they were legitimizing the custom as assimilating it in themselves. About the private vow, Quran and Sunnah mentioned the vows and particularly the Sunnah interpreted it by determining its advantages and disadvantages. The Islamic jurists also had evaluated the vows and determined its boundaries with reference to the commands of Quran and Sunnah. It meant that the private vows had been approached through the main sources of the Islamic legal system, not directly social reality in the Islamic tradition. The private vows, in fact, were quite likely a customary and moral tool rather than its being an independent law in the pre-classical and classical periods of the Islamic law.

The position of the custom has been varied from pre-classical to post-classical period of Islamic legal tradition. Such assimilating procedures, as we mentioned above, continued until post-classical period of the Islamic law; in other words, the custom had not been approved as a formal source till that time. In pre-classical and classical

[12]For a detailed comparison between Jewish and Islamic law, see. (Libson 2003).

periods, the Islamic jurists have strove to treat the custom through Sunnah or *ijmâ'*. Although these times also involved to pursuit the custom in doctrinal law books, it was rejected. While the custom was embodied in Sunnah or hadiths and *ijmâ'*, the Islamic jurists have remarked it as a material source by attaching other legal sources such as juridical or personal preference (*istihsân*) in the classical period. The custom was evaluated with other legal sources, but it was not an independent legal source within the Islamic law (Libson 1997, 141-142). It should be kept here that the custom was not a linear development in Islamic legal tradition; rather, it had more intricate and slow development by evaluating it as an interpretive tool in Islamic legal theory. Even though it is true that the post-classical period gave more frequent references to the custom than early periods, the social reality could no longer associate to other legal sources (Shabana 2010, 32-38; Watson and Abou El-Fadl 2000, 28-36). In other words, the change in the Islamic legal system was not passive or unconscious through the custom, and also the jurists were always aware of change in the law (Hallaq 2004, 166). Therefore, the importance of social reality may have been considered in every stage of development of Islamic legal system rather than rough generalizations on this issue.

Since the 11th century, the custom had been a highly controversial topic for Islamic jurists who were affiliated with different schools of jurisprudence. Emerging new genres, such as legal maxims and objectives of sharia, and expanding fiqh literature have caused this issue to be discussed more frequently. The new legal doctrines or textbooks have separated or maintained older legal doctrines, and also new genres such as *fatwa*s, commentaries, treaties revived new solutions for the problems in Islamic legal system (Johansen 1999, 447-448; Johansen 1988, 1-4). The custom, therefore, had been approved as a formal source within the Islamic law since the 16th century thanks to emerging and expanding new genres and sub-genres in particular. In the process of development of the Islamic law, the Islamic jurists were always aware of the importance of the custom in order to avoid perception of Islamic law as pure theoretical legal system. The custom, in this manner, was only a crucial source to perceive the importance of social reality within the legal system.

The private vow as a customary tool had constituted a significant element of social reality with its prevalence among society from pre-Islamic Arabs and thus it was inevitable for it to be included. The private vow in pre-Islamic and Islamic society had mattered for its involvement in law, its other features such as moral responsibility had also constituted a significant impact on this issue. The morality established a crucial element of the private vows because it referred important principles of the Islamic legal system regarding pacta sunt servanda and no interrupting prayers. Legal liability of the private vows, therefore, created a wider field for itself within

the Islamic law. These assumptions, in fact, have introduced the private vow within a triangle into the Islamic legal system. This triangle was composed of custom, morality, and legal liability and thus the private vow made an effort to be included into Islamic legal system between them.

2.5 The Private Vows in the Ottoman Realm

The private vow as a customary tool had also subsisted itself in the Ottoman realm with its changing position in the Islamic law. Particularly, establishing new genres such as *fatwa*s and wider platform of different schools within the fiqh literature have increased appearance of the private vows by including in new legal sources and thus these were more easily and more interpretively inherited to following periods. The Ottoman Empire was only one of the implementation area of the vows as a continuous practice of the Islamic tradition. In this manner, I will trace the changing status of the custom and consequently the appearance of the vows through Ottoman *fatwa*s in this chapter.

2.5.1 New Developments on the Custom

The classical period of the Islamic law has witnessed more various and extensive debates on custom by Islamic jurists who were from different schools than its early periods. Two main approaches of the pre-classical period adopted a more discreet approach to the custom: discussing it only over the ultimate sources of the sharia (Quran and secondly Sunnah), and the existence of establishing both good and bad practices among society. These reasons were some of the main obstacles that prevented it to be an independent legal source within the Islamic law. In addition to these considerations, the Islamic jurists and theologians began to attach more importance to the custom in many issues such as legal responsibility, causality, and human freedom (Shabana 2010, 95-96). Expanding field of the legal sources such as juristic preference (*istihsân*) and analogical reasoning (*qiyâs*) and thus inclusion of the custom into them, strengthened the position of the custom in legal system in addition to the textual references to the Quran and Sunnah. Moreover, al-Shâtibî (d. 790/1388), who was a Maliki scholar and jurist, claimed that "the ultimate objective of sharia is to achieve people's benefits, both in this life and in the afterlife", and his view illustrated an important role of the custom to provide the applicability and intelligibility of the sharia (Shabana 2010, 169). The frame of post-classical period,

in this manner, was consolidated and prepared by means of new developments of the classical period about the position of the custom.

The increasing appearance of the custom in the Islamic law was advanced in the post-classical period, mainly from the 16th century, by particularizing and formalizing it within the law. Ibn Nujaym (d. 970/1563) and Ibn Abidin (d. 1889) have mainly played an essential role to directly discuss and position of the custom in the Islamic legal system in the sixteenth and nineteenth centuries. In the post-classical period, the establishing new genres and fiqh literatures including legal theory, law, and custom were articulated in order to independently evaluate and approach all legal sources as Ibn Nujaym did. Through such methodological approach, Ibn Nujaym considered the custom two parts: universal custom (*urf' amm*), which contained all Muslim lands, and local custom (*urf' khass*), which involved a certain town or village (Hallaq 2002, 43). Even though some Hanafi scholars refused the legal force of the local custom, the custom in two parts became to be discussed as a formal source of the Islamic legal system in Hanafi legal doctrine. Ibn Abidin has maintained this distinction considering the equal importance of both local and universal custom. According to Ibn Abidin, the juristconsult must equally treat both local and universal custom. The distinction between them was only composed of their literal and juridical meaning (Hallaq 2002, 53). These very rough and brief explanations of the post-classical period aimed just more particular and advance discussions on the custom than its earlier periods. Within these discussions from pre-classical to post-classical periods, the continuous legal reforms regarding the social reality have always played a significant role by mainly occurring in the modern periods. This does not mean that the classical and modern legal theory were completely separated from each other considering the more developed the law and legal theory in the post-classical period. Through the custom, the legal reforms became something that constituted an important part of the lawmaking by raising the awareness of the social reality in both local and universal scale. In this manner, the custom and legislation have become an interconnected structure that the legislation considered the custom to provide its applicability and the custom was in need of legislation for its own legal normativity in the Islamic legal tradition (Shabana 2010, 171).

The main questions here are that did these legal reforms in the Islamic law enable more flexible field in order to structurally transform customary tools, and did the establishing new genres of the Islamic legal system such as *fatwa* production transform the responsibilities or liabilities and usage area of the customary tools. These questions are also valid for the vows as a customary tool that were separately formed in different societies. Our subject, the Ottoman realm, constituted one of the application areas of the vows by inheriting from the Islamic legal tradition. The

usage of the private vows, in this manner, in Ottoman *fatwa*s ensured an important and preliminary basis regarding the afore mentioned questions.

2.5.2 Between Sultanic Law (*Kânûn*), *Fatwa* and Custom

The emerging of the new genre, *fatwa*s in the fiqh literature, became an important source of the Islamic law in order to explain or issue determination of the sharia law. The fiqh literature had gained an extensive place in Islamic law in the sense of interpretable areas of the law by Islamic jurists. The *fatwa*, which meant religious or legal views given by a legal scholar (*muftî*) in response to the question of an individual or court, constituted both formal rules and interpretations of the Islamic law based on Quran and Sunnah (Gerber 1999, 60-65; Masud, Messick, and Powers 1996, 4). The jurist consults handled everyday traffic in various questions of society within the Sharia. Particularly the adaptation of custom and social reality to the Islamic legal system may have been possible due to the interpretable power of the legal scholars in the *fatwa*s. Moreover, the *fatwa*s had an implementation area of the private law such as marriage, property and inheritance which increased its impact on social reality more. This does not mean that the Islamic law only interested in the private law; on the contrary, the critical issues for the public law like war, peace, governmental measures, taxes were also handled by *fatwa*s (Heyd 1969, 54-55). Nevertheless, the statutory authority and legislative power of the rulers were constituting a legal area while the Islamic law had supreme rule in the Islamic societies as in the example of the Ottoman Empire. The public and administrative law was mainly conducted through the sultanic law (*kânûn*) while the sharia adjudged on the private law yet these legal areas were generally engaged each other in various aspects.

The sultanic law was established by obtaining its sources from the custom and religious law in the Ottoman realm. Particularly the custom was used as a closest term to the *kânûn* and thus the custom became carrying same meaning with the command or will of the sultan.[13] The authority over the *kânûn* was the Islamic law because any law or legal system could not overreach it. By recognizing and utilizing the custom and Islamic law, the sultanic law has spread all over the empire as regulating all local and general sultanic laws within a form of codes (*kânûnnâme*), especially from the 15th century. These *kânûnnâme*s, in fact, mainly regulated the

[13]The terms like *örf-i padişahi* or *örf-i münif-i sultani* bear the same meaning as sultanic law to the extent that the custom (*'urf*) represents the will or command of the sultan. In a similar vein, Tursun Beg, who was a chronicler of Mehmed II's reign, uses the terms *siyaset-i sultani* and *yasağ-ı padişahi*, which were similar to *'urf* in meaning. See, (Heyd 1973), (Tursun Beğ 1977).

relationships between taxpayers and timar-owners and thus they initially maintained their legal power through the land issues. Therefore, written rules of the sultanic authority, which based on their implementation of the custom and administrative issues, have constituted the main foundation of the sultanic law in the Ottoman Empire by systematically starting from Bayezid II (1481-1512) in particular (Imber 1997, 41). In this manner, the emerging and developing *kânûn*s primarily were put in an appearance between the custom and sharia by connecting each other, and their connections have constituted the legal plurality and intricate implementation areas of the Ottoman legal system.

Throughout the rule of the Ottoman Empire, the relationship between *kânûn* and *fatwa* had been seen in various ways. The relationality between them was inevitable since the implementation of power in legal system and obligation of the *kânûn*s were necessary to fit the Islamic law. This obligation of the *kânûn*s have constituted an adaptation between them, even though it appeared superficial at times. The adaptation was also essential in order to enact sultanic rules because the *kânûn*s initially gained their legitimacy from the Islamic law. The *fatwa*s, in this manner, could establish the main source of the *kânûn*s. Therefore, if the compatibility of any *kânûn*s was discussed, it can be said that only *fatwa*s were competent authority to evaluate its legitimacy. Even though such connections between the sultanic law and *fatwa*s appeared as a formal development of the *kânûn*s for the core of Islamic law, the *fatwa*s may have been accepted as a legitimacy tool of the sultan in order to maintain their rules in society. On the other hand, this utility was not one-sided. The Islamic law was in need of the extensive implementation areas of *kânûn*s. For instance, Islamic jurists have still continued to discuss the determinations and inflexibility of the penalties in the classical legal theory in the Ottoman realm, but this conservatism and archaism could not find any implementation area in society (Imber 1997, 37-38). Even though the Islamic jurists could not aim a wide implementation area of the Islamic legal system, its adaptation to other legal systems and the importance of the social reality have constituted a necessity to maintain and regulate considering different societies and their customs.

In the Ottoman realm, the custom and the *kânûn*s have prepared or required a flexible field for the Islamic law to ensure the adaptation of the sharia for new conditions. The acceptance of the custom as a formal source within the Islamic legal system was an important beginning in this issue. The Islamic tradition already had such a foundation that integrated the custom. This development provided a certain flexible area for the Islamic law yet the integration was on the incidentals, not principle of the Islamic legal system (Imber 1997, 37). The *kânûn*s, which had the same meaning with the custom until systematization of the *kânûn*s, could be

more effective than the custom to be used and to maintain the Islamic legal system. The *fatwa*s have played a significant role in both religious and administrative issues, and thus Shaikh al-Islam, particularly Ebussuûd (d. 1574), took important part in the matters of sultanic law in order to attach importance to social reality and ensure an integration between the sultanic and Islamic law. The integration was provided by mutual interaction in between *fatwa*s for legitimizing *kânûn*s and adaptation of the Islamic law for the sultanic law to be able to fit in any changing conditions. The custom also necessitated such mutual interaction with the Islamic legal system, but the *kânûn* was substituting the custom as a separate legal system in the Ottoman realm. Even though the custom has constituted the main foundation for changes within the law, the sultanic law had an extensive authority by already involving the custom to ensure interaction with the sharia. The established flexible area about the Islamic law and its interaction with the sultanic law, therefore, could provide the transformation or structural change of the customary tools, which appeared in Islamic practice and legal system, within the sultanic law because it is hard to mention rigid boundaries between sharia and sultanic law by virtue of such mutual interactions.

2.5.3 The *Nezir* in Ottoman *Fatwa*s

Many examples of the vows in Ottoman *fatwa*s generally appear under the title of prayers. The Islamic law has approached the vows as a transformation of the supererogatory prayers to the obligatory prayers and closeness to God. The vows were accepted as religious prayers that were in order to mainly practice self-organization or discipline. In Ottoman *fatwa*s, the vows were seen as a religious prayer, not totally but mainly. To examine and determine all Ottoman *fatwa*s or *fatwa* compilations are quite difficult by seeking the vows. Therefore, two important figures, Shaikh al-Islam Ebussuûd (d. 1574) and Çatalcalı Ali Efendi (d. 1692) who were the Shaikh al-Islam under the reign of Kanunî Sultan Suleyman, Selim II and Mehmed IV, Ahmed II respectively, will be examined roughly to follow traces of the vows in Ottoman *fatwa*s. Ebussuûd Efendi had an important role with regard to illustrate private vows and their structural transformations among society. Çatalcalı Ali Efendi is also chosen to examine the conditions the vows through *fatwa*s in 17th century, and importantly to grasp continuous or non-continuous transformation of the vows.[14]

[14]Hülya Canbakal, Cemal Çetin and Işık Tamdoğan have also examined several *fatwa* collections in their works. Among these examinations, Hülya Canbakal did an extensive research to question renewed face of the *nezir* in the *fatwa*s and consulted thirteen *fatwa*s. It seems that *fatwa*s of Shaikh al-Islams who were

During the period of Shaikh al-Islam Ebussuûd, the *fatwa*s on the vows had been varied considerably under the title of prayers. The classical form of the vows was generally seen as religious prayers, but the third party could be slowly changed by just providing self-discipline of the dedicant. In addition, these *fatwa*s on the vows completely referenced to probable adverse outcomes of the vow process, because of that, the situation could show the different determination factors of the *fatwa*s regarding the different types of the vows, and also the content of the vows could vary from person to person, particularly when we consider the third party's change. Such changes could widely be seen in the period of Ebussuûd Efendi in particular, but did not begin at that time. For instance, Çivizade Muhyiddin Mehmed Efendi (d. 1547), who was the Shaikh al-Islam between 1539 and 1542, answered a question on the *nezir*. This question included the emîrs as the beneficiaries of the *nezir* in despite of determining Islamic rules for the third parties. The crucial point here is that Çivizade Muhyiddin did not express an opinion as to whether new beneficiaries were accepted or not, but only stated that the *nezir* money could not be received by the beneficiaries (Aydın 2006, 206).

The private vows on religious prayers continued their stability and impact on the *fatwa*s as such in Islamic legal system before the Ottoman Empire. For instance, Ebussuûd issued a *fatwa* about Zeyd's question that what happens if he unwittingly eats his sacrificial animal that he vowed, and by this *fatwa* he emphasized the necessity of almsgiving which has as much as the value of that sacrifice has (Düzdağ 2018, 74). Such private vows appeared in the same form and meaning. The situation of force to receive the vow played an essential role in the case of adverse outcomes of the vows. Ebussuûd importantly highlighted that the vow cannot be forcibly received by the dedicant in all probability (Düzdağ, 74-75). Some Islamic scholars also stressed that the *nezir* had not a legal enforcement, because a broken promise could not be punished by the jurist, an individual who has broken his/her promise was only sinner; however, others argued that the *nezir*s and expiations (*kefâret*) could be fulfilled upon the head of the state's request (Esen 2003, 19). A distinction between religious and judicial sentences in fiqh books could mainly lead to 'religious' understanding of the *nezir*, not its legal aspect, because it was already considered obligatory in religious area and thus the jurists could not interfere that area. On the other hand, such distinctions should be widely questioned, because religious and judicial spheres may not be strictly separated each other and thus the *nezir* can be discussed beyond that distinction. As for the Ottoman *fatwa*s, Ebussuûd Efendi

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on duty before Ebussuûd Efendi do not include any *fatwa*s concerning public vows, but it is possible to encounter the *fatwa*s relating with renewed face of the *nezir* in the seventeenth and eighteenth-century Shaikh al-Islams such as Minkarizade Yahya Efendi (1662-1674), Menteşizade Abdürrahim (1715-1716), Yahya b. Zekeriya (1622-1632), Ataullah Efendi (1715) and Ibn Abi Ishak (1685-1752-1753), see. (Canbakal 2011, 88); (Çetin 2015, 289-290); (Tamdoğan 2006, 141).

addressed to alternative ways in order to fulfill the commitments. The concept of compurgation of oath (*kefâret-i yemin*) and judgment of judge (*re'y-i hâkim*) became prominent about the determination factor of the vows in case there was no fulfillment of the vow. The dedicant could get rid of his religious obligation with compurgation of oath when he could not fulfill his own promise. Ebussuûd Efendi introduced compurgation of oath as an only solution in the case of adverse outcomes of the vows (Düzdağ 2018, 74-75).[15] This principle of the Islamic legal system, compurgation of the oath, only considered by the dedicant or offer, not third parties as was seen in one-sided transactions. It meant that an individual could fulfill his own promise even if he could not keep the promise thanks to compurgation of oath. For instance, Zeyd decided to leave his own land at the request of Amr and vowed that he would owe 100 golds, if he did not leave here. Ebussuûd Efendi issued a *fatwa* on this issue and claimed that Zeyd could avoid to leave with compurgation of oath (Düzdağ, 74-75). This *fatwa*, in fact, illustrated that the third parties were ineffective or had really limited impact on unilateral contracts. However, the dedicant could fulfill his own obligation with compurgation of oath, in financial vows, the third parties could receive his vow through a judge. Ebussuûd Efendi issued *fatwa*s on this issue by emphasizing both salvation of the dedicant and receiving vow of the beneficiaries (Düzdağ 2018, 74-75). Such situations could be considered efficiency of compurgation of an oath to a certain extent or changing structure of the vow in reference to both its commitment and third parties in the *fatwa*s.

Such various *fatwa*s about the vows had continued their appearance in the 17th century Ottoman *fatwa*s. Çatalcalı Ali Efendi mainly issued *fatwa*s on the religious prayers and forcibly receiving of the vows by the beneficiaries as was seen in Ebussuûd Efendi. For instance, Zeyd vowed oil to the candles of the İmam-ı Azam shrine, if Zeyd did not pay his debt to Amr. Çatalcalı Ali Efendi emphasized that the tomb keeper could not forcibly receive the vow by highlighting the main principle of the private vows (Demirtaş 2014, 235). However, Çatalcalı Ali Efendi did not give detailed answers to these *fatwa*s. He just answered such *fatwa*s like 'he will not'. The more important matter here is that Çatalcalı Ali Efendi never mentioned the principle of compurgation of the oath or judgment of the judge in the case of adverse outcomes of the vows. Nevertheless, Ebussuûd Efendi was illustrating a solution for the dedicant through these principles. Many Ottoman *fatwa*s were generally concluded with short answers, but it is important to notice a simple distinction between Çatalcalı Ali Efendi and Ebussuûd Efendi in terms of their approaches to this issue. Even though they did not contradict about these *fatwa*s, their way of explaining

[15] That emphasis can also be seen in other sixteenth-century *fatwa*s. For instance, Hoca Sadeddin Efendi (d. 1599) stated that the vowers could be relieved of their obligations with the expiation (Salur 2019, 83-84).

and approaches were different.

Basic differentiations can be seen between sixteenth and seventeenth centuries *fatwa*s, but the important difference was usually about the third parties and commitments of the vows in the *fatwa*s of Ebussuûd and Çatalcalı Ali Efendi. The Islamic legal system had maintained and accepted whether unconditional or conditional vows considering closeness to God and religious prayers. The third parties also should be chosen according to these principles of the Islamic law such as poor relief. The vows to poor people or waqfs were accepted and issued in the *fatwa*s of Ebussuûd Efendi. However, new third parties initially became approved in the *fatwa*s. Chief of the prophet's descendants (*nakîbü'l-eşrâf*), sayyids, commanders, and completely *ehl-i örf* appeared as the third party in *fatwa*s of both Ebussuûd and Çatalcalı Ali Efendi (Düzdağ 2018, 74-75; Demirtaş 2014, 234-235). These new third parties were not evaluated by Ebussuûd and Çatalcalı Ali Efendi or we do not know the determinations about them because of short answers of the *fatwa*s. Ebussuûd Efendi completely remarked the words of the vows or the position of the offer at the end of the vow process. In a *fatwa*, Ebussuûd Efendi issued that it was a superstitious word, not a vow (*nezir*) when the offer wanted to vow by becoming indebted to the chief of the prophet's descendants. He emphasized here that debts and transfer of a right were not possible in a vow after having said that it is not a vow (Düzdağ 2018, 74). Other *fatwa*s of Ebussuûd Efendi including new third parties concentrated on the salvation of the offer and the situation of the vow-takers to receive the vow (Düzdağ 2018, 74-75). The *fatwa*s of Çatalcalı Ali Efendi also involved such these *fatwa*s, but we cannot determine his main point in these *fatwa*s because the main point could be emphasized in reference to either salvation of the offer or superstitious situation of the vow. Furthermore, various vows, which were unrelated to religious prayers, appeared in the period of Ebussuûd Efendi even regarding spelling of a word (Düzdağ 2018, 240). Despite all controversial and uncertain issues on the various forms of the vows, it is important to note here that the vows of people and the *fatwa*s on the vows had not any systematization and increasingly became diversified by people. Therefore, the vows and their implementation areas increased in the Ottoman Empire.

The extensive field of the vows in the Ottoman *fatwa*s has raised significant questions in such a way that how the vows, which were grounded on the Islamic practices, constitute a wider and more interpretable frame for itself. Many factors such as sultanic law, the custom, expanding sources of the Islamic law should be considered to answer this question, but the impact of custom and social reality may be put forward in 16th century Ottoman realm, because, as far as we know, there is no evidence to use the vows in different meanings and forms in both sultanic and Islamic

law until 16th century. If we consider development of the custom in the Islamic legal system, the unavoidable fact of the social reality had particularly played an essential role in order to ensure adaptation between them. The *fatwa*s of Ebussuûd and Çatalcalı Ali Efendi did not involve clear answers to illustrate the transformation of the vows, but people had interpreted and used them through various ways in the *fatwa*s. The changing customs and realities of society were probably considered in the *fatwa*s. The social reality, therefore, necessitated or prepared a flexible field considering the various form of the vows to the *fatwa*s. The sultanic law already utilized benefits from the custom, but it did not illustrate any evidence to use the vows in different meanings. In this manner, the custom and extensive usage area of society on the vows could initially determine a slowly transformation of the vows by separating classical form of the private seen in Islamic practice. This means that the appearance of different forms and meanings of the vows in the *fatwa*s was primarily provided by more interpretable and flexible area of society. This slow transformation could occur from bottom to top.

The social reality could present a more interpretable field to the *fatwa*s, but ensuring flexibility on the customary tools generally depended on the view of Shaikh al-Islam. A Shaikh al-Islam could provide a flexible interpretation of the social matters in the fiqh literature, but next Shaikh al-Islam could not maintain these issues and issued more rigid verdicts. The *fatwa* literature, therefore, had not a certain systematization in the Islamic law. In addition, the many *fatwa*s had not any order considering their ranks by date because of their unclassified situation and thus we cannot determine the different implementations of the *fatwa*s in order. This means that vows could be differently issued by the same Shaikh al-Islam, but we cannot know which one came before or after. That order would help us in order to evaluate *fatwa*s considering their implementation ranks. The establishing forms and answers of the *fatwa*s, therefore, only ensured a consideration together with the historically career of a Shaikh al-Islam within the legal systems.

Ebussuûd and Çatalcalı Ali Efendi, who issued *fatwa*s on the vows in different forms and meanings, had illustrated a variant frame in two centuries of the Ottoman Empire. The changing third parties and purpose of the vows appeared in both of them, but their stands were different from each other. Ebussuûd Efendi involved more explanations than Çatalcalı Ali Efendi. Such detailed explanations of Ebussuûd Efendi may illustrate his extra effort in order to evaluate and incorporate different forms of the vows into the fiqh literature. Even though the changing third parties and purposes by avoiding Islamic principles became mainly appearing in the *fatwa*s of Ebussuûd Efendi, he did not point out these nonconformities of the vows among his detailed answers. For instance, he issued *fatwa* on the vow of non-Muslims in

such a way that their vows are invalid when a non-Muslim became subject of any vow (Düzdağ 2018, 112-113). Ebussuûd Efendi, in this *fatwa*, clearly explained his determination on non-Muslims, but the vows of Muslims, which did not center on religious prayers and closeness to God, were not explained with same clarity. The main differentiation between Muslims and non-Muslims could naturally appear in the Islamic legal system, but this example illustrated that Ebussuûd Efendi did not allow transformation of the religious obligation of the vows into non-Islamic fields; in other words, sacred aspect of the vows was provided by Ebussuûd Efendi. Such same issues on the vows were also seen in the *fatwa*s of Çatalcalı Ali Efendi, but we cannot determine his main remark within his answers because of his undetailed answers that 'he will not'. He could take note of either remove of religious prayers over third parties or situation of adverse outcomes of the vows such as forcibly receiving the vows. We cannot determine the main stand of Çatalcalı Ali Efendi through his answers particularly because of these changing forms of the vows were involved in a *fatwa*. Shaikh al-Islam Minkârizâde Yahyâ Efendi (1664-1672), just before Çatalcalı Ali Efendi, determined the administrative officials (*ehl-i örf*) cannot be recognized as a third party in the vows. The views and stands of the Shaikh al-Islam could be varied, but yet a stance against transformation of the vows toward legal obligation of the state authority can be observed in 17th century Ottoman *fatwa*s (Canbakal 2011, 88, 99-100). In all these explanations, these *fatwa*s may give a clue on the changing forms and meanings of the vows, as separate from Islamic practices, but career of Shaikh al-Islam considering his relationship with Islamic legal system and other legal systems and also the position of the *fatwa*s according to their periods had an important role in order to particularly follow this clue.

The role of *fatwa*s in society regarding their different determinations and changes had increased the appearance of various matters and thus their establishing flexible character contacted with sultanic law and custom in the Ottoman Empire. The sources of *fatwa*s, in the Ottoman Empire, were derived from the sultanic law, religious law, and the custom. The sultanic law particularly related with the Islamic law through ensuring connection between the *fatwa*s and edicts. The Islamic law as having supreme position in the Ottoman Empire could legitimize the edicts or limit them in the case of its digressing from Islamic law; however, the edicts could impose restriction to the *fatwa*s (İpşirli 1993, 115-116). Such mutual interaction on the changing of the vows over the *fatwa*s of Ebussuûd Efendi was not valid because there is no evidence regarding efforts of the sultanic law to maintain or change the structure of the private vows in that period. Another source of the *fatwa*s was the custom and frequently changing social reality. The *fatwa*s had built a bridge between Islamic law and the custom to interpret and incorporate the changing

social reality. They were, in this manner, used as a means of change by updating Hanafi fiqh tradition in the Ottoman Empire (Kılıç 2009, 67). The daily issues and everything happened in society could be issued in the *fatwa*s and thus the *fatwa*s were necessitated to connect with the social reality. This means that the *fatwa*s, in fact, remained the line between normative and social aspect of the law (Kılıç 2009, 64; Danişmend 1956, 7). This line could probably ensure slow transformation of the vows in the Ottoman realm. The social reality became using the vows in the different forms and meanings and thus the *fatwa*s provided more flexible implementation area of the vows.

3. RENEWED FACE OF THE *NEZİR* IN THE OTTOMAN EMPIRE

The slow change of the vows in the *fatwa*s suggested a close connection between the custom and *fatwa*s, because the *fatwa*s were a main tool to build a bridge between the legal theory and a frequently changing social reality. The vows appeared in different forms, and primarily manifested themselves in the *fatwa*s. That customary tool ensured flexible and interpretable area of the custom when Shaikh al-Islam had not a clear position on that issues in particular. The various vows, which also involved that the vows were not in accordance with determined Islamic principles of the vows, therefore, had constituted, not totally but partially, their legitimacy through *fatwa*s. Such mutual interaction between the vows and the *fatwa*s and the linear progress of the vows in the *fatwa*s did not regularly manifest itself in every Shaikh al-Islam, even among his own *fatwa*s about the same issue. In this manner, the career of Islamic jurists in the Ottoman Empire considering importantly the jurists' position on the interpretation of the Islamic law between the custom and other legal systems played an essential role to grasp transformation of the vows.

Aside from entreating the vows differently in the *fatwa*s, the vows had been used in the Ottoman courts and within the sultanic law. The transformation of the vows meant that the vows were no longer used in the hands of people and state in public sphere as differing from the private vows which mainly concentrated on one's closeness to God and religious prayers. The vows, which initially were based on such Islamic principles, therefore, gradually lost their private connection between an individual and God, and thus the vows gained a publicity through their disparate implementation by state and people. The different appearance of the vows in the *fatwa*s, in fact, continued their transformation in connection with the role of custom in the Ottoman courts and sultanic law. Establishing public vows constituted the second stage of that slow transformation.

3.1 Gradual Transformation of the Private Vows Through *Fatwa*s

The connection between the sultanic law and sharia and their interference with each other had constituted an aspect of the slow transformation of the vows in the Ottoman realm. The sultanic law (*kânûn*) and sharia were neatly distinguished from each other. The sharia was always esteemed as the ultimate source or legal system above the sultanic law in the Ottoman Empire. However, such relationship had an order in theory, but it did not identically manifest itself in practice. The reciprocal benefit between these two legal systems, which involved the adaptation of the sultanic law to sharia or sharia to the sultanic law, appeared to be important thanks to efforts of Sultan or Shaikh al-Islam. This does not mean that the supremacy of sharia was clearly supplanted because of that relationship, but both legal systems benefited from each other, but also interfered with each other's implementation areas. The transparent border between the sultanic law and sharia may be raked up in order to sort out an aspect of the transformation of the vows in the Ottoman realm.

The bridge between the sultanic law and sharia had been constituted by interfering each other's implementation areas and particular efforts of Sultan and Shaikh al-Islam in order to legitimize *kânûn*s and importantly redefine Islamic legal concepts. The Islamic law was mainly based on Quran, Sunnah and interpretation of the Islamic jurists while the sultanic law was an accumulation of Ottoman feudal implementations which consisted in land and tax governance in particular (Imber 1997, 51). The Sultans consulted Shaikh al-Islam on non-sharia matters and Shaikh al-Islam regarded himself as authorized to issue legal opinion on sultanic law as well as on religious law (Heyd 1973, 189). Shaikh al-Islam Ebussuûd Efendi had played an important role to ensure the functioning relationship between these two legal systems. In such connections to both legal systems, Ebussuûd Efendi always confirmed the supremacy of the sharia through his *fatwa*s such as by stating that there could be no decree of the sultan ordering something that was illegal according to the sharia (Düzenli 2013, 146-147).[1] Nevertheless, the efforts of Ebussuûd Efendi to provide adaptations of *kânûn*s into sharia or sharia into the *kânûn*s did not contradict with the supremacy of the sharia; instead, he preferred to redefine the implementations of the sultanic law with Islamic legal concepts.[2] For instance, Ebussuûd Efendi reinterpreted the feudal land regime and taxation system of the sultanic law with the concepts of Hanafi doctrine. His reinterpretation, in fact, aimed at increasing the sultanic power on taxation system and people who had a

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[1] ... *Nâ-meşrû' nesneye emr-i sultânî olmaz*: (Düzenli 2013, 146-147).

[2] The one of the most important examples to adaptation of sultanic law and sharia was *Ma'rûzât* of Ebussuûd Efendi. *Ma'rûzât* was considered a part of *kânunnâme*s but appeared as *fatwa* collection. Ebussuûd Efendi, in his *fatwa*s, ordered the non-sharia matters and importantly administrative issues within the sharia. For detailed information, see. (Gerber 1994); (Heyd 1973).

voice in lands. Furthermore, he legitimized waqfs that loaned money with interest and thus increasing incomes of the waqfs had provided many institutions in the Ottoman Empire. These matters were in control of the sultanic law. The interference and redefinition efforts on these issues had been mainly considered by Ebussuûd Efendi. He took that adaptation much further and entitled the caliphate to the Sultan. This title meant that the Sultan as shadow of God on earth was interpreter and executor of God's law (Imber 1997, 76). Such developments in the connection between the sultanic law and the sharia illustrated that *fatwa*s had introduced a flexible area to the Islamic law by redefining non-sharia issues and also importantly they prepared an interpretable field of the sharia to the sultanic law. All these connections and efforts of the Sultan and Shaikh al-Islam, in fact, highlighted an intricate border between the sharia and the sultanic law and thus the utilization of both legal systems by each other could be possible.

The vows, which were based on Islamic practices and legal system, illustrated a slow transformation by way of establishing transparent connections between the sultanic law and the sharia together with the inevitable impact of the custom. The vows had showed an alteration by changing their third parties in the *fatwa*s; moreover, the sultanic law also provided such flexibility or could utilize the vows in its implementation area. Rather than arguing coercive impact of the sultanic law on the sharia, the mutual interaction between them may be put forward to determine transformation of the vows. Both Shaikh al-Islam and the Sultan alternatively illustrated their efforts in order to redefine non-sharia and sharia matters and importantly legitimize *kânûn*s. Ebussuûd Efendi, in this manner, took an active role to ensure that connection. His *fatwa*s on the vows did not have a clear position in response to changing forms of the vows as distinct from their Islamic basis except non-Muslims. Even though various factors were effective in that development of the *fatwa*s in the vows, the role of the custom, partly interference of the sultanic law, and the efforts of the Hanafi doctrine through Ebussuûd Efendi to ensure adaptation from those two legal systems could constitute an extensive usage of the vows. Furthermore, although the custom had initially a push factor to change the vows, the sultanic law could add new features to the vows within the sultanic legal frame and legal liability in particular. The vows had meaning beyond their primary practices based on religious prayers by including the implementation area of the sultanic law.

The vows in their initial meaning and alterations on them by changing third parties in the *fatwa*s did not contain any legal obligation in the Ottoman Empire. The *fatwa*s were mainly preceded with answers to questions of people and counseling of

judges in the courts but yet they had not a legal binding in the courts.[3] Nevertheless, the rules of the Sultan had a high impact on the Ottoman courts and judges who were appointed by the Sultan. The sultanic law, in this manner, gained a legal obligation or responsibility rather than *fatwa*s, which specified sharia determinations and counseled to the courts, in the Ottoman realm. The vows in the *fatwa*s, on the other hand, were oral and irritancy implementations and thus the *fatwa*s had continued to provide moral and religious responsibility of the vows rather than legal obligation because of their non-binding situation, not becoming oral. Although the parole evidence like oaths had a certain impact in the courts, the Ottoman Empire continued to highlight the written documents and documentation in sixteenth century. Even parties who had a written document in the court came into prominence in their favor and thus they had much more persuasiveness than the parole evidences (Pierce 2003, 279-280).[4] These binding written evidences drew their strength from the sultanic law; however, the *fatwa*s had partly an impact in the courts because of their non-binding structure and gradually decreasing oral implementations of the *fatwa*s. The vows in the *fatwa*s did not have a legal obligation, they only continued or maintained moral and religious responsibilities in some cases but it is crucial to examine what happened to the position and usage of the vows when they appeared outside *fatwa*s.

3.2 Establishing the *Nezir* Outside *Fatwa*s

Alongside the several appearances of the vows in the *fatwa*s, people began to use the vows in order to guarantee themselves in the Ottoman courts. In the *fatwa*s, people tried to think of ways to different forms of the vows by changing third parties and the vows with the difference of religious practices. Such vows gradually decreased the usage of the religious practices and became to recognize administrative and religious officers as third parties. Furthermore, this form of the vows had appeared outside *fatwa*s; in other words, a flexible area regarding the usage of the vows was maintained by people in the Ottoman courts.

In the years of 1562-63, Aişe binti Menteş asked her husband, Nasuh, not to force herself to live in the village during the marriage. Although Nasuh accepted her re-

[3] Even though the *fatwa*s had not a legal binding in the courts, the judges had to adjudicate according to the sharia. The Islamic scholars stated that if a decision contradicted with the Islamic legal system, it was invalid. However, such decisions would be studied to determine the exact position of the *fatwa*s in the Ottoman courts. Therefore, the exceptions should be considered in any case.

[4] For the difference between oral and written statements in the Ottoman courts, see, (Ergene 2004, 471-491); (Hallaq 1999, 437-466).

quest, she did not find his promise sufficient and demanded to register that promise in the marriage contract. According to this contract, if Nasuh forces Aişe to live in a village and does not keep his promise, he promised to pay 1.000 coin (*akçe*) under the name of *nezir* (Çetin 2015, 290). This *nezir* contract illustrated a continuous transformation of the vows with its appearance in the Ottoman court and prominence of the need to a written document. *Nezir* was here used for completely different purpose and turned into a legally binding, deterrent, and a guarantor mechanism in the Ottoman courts. Promises and oral commitments were no longer adequate, and *nezir* became part of a written legal guarantee for people.[5] Furthermore, the importance of documentation also manifested itself in that contract. The demand of Aişe regarding necessity of a written document or contract could provide position of the Ottoman courts about mainly becoming usage of the written documents as from sixteenth century; in other words, a transition from oral statements to written legal culture also showed itself through *nezir* contracts in that period.[6] The case of Aişe, therefore, revealed an aspect of the transformation of the vows outside *fatwa*s by featuring themselves as a legally binding and deterrent mechanism and importantly determining legal power in the Ottoman courts as a written contract.

In the seventeenth century, the establishing role of *nezir* to guarantee oneself with *nezir* contract continued its impact in the Ottoman courts. In 1681, some people needed to enter into *nezir* contract for a property sale. Es-Seyyid Mehmed Çelebi, es-Seyyid Osman Çelebi, their mother Ayşe and their sister Adile who lived in Kara Sofi district in Harput sold their house to Mustafa Bey for a certain sum of money, but this sale was not sufficient for property owners. These owners also made a *nezir* contract stating that if they filed a suit against the new owners of that house, 150 *guruş* would be their vow (*nezrimiz olsun*) to the governor (Kısa 2015, 208-209). This contract could be made to prevent possible disagreements between these inheritors in the future by sellers. The old owners of that house, therefore, did not only issue guarantee to the new owner, but also took measure for potential conflicts between each other. The main features of the vows that came in sight with the case of Aişe binti Menteş also illustrated themselves in the same way. The concerns for the future, in fact, were legally guaranteed by *nezir* contract in the court in

[5]The important questions here are that how the vows were treated in the Ottoman courts and how these *nezir* contracts had a legal binding in the courts. The case of Aişe was earliest record in the Ottoman courts as a *nezir* contract among our examined registers, but it is hard to determine the breaking point of the Ottoman courts on that issue. Rather than these examinations, it is better to accept the legally binding status of any mechanism within the Ottoman courts for now.

[6]Although the Empire began to give importance to written documents and documentation in sixteenth century, spreading that sense to people in the same period determined crucial things for usage of the courts. Aişe was conscious of implementation power of the written documents, thus she did not find oral statement of her husband adequate. Frequently use of the courts by people could easily spread such legal cultures among society and importantly the concept of legal culture and its development should be discussed with its all tools like custom, not determined by high sources or orders.

both examples. Only third parties from among administrative officers like governors became again involved as was seen in the *fatwa*s, but they were now legally benefited from the vows.[7]

Such new characters and forms of the vows also gradually turned into a penal system in the hands of the Empire in the last quarter of the seventeenth century. The appearance of that aforesaid cases in the courts showed taking part of the vows within the sultanic law as from sixteenth century. The vows were actually used by people in different forms, and also the courts enabled that usage. Therefore, establishing transformation on the vows may have spread from bottom to top, and the central government has partially begun to use already established publicity of the vows. The vows in state's use towards communities in particular, in fact, could gain an extensive publicity to the vows.[8] That usage as a penal tool had reached communities by hands of the state in order to maintain order and security in particular.

In 1682, an unresolved murder took place in a township in Bosnia and then the deputy governor decided to tie people with one another by making them to stand surety for each other.[9] However, the peasants broke into the court with aids of some urban people after the Friday prayer and they pillaged the coins and beat the judge (*qadi*) to death. Through these incidents, Fireng Mehmed Bey who was charged to investigate that case vowed the people (*nezre bağlamak*) and made a *nezir* contract which included acceptance of people to pay 40.000 gold coins (*guruş*) to the state treasury (*Hazîne-i Âmire*) and to hand a few people's heads from among society if such incidents happened again. Besides, a stone was built on the thoroughfare as a symbol of that *nezir* contract (Defterdar Sarı Mehmed Paşa 1995, 132-133). After eight years, Fireng Mehmed Bey this time made a *nezir* contract with people of Cyprus in 1690-91 on the uprising of the janissaries and cavalry men against the governor. In this incident, these rebels were punished but that contract were made with the people in order to prevent such further incidents and confer a responsibility to the people on that issues. The people of Cyprus pledged to pay 50.000 golds to the state treasury and give the heads of thirty rebels to the authority if such incidents happened again on this island. In the same vein with Bosnia incident, a stone was

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[7]The *fatwa*s mainly stated that the vows could not be forcibly received from the vowers, but particularly Ebussuûd Efendi was referring to the judges to take the vows with judgement of judge.

[8]That publicity of the vows was also constituted with utilization of the third parties from the vows in an aspect. The promissory of the offers also determined to make a commitment to third parties. *fatwa*s did not allow to receive the vows forcibly, but they referred to the judges. The transition of the vows within the Ottoman courts could legally ensure utilization of the beneficiaries from the vows. That utilization, therefore, created a publicity of the vows, see. (Canbakal 2007, 162-163).

[9]The oath of compurgation (*kasâme*) and surety (*kefâlet*) played an essential role in the Ottoman courts for the cases of unresolved murder, but the vows were not remain separate from these legal implementations as we will see further. For unresolved murders and their sanctions: see, (Akman 2007, 7-12).

inscribed that *nezir* contract was built in the front of Ayasofya mosque, Nicosia reminding one of similar practices in the Roman world (Defterdar Sarı Mehmed Paşa 1995, 391). These both incidents, Bosna and Cyprus, as far as we know, were only two instances of usage of the vows as a penal system in order to maintain order in the seventeenth century. At that period, the public vows began to refer political encounters between the state and provincial communities. Financial sanctions and demanding heads of the villains were considered particular tools of the public vows in order to deter people for such further incidents in the seventeenth century. Moreover, a stone pillar was built to illustrate the *nezir* contract in these both examples. The symbolic monuments were more likely related with the ceremonial power of the early modern state to remind it and also to warn all people who lived in that place.[10]

These incidents mainly referred to new forms of the vows by transforming the vows based on religious prayers towards a penal system or a contractual tool between people, and so the public vows gradually positioned a political encounter between the state and provincial communities. That transition of the private to the public vows adapted the underlying features of the vows to the public vows under favor of the Empire. The public vows were initially used as a preventive tool to take precautions against the possible insurgent incidents and thus they always had a future-oriented structure. That is to say that the state or communities had concerns to guarantee themselves regarding incidents in the future. These characteristic tools of the public vows were apodictically constituted on a promissory basis. Particularly the promissory of communities to the state formed a contract between them and thus the *nezir* contract generally determined legal and moral responsibilities of communities on a certain promissory in order to prevent any conflicts between the state and provincial communities in the future. However, the public vows were altering fundamental forms and principles of the private vows by ensuring their adaptation to the state for their practicability. Even though the self-discipline principle of the vows of individuals had continued its impact among society, the control mechanism had now reached to communities in the public vow. The public vows, in this manner, had imposed a collective penal liability in particular. As seen in the incidents of Bosna and Cyprus, the people entered into an obligation as a whole in order to prevent any rebellion in their districts and also maintain order of the Empire from them onward.

The *nezir* as a collective penal mechanism of the state gradually rose in the seventeenth century in the Ottoman Empire, but it appeared not widespread in the Empire and was limited to a few implementations at that period. Alongside above-

[10]For an extensive question of ceremonial power of the contractual world: see, (Canbakal 2011, 102).

mentioned examples of the public vows, a couple of people vowed in response to their move from Beğlerbeği village in Ayntab to Ayntab. In 1698, these people pledged not to move to Ayntab unauthorized and pay 100 *guruş* to the governors if they moved again to Ayntab (Çiftçi 2017, 127-128). In the same year, Ayntab people vowed 300 *guruş* to the Rakka governors in order to dismiss Abraham, the son of Kızıl Zımmî, who persecuted the people on the collection of taxes (Çiftçi 2017, 250-251). This example also illustrated another feature of the public vows. The public vows were not only implemented by the state, but also communities used them for several purposes. While provincial communities could make the *nezir* contract between other communities or among themselves, the *nezir* was also a crucial tool to illustrate conflict or consensus between the central government and provincial communities. Although the seventeenth century did not present an extensive implementation area for the usage of the *nezir*s, it provided an insight regarding implementation fields and forms of the public vows reciprocally by the state and provincial communities. The rebellions and arbitrariness of the governors particularly appeared in the implementation area of the public vows in the seventeenth century of the Empire. However, the main question here is that why did the state need to use and transform the vow as a penal system in that period although other penal systems such as oath of compurgation (*kasâme*) and surety (*kefâlet*) had an impact on the similar criminal issues.

3.3 The *Nezir* Between Oath of Compurgation (*Kasâme*) and Surety (*Kefâlet*)

The both penal mechanisms, *kasâme* and *kefâlet*, of the Empire had developed within the Islamic legal system and were eventually adapted to the Ottoman penal codes by the central government. The oath of compurgation was used as a means of unsolved murders in particular. Even though Islamic legal system introduced identification of the murder and directly or indirectly made compensation for the murder in the cases of unsolved murders, the Ottoman Empire condemned entire people who lived in the vicinity of the crime scene and thus the collective spatial mechanism was used on that issues. That community, moreover, pledged that they did not kill the victim and did not know who killed him/her and paid a compensation or a blood money (*diyet*) through litigation of kinsmen of the victim (Akman 2007, 7-9; Akman 2002, 789-790).[11] *kefâlet* was mainly implemented by the way of standing

[11]The Hanafi doctrine accepted that definition of *kasâme*. However, Malikis claimed that the kinsmen of the victim pledged to prove kill assertion, not residents (Akman 2007, 7-12). For early Islamic practices of

surety for one another; in other words, transformation of an individual to a credible person thanks to suretyship and guarantee of a confidential person (Saydam 1997, 68). The Ottoman Empire maintained that mechanism and particularly used it as a collective penal system by standing surety for each other in many fields in order to protect social order and prevent administrative disruptions.[12] In such areas, the Empire had again transformed individual responsibility to collective responsibility and thus an individual came into view of the state as a part of his/her belonged community, not as an individual (Kırlı 2010, 184-185). From sixteenth century, the Ottoman Empire began to use both mechanisms as a collective penal system in order to maintain social order and security. The important point here is that the Ottoman Empire had already a tendency about the transformation of some mechanisms which developed within the Islamic legal system to a collective penal system; in other words, that collectivity in the penal codes could be an early modern characteristic of the Ottoman Empire.[13]

The establishment of the *nezir* as a collective penal system by the state had completed a triangle of the Ottoman penal code together with oath of compurgation and surety; besides they had legally existed with their differences and wide similarities between each other within the Empire. Becoming a collective responsibility, financial sanctions, implementation areas, and intended purpose of them generally constituted extensive similarities between these penal systems. They were particularly used as a means of maintaining social order by the state and the state expected that people should not remain unresponsive regarding goings-on in their vicinity and importantly they should struggle with crime and criminal as the state did (Çetin 2015, 304). Nevertheless, the *nezir* was considered a tool of future-oriented or preventive, promissory, collaboration with authorities, and maintaining order in particular unlike oath of compurgation which was ensued by the payment of the blood money (Canbakal 2011, 93). Instead of *kasâme*, the *nezir* had showed more similarities with *kefâlet* in terms of their form of implementation in particular. Besides, in the *nezir* documents, *kefâlet* and *nezir* could be used together by the central government. In

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kasâme and its comparison with other legal systems, see. (Crone 1984, 153-201), (Peters 2002, 132-167).

[12]The Ottoman Empire had strove to implement the surety in almost everywhere. Alongside public services, the suretyship was necessitated even for labourers, madrasa students (*suhte*), and the guarantors were held accountable even for dedition to the judge of absconding guilty and besides, they were jailed in the case of their any negligence. The surety, in this manner, had an extensive implementation area in the Ottoman Empire, see. (Saydam 1997, 68-76), (Ertuğ 1997), (Özcan 2001, 129-151).

[13]On the other hand, that determination could involve a dilemma in its entirety. The oath of compurgation and surety have remained a crucial tool of social control until end of the Empire, not *nezir*. Therefore, they should be evaluated their changing implementation fields and usage from time to time in order to follow traces of discrepancies between these legal tools. Importantly, it should be keep in mind that why did the collective penal systems, oath of compurgation and surety, have preserved their impact until end of the empire, but the *nezir* as an another collective penal system was gradually removed after the Tanzimat period.

other words, the *nezir* should be discussed within the law of *kefâlet*, because main characteristics of the *nezir* were quietly close to *kefâlet* which had been used before than use of the *nezir* as a penal system. On the other hand, some *nezir* cases did not involve features of these penal systems. Rather, the state had aimed to have the future of the communities under the control thanks to the *nezir*, not only a moment or an incident and thus the *nezir* had constituted a long-termed penal mechanism.

Both *kefâlet* and *nezir* were sometimes implemented together, but their roles within an incident showed alterations. İzzî Süleymân Efendi mentioned punishment of the rebels, which is the only *nezir* record in his chronicle, in Ruscuk in 1751. That rebels in Ruscuk were punished with several penal implementations because of their banditry. The state initially imprisoned and exiled these rebels, but the people of Ruscuk also were hold responsible in order to prevent further rebellions there by standing surety for one another and then entering into the *nezir* contract which involved to be paid 130.000 *guruş* to Ruscuk commanders if such incident happened again (İzzî 2019, 880-882). In 1780, the people of Kolonya and Düvel in Rumelia stood surety because of their disobedience, and then the state subjected them to the *nezir* concerning their promise to hand over bandits if they again came to the town (DABOA. C. ADL. 1194/1780; DABOA. C. ADL. 100/6046). Such examples including surety and the *nezir* together were not limited to these incidents, both penal systems were implemented together in various cases from last quarter of the seventeenth century to the first quarter of the nineteenth century. The important thing here is that the state could implement surety for primary measure and then make a *nezir* contract to strengthen that measure or both penal systems had different roles and impacts in an incident. Moreover, the surety could promote an identification process in a *nezir* document; in other words, provincial communities could be recognized by implementing surety.

The *nezir* could be mainly used to determine punishment after carrying out the surety. I do not believe that these assumptions are invalid; rather, they were valid by showing changes regarding incidents and their implementation forms. The first incident probably considered the *nezir* contract to strengthen surety between the people of Ruscuk and also ensured deterrent impact of the punishment with financial aspect of the *nezir*. The *nezir*, therefore, could gain a more deterrent feature rather than the surety because of the *nezir*'s future-oriented characteristic which was valid until the request was realized in particular. The second incident also illustrated a division of labor between these penal systems. The surety was implemented in order to prevent disobedience of the people, but the *nezir* was considered an umbrella to take measure of the state against their disobedience and also held extra responsible to the people such as handing over the bandits. This case again highlighted more

deterrent and future-oriented characteristic of the *nezir*. In addition, the surety appeared as an intermediate form in the cases of implementation of both penal systems together; in other words, the surety was always implemented before the *nezir* contract, and it more likely seemed 'pre-measure' or a tool to identify a party of the *nezir* contract in such cases.

On the other hand, the questions of why did the state need the both penal systems in an incident and did not find the *nezir* sufficient to maintain order should be extensively examined to follow the traces of connection between surety and the *nezir* explicitly. When we initially consider the surety, inefficacy of the surety could be much more considered by the state rather than the *nezir*. Although both penal systems mainly had similar features, the *nezir* constituted a more deterrent mechanism by carrying out financial sanctions. The *nezir* contained entire implementation areas of the surety and also its main feature such as collective punishment or responsibility. However, the state had implemented the surety together with *nezir* in some cases. That situation may be interpreted that the *nezir* and the surety were mutually complementary penal mechanisms because of their above-stated similarities; nevertheless, I claim that the *nezir* was considered more future-oriented by the state. *nezir*, in this manner, was mainly closer to the surety rather than the oath of compurgation. The *nezir* particularly based on contractual structure considering an offer or offers and the beneficiaries, and so the willful agency of the vower played a crucial role to realize *nezir* contract. Therefore, it was considered an umbrella on the surety and oath of compurgation, or a novel combination of these penal systems, but it more likely functioned as legal surety because of its contractual structure (Canbakal 2011, 92-95). In addition, the first records of the *nezir* in the seventeenth century appeared together with the surety; however, *nezir* records were separately implemented in the eighteenth and the first quarter of nineteenth century in general. The eighteenth century, in this manner, should be examined through the *nezir* in order to determine the *nezir* clearly and its main and explicit position within the situation that eighteenth century Ottoman Empire was in.

3.4 A Brief Reading of Eighteenth-Century Ottoman Empire in the Context of the *Nezir*

The eighteenth century of the Ottoman Empire has particularly been considered a controversial period by many scholars. While a historiography on that period has concentrated on weakness of the central government vis-à-vis rising enterprises of the provinces, others have questioned a different relationality between the central

government and the provinces over changing political culture of the Empire. This period as an intermediate century has been evaluated within a continuous process of the Empire and thus its unique characteristics has not been mainly discussed in itself (Eldem 1999, 192-193). Particularly since the seventeenth century, the external and internal conflicts such as wars, rebellions, financial difficulties caused to constitute an interpretation on weakening the dominance of the center in particular. However, the transformation of the state structure regarding changing global and internal dynamics were not directly to be evaluated as decreasing power of the central government. The comparison of the eighteenth century with the foundation era of the Empire would consider destabilization; on the contrary, its adaptation to the Tanzimat period would refer to the reorganization of the Empire (Eldem 1999, 194). Rather than to approach this dualism, the eighteenth century would be examined through its indigenous features concerning new establishing mechanisms of the state and importantly manner of the rule.

The beginning of the eighteenth century had various breaking points in the Empire regarding external and internal developments and thus changing administrative and social structure had foreshadowed a new era. The treaty of Karlowitz in 1699 played an active role to maintain new order and developments in the Empire by revealing military defeats of Ottomans. These defeats, at one point, had triggered social unrests, and also striving to establish new era or order had constitute a conflict within a dualism between supporter of old-order and new order on the other side. 1703 rebellion against Mustafa II and his Shaikh al-Islam Feyzullah Efendi was a massive protest in order to demonstrate against military defeats (Abou-El-Haj 1984). Such social unrests continued with massive rebellions to demand or re-reveal old order in particularly political and religious aspects as was seen in Patrona Halil rebellion in 1730 and uprising of the Albanian immigrants in *sipahi* (cavalry soldiers) bazaar in 1740. On the other hand, the economic class interests, which importantly illustrated itself with the coalition of Janissaries and ulema into the market economy, were main followers of the new order (Tuğ 2017, 25-26). Such tensions in the eighteenth century continued their impact on society and the administration but yet the necessity of reforms had showed itself to build a bridge between old and new order in many areas; in other words, changing administrative mentality of the Empire became apparent regarding internal and external dynamics within indigenous features of the eighteenth century.

Two lines of the eighteenth century as economic and administrative scale had a particular influence in the change of administrative mentality of the Empire. Particularly the ongoing wars with Habsburg and Safavids, required to adjust new warfare techniques and increase in the flow of silver to global markets in the eigh-

teenth century had created a reorganization of financial and economic policies of the Empire on a cash basis (Tuğ 2017, 51; Salzman 1993, 398). The central government, in this manner, began to carry out new policies to ensure cash flow such as commercialization of agriculture and enriching provincial elites. With the significant impact of economic commercialization and privatization, the provincial elites began to rise their administrative influence as either representatives of the central government or autonomous rulers. Even though a view on the more autonomous power of the local notables as distinct from the central government particularly appeared, the central government had spread its power in the provinces through its co-operation with these local notables (Salzman 2004, 20). These developments would be interpreted as decreasing power of the central government; however, they are considered a change in the manner of the rule such as redistribution or fragmentation of the power in the eighteenth century (Abou-El-Haj 2005, 45-60). The privatization in economy and the rise of the provincial elites had constituted main lines of that period, and also the public vows could be particularly implemented within such developments of the eighteenth century. The general, lacking and brief frame of the eighteenth century do not aim to determine entire narratives and characteristics of that period, just draw the fundamental features of the eighteenth century considering the implementation area of the public vows.

In the eighteenth century, the *nezir* was mainly a control mechanism of the central government in the provinces in order to maintain order and security, and also it had been used by society through their various relationality with the government or other communities by applying the court. That period referred to an increase of banditry in the provinces, and the *nezir* frequently appeared in these criminal manners. The term bandit was used very liberally for all sorts of unlawful people by the state and thus these acts had involved several crimes in the eyes of the state. According to Faroqhi, the struggle with the banditry by the state had a close relationship with implementation of the *nezir* in the same period (Faroqhi 1995, 164). In the eighteenth century, such acts could involve many conflicts in the collection of taxes, disobediences of the administrative officers to the state, conflicts between provincial elites and villagers, the production of artisans, the conflicts of the villagers in the essential needs. From the eyes of the central government, the *nezir* could solve these problems, and so maintain order and security in the provinces as the state intended it. Moreover, the changing political culture of the Empire in the eighteenth century might have needed to constitute new intermediary tools between the central government and provincial communities. These tools also became a power in the hands of provincial communities. In that period, rising power of the provinces used the *nezir* in order to regulate or maintain their various relationalities

with the state and other communities. The *nezir*, therefore, should be considered both through eyes of the state and the provinces in the producing and changing political and administrative culture of the eighteenth century.

3.4.1 Rise of Enterprises in the Province

In the second half of the seventeenth century, financial difficulties in the Empire had explicitly showed themselves and thus the central government was in need of establishing new policies in order to close the budget deficit. That policies, in fact, had referred to a breaking point in that new era in comparison to conventional measures in the economy. The re-organization of provincial finances played a crucial role for the state and thus the taxes of provinces, which were undeniable important source of income, had gradually been regulated from agricultural yields to cash payments (Salzman 1993, 398-399). However, collection of taxes in cash had increased difficulties, and so the early modern states began to ensure tax systems which determined who collect the taxes in the provinces as was seen in tax-farming systems such as *iltizâm* and *mâlikâne*. *İltizâm* system had gradually substituted timar system because of cash shortage of the state by tendering the right of collection of taxes in a given time; furthermore, the central government took that system much further by establishing life-term revenue tax farm, *mâlikâne*, in an edict of 1695. Tax collectors, therefore, had right of collection of taxes until their deaths (Quataert 2005, 48-49; Salzman 1993, 401; Cezar 1999, 49-50). The collection of taxes by intermediaries had spread to most of the provinces in time and began to involve entire revenues except the revenues of the Sultan. The central government, therefore, aimed both ensuring long-term efficiency and cash flow with ease (Darling 2006, 126-127). These tax farming systems, *iltizâm* and *mâlikâne*, had also intended to increase control of the state in the provinces, but although the tax collectors (*mültezim*) who were appointed by the central government provided a state control, the local powers began to come into prominence in time, particularly with *mâlikâne* (Darling 2006, 121-122; Salzman 1993, 401-402). The rise of local powers was mainly derived from both a character of new tax-farming system as having its immunity from interference by local authorities and usage of the local families to collect the taxes as intermediaries by central elites. The new economic policies, therefore, were one of the main driving forces of the local power's rise. The provinces had no longer lost their conventional characters and strove to embark on new manner of the rule which introduced new balances between the central government and the provinces.

The provincial power holders gradually strengthened their powers in the provinces

through structural changes in particular, economy and administration of the Empire from the sixteenth to the eighteenth century. The seventeenth century was a breaking point for vizier and pasha households to emerge who represented new elites having an influential voice in the state affairs. The new emerging elites and their households, in fact, referred to a 'collective leadership' or 'civilian oligarchy' that was efficient in the Empire alongside the Sultan (Quataert 2005, 34). That collective leadership had a significant power in the eighteenth century through achieving extensive economical sources such as life-term revenue tax farm, state lands which were illegally captured, and also obtaining revenues from pious foundations. Rather than traditional administrative order based on imperial elites who were trained in the sultan's palace, the provincial power holders had eliminated these centrally appointed governors particularly with tax-farming units (Yaycıoğlu 2012, 443-444). The enrichment did not only illustrate economic consolidation of these viziers and pashas, and also an acquisition status in the state governance because of that commissions in the state governance were gradually treated as commodity (Quataert, 34-35; Findley 2006, 78-79). Furthermore, they enriched their social and cultural ties in their localities thanks to building palaces, mosques and cemeteries. The provincial power holders, therefore, enjoyed a good reputation through their wide cultural, social, and economic ties with their localities (Yaycıoğlu, 441-442).

The vizier and pasha households had gradually begun to ensure their control over the local units in the eighteenth century, and thus the local leaders increased their efficiency on their units. That households who particularly had life-term tax farming of a local area made a contract with those local notables in order to collect revenues. The local notables, therefore, had strengthened their power on their communities as being subcontractor of those tax-farming units. The power holders also increased their power on the local units in terms of obtaining local knowledge and networks, not only economic growth (Yaycıoğlu 2012, 444). The developing local leaders, in fact, took a place in a community from different ways, but the deep connection between the leader and community was always an inevitable fact in order to maintain the control in the provinces.[14] The officers who were appointed by the central government and had deep ties with those local communities had an important influence for a while in the provinces particularly in the sixteenth and the seventeenth centuries. On the contrary, these officers had no longer protected their status for a long time in the same place in the eighteenth century; in other words, their circulation was decreased, and the bargains between the central government and officers became

[14]Bruce Masters divides the local leaders in the Arab provinces into four categories with the difference of other parts of the Empire, but that categorization also refers features of the entire local leaders and their consolidation in their local communities: (a) tribal/clan-based groups, (b) neo-Mamluks, (c) Ottoman military forces, (d) the local *a'yân*s or urban notables (Masters 2006, 186-188).

involved to determine their incumbencies. The local notables or natural leaders, on the other hand, who were not formally recognized by the central government until the eighteenth century were influential people of their local communities (Quataert 2005, 46-48).[15] The central government was in need of contact much more with local notables in the course of time in order to maintain control in the provinces. The local notables, therefore, had gradually took control in their provinces as having a voice in their district administration and province chamberlains. These officers became to be appointed by the local notables, and thus the local notables had come to the fore in the eyes of the central government. Moreover, the right of tax collection by them increased the inevitable connection between the local notables and the central government (Özkaya 1994, 99-112).

From the eighteenth century, the relationship between the central government and the local notables was formalized with the transformation of the local notables' status to formal officers. The local notables became officials and assumed significant responsibilities as intermediaries such as collection of taxes, ensuring local security, public expenditures, and recruiting local troops for the imperial army (Yaycıoğlu 2012, 445; İnalcık 1977, 29-33).[16] That relationship, in fact, gradually built necessary conditions of the seventeenth and eighteenth centuries witnessing internal disturbances and change of the economical and administrative structure of the Empire. In this manner, the provincial power-holders exercised much more power over their local communities, and besides the central government could not be unconcerned with that rise under changing conditions. Particularly until the 1970s, many historians have approached the manner of the rise of provincial power-holders through a conflict between the centre and the provinces; in other words, a dichotomy between centralization and decentralization played a significant role in this issue (Yaycıoğlu, 446-447; Khoury 2006, 135-137). That conflict, on the other hand, became to be questioned, and thus a new perspective based on horizontal structure of the Empire instead of the vertical interpretation between the centre and the provinces had constituted new readings regarding eighteenth century of the Empire.[17] These new interpretations had maintained a reciprocal relationship between the centre and the provincial power-holders considering both the rise of provincial power-holders in

[15] Before the eighteenth century, the local notables mainly referred to natural leaders of urban communities. Particularly with the end of the seventeenth century, the man of weights who were generally in opposition to the central government gradually illustrated themselves in the Anatolian and Arab provinces. In the Balkan provinces, the self-governance was quite prevalent, and thus the developing local autonomy had promoted both the local notables and collective responsibilities. For detailed information, see. (Yaycıoğlu 2012, 444-445), (Khoury 2006, 152-153), (Adanır 2006, 157-162), (Masters 2006).

[16] The local notables and their councils were also quietly instrumental in the appointment of many urban officials such as police chief (*subaşı*), bailiff (*muhzırbaşı*), warden (*dizdâr*), market inspector (*muhtesib*), and commander of the janissaries (*serdâr*) (İnalcık 1977, 33).

[17] For these new interpretations, see. (Khoury 1997); (Hathaway 1997); (Barbir 1980).

the centre and continuation of political rule of the Empire in the provinces. The provincial power-holders, in other words, had localized Ottoman political authority in their local communities alongside ensuring their consolidation in both centre and the province (Khoury, 136-137). Their connections gradually became a horizontal relationship including a negotiation process in order to maintain control all over the Empire and their powers in particular. The provincial power-holders and the central government, therefore, had established a mutually beneficial contract by negotiating service and benefits (Yaycıoğlu 2012, 447-448).[18]

Approaching the contractual and negotiable feature of the eighteenth century occurring between provincial power-holders and the central government could be correlated with the changing structure and usage of the public vows in the Ottoman Empire. That period did not only constitute reciprocal relationship between the centre and the provinces, but also undermined the notion that the Sultan as an absolute sovereign. The Sultan, therefore, became the supreme contractor alongside other contractors as provincial power-holders, and also the state no longer referred to common interest of the elites (Yaycıoğlu 2012, 449). That new administrative mentality and means were gradually constituted by both the central government and inevitable force of the provincial power-holders. The developing contractual base of the new era naturally required new administrative means in order to provide that transformation. Could the transformation of the private vows to the public vows to be evaluated within that ensuring mutual contractual benefit between the centre and the provinces at one point? What was the status and goal of the public vows in the light of new actors and balances of the Empire? Moreover, could the term of 'communalization' referred contractual structure and means of the eighteenth century?[19] Around these questions, examining the usage of the public vows in the eighteenth century of the Empire plays a crucial role in order to follow these traces of the eighteenth century and the status of the public vows.

3.5 *Nezir* in the Eighteenth and Early Nineteenth Centuries of the

[18] The negotiation process among provincial power-holders and between these power-holders and the centre is quietly discussed by Karen Barkey. She claims that the conflict or rebellion was mostly a form of the negotiation. Both the rebellions of the provinces against the political authority of the Empire and conflicts among provincial power-holders illustrated a negotiation process because their relationships and strategies did not always remain unchanged (Barkey 1994).

[19] Halil İnalcık signifies this term, communalization, to describe this new trend of the eighteenth century. The term of communalization occurring among several provincial elements illustrates both a rising voice of the community representatives and addressing them as answerer of the central government (İnalcık 1977, 37).

Empire

The gradual transformation of the *nezir* which had begun in the seventeenth century particularly manifested itself in the hands of the state and provincial leading actors or their communities in the eighteenth century. While the *nezir* mainly introduced a contract of a collectivity, individuals also continued to use that contract in the Ottoman courts. The individual actors used the *nezir* with its different purposes as distinct from the private vows, but they mainly aimed to protect self-discipline. They mostly engaged those vows in the eighteenth century in the fields of both casual incidents and conflicts with their villagers and governors as subjecting themselves or other accountable people to vow. The *nezir*, on the other hand, became a penal system in the hands of the state in order to maintain control in the provinces in particular; in other words, the state transformed a supererogatory prayer which was used as a means of closeness to God for its benefits. The penal system was implemented in several affairs and groups such as settling, banditry, officers, local notables, artisans, rebellions, tax collections, and many conflicts occurring in the provinces in the lands and waterways. The state mainly carried out the *nezir* as a punishment and deterrent system on provincial communities; on the other hand, provincial leading men or their communities could use the *nezir* to solve conflicts with other communities or declare their obedience or disobedience to the central government or local authorities and officials. Such relationalities over the *nezir* particularly brought a collective identity forward, although individual liability continued to show itself. When we consider political encounters between the central government and provincial communities, the *nezir* mainly became to refer several contracts made between these two sides in the eighteenth century. Whether state-imposed practices or willful agency of the vowers completely had a contractual frame in these encounters. Was the eighteenth century of the Empire a part of that contractual relationship between the centre and the provincial communities through the *nezir*? How did provincial communities use the *nezir* against the political authority of the central government? Where and why did the individuals' use of the *nezir* continue to manifest itself, even though the *nezir* mainly referred to a collectivity in the hands of the state or provincial communities in that period? These questions examine both why the state transformed vows to that collective penal system in the new era and the main roles of the *nezir* within frequent encounters between the centre and the provincial communities.

3.5.1 The *Nezir* as a Part of Individual Liability

The *nezir*, which was originally used as a means of closeness to God, had an individual base in the Islamic tradition. The transformation of the *nezir* did not change its individual usage that particularly aimed to dedicate oneself in order to provide self-discipline. Use of the *nezir*, on the contrary, gradually altered by involving both third parties who were not accepted by Islamic law, and so these third parties were included as a receiver of the *nezir* within a *nezir* contract. Individuals also appealed to the Ottoman courts to make a *nezir* contract in the conflicts of heritage, marriage and everyday issues. Such alterations referred to a bottom-up transformation and introduced a basis for usage of the public vows.

That transformation, which had begun in the seventeenth century, increasingly continued in the eighteenth century as well, and thus the public vows became a significant mechanism in the hands of the individuals. Leading men or ordinary men/women could use this practice in order to benefit from the *nezir*'s features functioned like the surety and oblige themselves not to do something. Hacı Musa who was one of the chief wardens (*kapıcıbaşı*) and also in charge of Hamid district's farms appealed to the court in 1767 in order to reside in Kütahya instead of his place of duty, Eğirdir. He aimed to manage that farm by proxy and give a guarantee for reliability of his promise. He committed to pay 50.000 *guruş* as *nezir* if he broke his promise (DABOA. C. ZB. 14/651). The *nezir* here was used by a public officer as a means of both providing his wishes and warranting to the state not to hinder his charges. Hacı Musa, therefore, achieved his wishes by obliging himself. On the other hand, individuals could use the *nezir* to avoid one's bad or illegal acts. Palancı Ahmed who was originally from Anatolia and then settled in Rusçuk in 1778 appealed to the court because of his bribery. He agreed to pay 1.000 *guruş* to the court as *nezir* if he again bribed (Öztürk 2014, 57). A woman by the name Cennet who was from Koşbed district of Lârende, Karaman swore not to oppose God's orders anymore in 1831. Then to ensure her promise, Cennet vowed to pay 1.000 *guruş* to voivodes in Karaman if she opposed to God's order (Gürbüz 2009, 235). The cases of Palancı Ahmed and Cennet referred to a usage of the *nezir* as a self-control mechanism in order to avoid undesirable actions. They so strengthened their promises by means of obliging themselves. The fact of self-discipline, in fact, shared similar motivations with the private vows at one point, but the beneficiaries from the public officers illustrated a breaking point on the transformation of the private vows in the individual scale. Cennet, for instance, wished to obey to God's orders and used the *nezir* to provide her promise, but she accepted to give her vow to the public officers. This means that even though the goal and motivation of the *nezir* remained the similar with its primary purposes in these incidents, its form and usage were altered in the course of time. That transformation indicated

a continuing change of the *nezir* in the eighteenth and the nineteenth centuries on the individual cases as well. On the other hand, such acts basically seem that these individuals were using this practice to avoid their undesirable behaviors with their willful agency, but could a pressure by the state or the neighborhood on these individuals be mentioned? In legal frame, individuals used this practice with their consent, and so if there was a pressure on the individuals, it was probably not valid in the court; however, they could sometimes be exposed to a pressure in order to avoid their unallowable practices.

Providing self-discipline by the *nezir* also related with other parties; in other words, individuals did not only practice *nezir* to maintain their self-control just for themselves, also ensured their self-discipline for other people. These parties could be included in the *nezir* contract to witness vower's promise, or the vower could make a contract by himself/herself and mainly vow certain sum of *nezir* money to abstain from prejudicial actions for other people. In 1743, Bogos who was from Turmuş Fakıh district of Adana admitted to unjustly file charges against his brothers, Üştüri (camel driver) Kirkor and Giragos, about their heritage. Bogos agreed to pay 500 *guruş* to the governor kitchen as *nezir* if he again unduly accused his brothers and litigated them inconsistently with the sharia (Ceylan 1996, 495). Tozman Kara who was from Süğlün village of Karahisar-ı Sahib asserted that some women who lived in the same village fornicated with himself, and then he litigated these women in 1748. Tozman Kara constantly complained about them, but he could not prove his claim at every turn. Therewith his abortive trials, he subjected to pay 500 *guruş* to Hark foundation as *nezir* if he again slandered these women (Akpınar 2015, 54).[20] In Karahisar-ı Sahib, Hacı Hüseyin who lived in Kalecik-i Kebir village conflicted with the village folk because of tax affairs in 1748. Hacı Hüseyin, therefore, agreed to pay 1.000 *guruş* as *nezir* to the commander if he meddled in the matters of the village folk (Akpınar, 145-146). These three incidents referred to unilateral contracts occurring to prevent their misbehaviors by themselves, but that contracts did not only relate with themselves, also appeared as a consequence of their conflicts with other people. The main question here is that why these people made a *nezir* contract by themselves and why they desisted from their assertions or complaints on other people? For instance, Tozman Kara was insistently applying to the court for his allegations on fornication of that village women, and then why he gave up his claims? Like Tozman Kara, even though Bogos renounced his false charges on his brothers, why he made a *nezir* contract by himself for good measure? In these incidents, other related people did not make a *nezir* contract or were not bound

[20]The *nezir* of these people created a crucial discussion on its usage by the non-Muslims. Even though this practice based on Islamic culture and rituals, how could the non-Muslims use the *nezir*?

to make that contract. These questions can be interpreted through several reasons which do not appear in the documents. These people more likely did not prove their assertions in the court, and required to give a guarantee to other parties through the *nezir* as was seen in the case of Tozman Kara. Through their unfair accusations or prejudicial actions, they could be imposed to vow to take a guarantee regarding it would not happen again, or they could oblige themselves to avoid such actions in the moral scale.

Such *nezir*s had been constituted themselves by adopting its alterations occurring from the seventeenth to the nineteenth centuries, and these periods particularly provided practicality of the *nezir* in the individual scale together with collective practices. Primary form of the *nezir* was used as a means of closeness to God by individuals and recognized as a supererogatory ritual by the Islamic law. Through such aims, that *nezir* mainly put forward moral and religious obligation, and so individuals used this practice to ensure their self-discipline. Likewise, changing form of the *nezir*, which particularly appeared in the seventeenth century in the Ottoman Empire, as far as we know, maintained self-discipline in the use of individuals in particular. The moral influence of the *nezir*, therefore, still maintained itself among society; in other words, the *nezir* had been provided and spread among society as a crucial moral mechanism in the hands of the individuals by changing its intended purpose. That moral obligation could be directly depended on the religion in the Islamic culture. However, religion and morality could be sometimes thought as two separate elements. For example, In Ayntab, Mustafa Beşe in 1683 promised that he would never become the Head Butcher (kasabbaşı) again, and then he agreed to pay 50 *guruş* as *nezir* if he broke his promise. Mustafa Beşe also did not remain limited with that *nezir* contract and added that "if the qadi, whoever he might be at the time, does not collect my fifty *guruş nezir*, I will hold him responsible on doomsday" (Canbakal 2011, 95). That *nezir* contract was not sufficient for Mustafa Beşe, and then he felt the need of force the qadi through his religiously deterrent words. The main question here is that why Mustafa Beşe needed to say that "I will hold him responsible on doomsday"? Did the *nezir* lose its religious influence and obligation in its new form? The case of Mustafa Beşe would be interpreted that religious aspect of the *nezir* more likely lost its impact within society. This does not mean that the *nezir*s were not also considered a moral mechanism; otherwise, the morality of the individuals was constituted through the notions of self-control or self-discipline. Such moral elements only may no longer be created within the religion. Furthermore, religious aspect of the *nezir* should be considered by use of this practice by non-Muslims. Like Muslims, the non-Muslims could apply to the courts in order to make *nezir* contract in their all affairs. Beginning in the seventeenth century, this

practice had been implemented and created differently from its original form and motivations anymore. Therefore, the *nezir* was probably considered a significant moral mechanism by individuals rather than a religious mechanism.[21]

3.5.2 The *Nezir* as a Part of Collective Liability

Transformation of the *nezir* to a penal system substantially based on collective liability of provincial communities in the hands of the central government. As from the eighteenth century in particular, the state aimed to control provinces by transforming this religious practice into a penal mechanism of the central government. The *nezir* particularly referred to political encounters between the central government and provincial communities in the cases of banditry in the particular; in other words, all illegal and undesirable activities in the provinces could be a matter of this practice. In such encounters, the central government mainly attached importance to collective liability of the provinces, and so intended to subject communities to vow. When provincial communities were involved in a *nezir* contract with the state, they issued a guarantee to the state in various affairs. The central government could tie the culprits to the *nezir* in order to prevent their illegal activities, or communities that did not engage in a crime could be subjected to the *nezir*. Latter particularly pointed to one of the main intentions of the state in order to provide a collaboration with provincial communities against the culprits and incorporate these communities into the imperial order. Through such collective liabilities, the central government was striving to constitute a community that was responsible for its region or neighborhood. Therefore, the *nezir* more likely functioned like a bridge between the state and provincial communities. Leading men of the province and their communities also used this practice to make a close contact with the state. On the other hand, provincial communities could manifest their disobedience to the state order through the *nezir*. This practice, therefore, could witness several collaborations between the central government and provincial communities as well as various conflicts. That disobedience could be the *nezir* of a community against the state officials, or provincial communities could not fulfill obligations of their contract by defaulting *nezir* money or avoiding extra punishments. In this manner, the *nezir* was substantially referring to collective liability of provincial communities towards either the state order or other communities in the eighteenth and first half of the nineteenth centuries.

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[21] Işık Tamdoğan in her article has investigated that why the term of the *nezir* used for the contracts in that period. She addresses the powerful sacred meaning of the *nezir* in order to explain the transformation of this practice in the hands of the central government (Tamdoğan 2006, 145).

The *nezir* particularly became a significant penal instrument of the state in the seventeenth century and was frequently used in the further periods. In the eighteenth and the nineteenth centuries, the central government had tied provincial communities to the *nezir* in the fields of brigandage in particular. Banditry activities of provincial communities could substantially seem in the settlement policy, conflicts with state authorities, tax collection and collaboration with the culprits. In such incidents and other local conflicts, provincial actors and their communities were included into a *nezir* contract to abstain from such illegal activities. The settlement of Kenezlü, Meleklü, and Çandır tribes to the ruined villages of Aydın was forgiven by the state, and the state subjected these tribes to the *nezir* again not to leave from Teke Kara Hisar. The central government took a guarantee from these communities through the *nezir* and strove to prevent their illegal activities, but state's effort was not sufficient. In 1742, these tribes continued banditry in the summer pastures and damaged the people of Eğridir district. This incident illustrated a political showdown between the central government and these influential tribes. Although the state intended to incorporate these tribes into the imperial order through the *nezir*, they disobeyed that order by breaking this contract. Moreover, the state ordered collection of their *nezir*, the punishment of bandits, the settlement of the rest of the people to Aydın, and strongly tied them to the *nezir* again; however, these tribes did not accept to pay *nezir* money (*nezir akçesi*) and the settlement to Aydın, then the state decreed to Çelik Mehmed, the governor of Teke district, on getting under control them and round up the bandits among these tribes (Koç 2011, 348-351; 527-528). These tribes were not easily brought under the control by implementing the *nezir*; otherwise, they could continue to resist the political authority of the state and particularly refuse their collective liabilities imposed by the state. The state, in this manner, had strongly pursued its policies by subjecting that tribes to the *nezir* together with more severe penalties, and besides warned them with more deterrent statements of the *nezir* such as stronger making *nezir* (*kavî nezir kat*); on the other hand, their punishment on the settlement to Aydın was commuted, and so the state allowed to settle their regions under certain circumstances. That political encounter did not level down the state with the provincial communities, but the balance policy illustrated a more horizontal and contractual process between themselves in the eighteenth century. It is no doubt that provincial communities became a part of that contractual process as a collective identity, but this party could not always participate that contractual process; in other words, provincial communities could declare their disobedience to the state order by continuing such illegal activities or defaulting *nezir* money. As Anastasopoulos has stated, such encounters partially related with degree of politicization of Ottoman subjects (Anastasopoulos 2011, 137-142). This politicization could be triggered by increasing political participation of

provincial communities in the eighteenth century, and some communities could use that participation by disobeying the imperial order.

This political initiative of provincial communities was also used by the state to collaborate with them against the culprits occurred in their region. The central government probably aimed to trigger politicization of provincial communities in order to ensure state's authority in the provinces. Through the *nezir*, the state subjected provincial communities to prevent banditry and participation of the people in the crime. In 1726, the state obliged the people of Adana on roundup of the criminals who rose against the Adana governor Mehmed Pasha and then escaped. If they did not obey that order, they had to pay 25.000 *guruş* to the treasury of the state (*Hazîne-i Âmire*) as the *nezir* (Yıldırım 1996, 268-270). In 1782, Ali who was from Sandıklı district of Kütahya escaped when he and Mahmud stood trial, and then the community of Sandıklı vowed to deliver Ali to the state if he came to the town (Aydın 2015, 322-323). Seyyid Mehmed, Ahmed and 31 soldiers joined an insurrection in Ruscuk, and then they escaped out of the town after the insurrection failed. Therewith that incident, the notables, troop units, ulema of Ruscuk gave a commitment to the state in order to obey the orders of the governor and prevent entrance of the rebels to the town in 1779. If they did not obey these decisions, they agreed to pay 30.000 *guruş* to the governor as the *nezir* (Öztürk 2014, 211-215). Such collaborations and collective liabilities constituted other side of political initiatives of provincial communities. These communities partially introduced their obedience to the central government by involving in such *nezir* contracts and struggling the culprits together with the state. Even though these collaborations were mainly maintained by the central government, provincial communities could also promote that collaborations by obliging themselves. For instance, the notables of Günyüzü district submitted a petition to the state because of the fact that es-Seyyid Osman Ağa who was voivode of that district straightened affairs of that community and carried out the orders with care. Then the people of Günyüzü committed themselves to pay 200.000 *guruş* for the expenditures of the imperial army to the *nezir* and reported disobeyers if anyone among the district disobeyed to the orders (Göker 2015, 71). The central government more likely localized its authority in the provinces by incorporating provincial communities into the imperial order, and provincial communities both promoted their political initiatives and their appearance and reliability in the eyes of the state.

3.6 Establishing Collective Identity and 'Communalization'

As from the eighteenth century in particular, collective identity and liability came into prominence in the *nezir* contracts. Both the central government and provincial communities promoted that 'communalization' in order to benefit from various opportunities of the *nezir*. This collectivism was particularly produced and introduced by changing political culture of the eighteenth century, but not new for the Ottoman subjects as was seen in the surety and the oath of compurgation. In other words, the central government already carried out collective spatial and penal liability in the earlier periods, but the *nezir* was a tool of the eighteenth century in particular. The collectivism gradually spread to one of the main encounters of the eighteenth century occurring between the state and provincial communities by particularly rising local notables and their communities in the provinces. The local notables gained an extensive economic source by collecting taxes as intermediaries; also, they took possession of huge political authority in the provinces in the manner that several important public officers were appointed among local notables, and the local notables chose the urban officials by themselves such as the appointment of the tax collectors (İnalcık 1977, 31-32). The local notables, therefore, became a crucial bridge between the imperial centre and the provinces in the second half of the eighteenth century in particular. For instance, the significant position of the kadis as a representative of the sultan in the provinces was gradually assumed by the local notables in that period (İnalcık, 41-42). The local notables were also the representative or leader of a community, and so their voice could refer to a collective will and consent. They were, furthermore, formally recognized by the state and transformed into a formal office which was elected by their communities. That election was conducted by the community representatives, and they declared the elected leader to the judicial court by the collective decision (Yaycıoğlu 2012, 445). These formal officers indeed illustrated a collective will and consent by the collective decision-making process of the districts. That electing bridge between the state and provincial communities became a crucial representative of that collective will. In other words, the local governance in the eighteenth century was mainly constituted by the participation and consent of the communities (Anastasopulos 1999, 13-24).

The increasing power or rising trend of collective agents should be discussed through the term of 'communalization' as stated by Halil İnalcık (İnalcık, 37). That discussion between the rising of local notables and the decentralization has referred to a constituting 'communalization' by the seventeenth century. The 'communalization' among several provincial actors and their communities was gradually creating mutual cooperation, and that cooperation was recognized by the state to address these provincial actors or community representatives in the seventeenth and the eighteenth centuries (İnalcık, 37). As Canbakal has also stated, the term of 'communalization',

in this manner, would be used to determine the increasing active role of provincial communities in that period (Canbakal 2011, 109-111). The rising popular and collective voice under which developments of the eighteenth century could represent the changing administrative and political culture of the Empire. This changing and producing culture particularly introduced a political frame that based on consent and contract; in other words, beginning in the seventeenth century, increasing political and collective participation of the provinces could produce and promote that political culture. The *nezir* could also be implemented as a means of this political culture. Frequently use of the *nezir* by both the state and provincial actors or their communities could not be a surprise in the light of such developments of the eighteenth century.

This increasing collectivity was particularly used by the central government and provincial actors or their communities in the eighteenth century, but that new identity or trend should be questioned in the legal and political sphere of the Ottoman Empire. Furthermore, that collectivity was formed or produced through the representative of community such as *a'yân* in the provinces. In many cases, the central government addressed to these leading men of provincial community to subject community to the *nezir* or declare collection of the *nezir*. In other words, the leading men became a popular voice of these communities, and so they could speak on behalf of their communities. Therefore, participation of a *a'yân* in the *nezir* contract could also represent a collective action or liability. The political contracts based on individual, not corporations or institutional building blocks in early Islamic society, but this situation introduced a different frame by increasing collective and impersonal representations (Canbakal 2007, 174-175). How did communities or impersonal representative gain a legal entity through the *nezir* or did these representatives of communities have a legal status on behalf of their communities? These questions should investigate both legality of communities or impersonal representatives in the court and the intricate relationship between the Islamic law and the sultanic law. Establishing collectivism and its legality, on the other hand, should be evaluated through the needs of that period. The *nezir*, therefore, played a crucial role to understand changing structure of the Empire from the end of the seventeenth century. In this manner, could the establishment of the *nezir* be associated with rising provincial communities and collectivism in that period or make a breach in the legal sphere?

The shifting balances between the central government and the provincial powerholders which began in the sixteenth century had led to alterations in the political culture of the Empire and penal organizations of the *kânûn*s throughout the eighteenth and the nineteenth centuries. Particularly the commercialization of agricul-

ture and the privatization of the fiscal economy were the significant footsteps of that changing relationship between the center and the provincial actors or their communities. Establishing and producing close relationship between these two sides had created the new administrative and political means of the state in order to manage new actors and structures. The *kânûn*s had took an active role within that relationality. The *kânûn*s of eighteenth century, therefore, concentrated on the regulations of that changing power relations, and most importantly were not used or carried out as codified regulations (Tuğ 2017, 50-51). The codified law books for each province in particular were regulated and implemented during the sixteenth and the seventeenth centuries; however, they did not appear as codified and fixed law books into a uniform law book in the eighteenth century. This did not mean that the *kânûn*s lost their impact on the administration and society; on the contrary, they began to change their forms and implementations throughout the eighteenth century.

The introduction of new genre, private law books, which came in sight in the mid-sixteenth century, had increased its appearance in the eighteenth century. The *kânûn*s, therefore, were considered a 'common property' of administrative and military bureaucracy alongside the legal scholars rather than fixed and codified regulations of the imperial centre (Buzov 2005, 130-131). Both legal scholars and bureaucrats considerably gained a discursive field in the legal administration of the state through the *kânûn*s (Tuğ, 61). The codified and fixed law books no longer gradually gave place to more horizontal and discursive legal understandings by gaining more interpretable field. That gradual alteration, in fact, could be evaluated reification of relationality between the law and society. Furthermore, the law was no longer limited to political tensions between the political authority and the jurists; on the contrary, the legal terms and understandings in society were negotiated in particular (Tuğ, 70-71). Becoming the 'common property' and establishing extensive discursive fields could satisfy the needs of the eighteenth century. The new forms of the *kânûn*s, therefore, were constituting intricate fields in the administrative and penal organizations by gradually losing the sole sense of professionalism's impact in the law. The legal status of collectivism and the legal entities of communities through *nezir* would be discussed in the base of that legal alterations and understandings throughout the eighteenth century.

4. A COMPREHENSIVE MAP OF THE *NEZİR*

The *nezir* has not been adequately examined in the Ottoman studies and so primary sources on the *nezir* should be studied and evaluated as the primary issue to provide a basis of that subject. This chapter totally aim to focus on the primary sources of the *nezir* which include several documents from the state archive, the catalogue of *Cevdet*, and the court records in the eighteenth and the nineteenth centuries. These documents are selected from various regions and date ranges in order to reach a wider information through a huge corpus. Considering these sources, I intend to offer a survey of the *nezir* in its several usages in the eighteenth and the nineteenth centuries, and aim to introduce essential points of the *nezir* such as geographical distribution, criminal judgments and liabilities, implementation areas, vowers, beneficiaries, collection process, the *nezir* of the non-Muslims, and abolition process. It would appear that the constitution of that basic data matters to grasp the role of *nezir* in the Ottoman Empire to some extent.

4.1 General Structure and Process of the *Nezir*

The *nezir* documents particularly seem in the form of imperial edict (*fermân*), deed (*hüccet*) and written judgment (*i'lâm*) registered in the court records (*sicil*) and the state archive. The imperial edicts are quite limited in the *nezir* documents, and these limited documents mainly centre on the issues that directly related with the central government. Particularly, banditry committed in several regions by small groups or influential tribes was mentioned in the edicts when the central government got information about that continual incidents (DABOA. C. ZB. 8/372; C. DH. 311/15520; C. DH. 250/12482; C. DH. 245/12210; C. DH. 281/14034). The complaints of the people about arbitraries of the public officials and riotous people (DABOA. C. DH. 242/12092) or any damage or disobedience to the public officials by the people (Çetin 2015, 296 and 305; DABOA. C. DH. 19/944) referred to direct interference of the center to prevent conflict between the provincial authorities

and the people through the *nezir*. Moreover, the regulations and prohibitions on money, grain, raw materials in the imperial edicts were involving both an information about new regulations and measures of the state through the *nezir* (DABOA. C. DRB. 27/1320; C. BLD. 128/6375). Such edicts on various issues could directly determine amount of the *nezir* money or just order provincial authorities to implement the *nezir*, and so these governors took *hüccet* from the people as proof of the *nezir*. The imperial edicts usually addressed to the governors (*mutasarrıf*), the deputy judges (*nâib*), the governors of the provinces (*vâli*), the local notables (*a'yân*s), the judges (*kadı*), the tax collectors (*muhassıl*), and the chief gardeners (*bostancıbaşı*) in order to implement or collect the *nezir*s. Among these governors, *mutasarrıf*s, *muhassıl*s and *bostancıbaşı*s were only charged with collection of the *nezir*, and also the government sent an officer to the provinces to collect the *nezir* in the absence of these governors. The kadis and the *vâli*s were main authorities mentioned in the imperial edicts in order to carry out the orders. That edicts generally addressed to one or two authorities for further actions, but some addressed to all governors and leading men in the provinces (DABOA. C. ZB. 3/129). The state, in this manner, sometimes ordered implementation and collection of the *nezir* through that intermediary provincial authorities. Even though the several *nezir* implementations were situated in the imperial edicts, the *hüccet*s and *i'lâm*s constituted a vast majority of the *nezir*s.

The *nezir* documents are generally in the form of the *hüccet*s and *i'lâm*s prepared by the kadis. The people appealed to the court to demand a *nezir* deed by their own will in order to give or take a commitment, and the kadi prepared the *nezir* deed in the presence of the defendants and the witnesses in particular. The deeds had an evidential value for the cases would occur in the future. As less than the *hüccet*s, the *i'lâm*s that involved the decisions of the kadis contained the *nezir* documents as well. The *i'lâm*s and the *hüccet*s were, in fact, judicial activities of the kadis who were charged with administering Hanafi jurisprudence (fiqh) and enforcing Ottoman state law (*kânûn*). The deputy judges (*nâib*) assumed that role in the absence of the kadi, particularly in the eighteenth century. That two important figures played an essential role in the court and designated authority to prepare and make the *nezir* deeds and inform the central government. Alongside these court functionaries, the governor (*vâli*) was one of the main authorities to carry out the *nezir* and inform the central government as well. The *nezir* deeds were sometimes made in the presence of the *vâli*s (DABOA. C. HR. 76/3770), and these governors accepted that contract and then informed the central government (DABOA. C. DH. 285/14238). In a *nezir* deed, certain elements such as the purpose and reason of the contract, the defendants or the parties, the beneficiaries, and amount of the *nezir* money were particularly

written and registered in the court. Then some deeds that particularly related with the central government were reported to the central government by either the kadis or the governors, and registered to Registers of Finance Bureau (*Baş Muhâsebe Defterleri*). Unreported *nezir* deeds constituted a great majority of that contracts which became valid and binding with the kadi's or his representative's confirmation in the court. The *nezir* documents, therefore, can be situated in the court records to a large extent, because Registers of Finance Bureau probably did not record a great majority of these documents, particularly ordinary cases in the provinces.

Alongside that specific elements written in the *nezir* documents, these documents also involve certain terms, and both the state and the people used these terms to declare their intention or indicate importance of the *nezir*. People in the *nezir* deeds used some formalized terms such as 'let it be our vow' (*nezrimiz olsun*) (DABOA. C. ZB. 6/263), 'we undertook and guaranteed the vow' (*nezri deruhde ve taahhüd ettik*) (Çetin 2015, 293; DABOA. C. ZB. 54/2659), 'we guaranteed it' (*taahhüd eyledik*), and 'we accepted and guaranteed it' (*kabûl ve taahhüd eyledik*) (DABOA. C. ADL. 106/6349). The people, therefore, accepted and committed their obligations through such statements, and that terms became one of the main elements of the *nezir* deeds to provide evidentiary value of the contract to a certain extent. On the other hand, the state in the *fermân*s, *hüccet*s and *i'lâm*s used certain terms to vow all parties, and these terms showed alterations considering the degree of the *nezir*. Subjecting or tying someone to the *nezir* (*nezre kesmek* or *nezre bağlamak* or *nezre rapt*) was frequently used by the central government, and these words could be situated in all ordinary *nezir* contracts. Other terms were rarely used by the central government by adding some words that increased the degree of the *nezir* in front of the classical terms such as 'subjecting someone to the *nezir* in strong' (*kavî nezre rapt*). Such usages could be situated in remaking contracts and contracts of some communities that broke their commitments or disobeyed the orders. Furthermore, the central government particularly implemented additional punishments as well as the collection of the *nezir*, when the state aimed to increase degree of the *nezir*. The collection of double or multiple the amount of *nezir* money (DABOA C. DH. 12/570; C. DH. 281/14034) and the exile (DABOA C. DH. 6/269) were main punishments carried out together with the collection of the *nezir* money. Both use of unusual phrases and additional punishments pointed to the central government's intention to deter and warn some communities much more. The influential tribes and nomadic groups were naturally addressee of such practices, because they had an extensive authority in their territory in general, and some who were in conflict with the central government disobeyed the imperial order by breaking the contract.

Another important issue in the *nezir* deeds is witnesses to proceedings (*şuhûdülhâl*)

that composed of a group of court actors. These individuals seemed at the end of the deeds to witness and authenticate written dealings. Witnessing was open to all Muslims, and many individuals could witness to any case regardless their concerns in principle (Ergene and Coşgel 2016, 70). Even though there are less studies on witnesses in the Ottoman courts, that issue played an essential role, particularly identity of the witnesses, because the kadis frequently inquired reliability of witnesses who had a prominence to ensure binding authority of the court's actions. Determining all witnesses located in the *nezir* deeds is beyond and out of this thesis, it actually needs a separate work, but it is roughly possible to say outlined things on identity of that witnesses.

In the *nezir* deeds, the witnesses generally composed of the individuals who had a status and a title. Some of them were provincial authorities such as *a'yân*s, governors and imams, and others, whose identities we know nothing about had honorific titles such as *seyyid*, *ağa*, *efendi* and *el-hâc*. That rough frame of the witnesses seemed in the *nezir* deeds could provide a close relationship between the reliability and stature or reputation of the witnesses as Hallaq has mentioned that a kadi in ninth century criticized his aid for "dishonoring the institution of testimony" because he allowed witnesses of the people who had not neither social reputation nor property (Hallaq 2005, 86-88). In the eighteenth century, the *a'yân*s, religious functionaries and officials prominently figured as witnesses in the courts, and the *a'yân*s particularly became prominent because of their increasing role in all town affairs (Nagata 1999, 27; Jennings 1978, 143-144). Furthermore, these authorities as *şuhûdülhâl* functioned in the court to both influence opinions of the kadis, to some extent, and to check the kadis in order to ensure unbiased decisions of the kadis (Akdağ 1974, 404; İnalcık and Findley 1991, 4-5). The other actors, who had honorific titles, occurred in the court could belong to *askerî*s (military officers) such as *seyyid*, *ağa*, *efendi* or have unofficial titles, because these honorific titles could refer to an honorific status or not because of that these categories have changed over time (Canbakal 2007, 137-138). For instance, while the term *ağa* referred to military officer in the classical period, it gradually stated a regular *reâyâ* (commoner) by the eighteenth century in particular (Gerber 1994, 56). All these arguments, which generally provided importance of reputation of the witnesses in the court, were probably right for the *şuhûdülhâl* of the *nezir* deeds as well. For the frame of this thesis, witnesses to proceedings constituted one of the most important elements of the *nezir* deeds by supporting witnesses of the authorities and leading men of the local community. That issue should be also questioned and examined to follow role of the upper crust of the local community in the court and the relationship between parties in the case and the witnesses.

The beneficiaries have constituted a third-party in the *nezir*s along with other parties, whose presence formed a contractual document in the court indeed. That third-party represented beneficiaries (*menzûr leh*) of the vows that made benefit of collected money or payment in kind as the *nezir*. In primary usage of the *nezir*, the Islamic legal system did not allow the servants of the state (*ehl-i örf*) as beneficiary; however, the transformation of the *nezir* particularly ensured appearance of the state institutions and officials as beneficiaries in the *nezir*s. Among the *nezir*s located in the catalogue of *Cevdet* and *sicil*s, particularly as from the eighteenth century, the governor of a province (*mîr* or *cânib-i mîr* or *taraf-ı mîr*), the Imperial Treasury (*Hazîne-i Âmire* or just *Hazîne*), the Imperial Mint (*Darbhâne-i Âmire* or just *Darbhâne*) and the Imperial Kitchen (*Matbah-ı Âmire*) frequently appeared as beneficiaries. It can be easily seen that the state institutions and officials constituted a vast majority of the beneficiaries in that documents, but the main and complex question here is that was there any system or order of the central government determine these beneficiaries? It is actually hard to say that the beneficiaries were determined according to some specific and explicit rules, but it is possible to assert certain inferences on that issue. The Imperial Treasury (DABOA C. AS. 1181/52644; C. AS. 507/21159; C. DH. 218/10862; C. ADL. 58/3486), the governors (DABOA C. ADL. 100/6046; C. AS. 978/42631; C. ZB. 68/3375), the Imperial Mint (DABOA C. DH. 83/4130) and the Imperial Kitchen (DABOA C. ADL. 106/6349; C. ZB. 3/105; C. AS. 28/1291) could be seen as beneficiaries in frequently appeared *nezir* cases such as maintaining obedience of the provinces and state's efforts to prevent brigandage in the provinces regardless responsible institution and officer of an incident. The *nezir*s of these cases that constituted a vast majority of the *nezir*s were more likely, therefore, distributed to all state institutions. The *nezir* contracts committed and located in local could also contain the state institutions as beneficiary on that issues, not just the local governors; in other words, there was no a certain rule that the state institutions could be only seen as beneficiary in the *nezir*s made with directly the central government.

The appearance of the state or local institutions and officials as beneficiaries appeared less in the particular *nezir* cases, on the other hand, had probably a system or order within themselves to some extent. For instance, the bazaar of goldsmiths and silversmiths (*Simkeşhâne*) was under control of the Imperial Mint, and a *nezir* contract about manufacture of forbidden materials in *Simkeşhâne* was indicating to pay 2.000 *guruş* to the Imperial Mint (Çetin 2015, 294 and 301; DABOA C. BLD. 128/6375). Another case that referred to a conflict in the districts belonged to Office of the Mine (*Maden Emâneti*) determined to pay 15.000 *guruş* as the *nezir* to

Maden Emâneti (DABOA C. DRB. 40/1975).[1] The beneficiaries were not limited to the state institutions and officials. Others appeared quite a few as beneficiary, particularly in local regions, were probably determined by the kadis considering needs of the provinces and responsible or answerer of an incident. The governor's kitchen (*Vâli Matbahı*) (Ceylan 1996, 495), the court kitchen (*Mahkeme Matbahı*) (Karakuş 2006, 216-217), the guild of gardener (*Bostâniyâni Ocağı*) (Samıkıran 2006, 619-620), the court (Öztürk 2014, 57 and 514), the repair of the court (Külek 2010, 184-185), the expense of The Victorious Soldiers of Muhammad (*Asâkir-i Mansûre-i Muhammediye*) (Göker 2015, 71) were some beneficiaries that appeared less in the court records. These beneficiaries were determined by both the kadis and the people who committed their *nezir* deeds. Even though it is hard to say that there was a system or order to determine the beneficiaries, the local beneficiaries generally appeared in the cases that were more related with the local, and the state institutions or officials as beneficiary of a vow could be seen in the incidents that directly related with the center.

The *nezir* deeds generally did not include a particular information other than all elements of the deeds mentioned above, the binding documents did not introduce an information about validity period of each *nezir*s. However, the several *nezir* cases provided to follow the traces on that issue to some extent. Many banditry activities were prevented with commitment of the people regarding inhibition of the culprits' entrance to the town or catch and delivering these culprits. These *nezir* deeds were probably binding for the people until catching or delivering the criminals, because such deeds specially indicated particular culprits, not all out struggle with the bandits (DABOA C. ZB. 3/109; C. ZB. 70/3475; C. DH. 344/17167). The extensive groups or the inhabitants of a province committed to obey the orders and struggle with the brigandage that would occur in their homelands (DABOA C. DH. 79/3948; C. ZB. 59/2933). Such *nezir*s probably contained a lifelong commitment of the people, and importantly the word of *bundan böyle* (from now onward) was referring to the state's expectance considering a lifelong collaboration against the criminals and obedience to the state order. Furthermore, prevention of the people's migration (DABOA C. DH. 297/14845; C. DH. 209/10403; Çetin 2015, 299-300), removal of the public officials from the state affairs (DABOA C. ZB. 34/1674) and obedience of the artisans and the guildsmen to prohibitions and new regulations (DABOA C. BLD. 128/6375; C. DRB. 10/460) had high probability regarding such

[1] Although such documents referred to collection of the *nezir* money by responsible beneficiaries, collection of this money by the beneficiaries or handing it over to the beneficiaries created a controversial issue in the practice. Some documents indicated collection of the *nezir* money by the beneficiaries or the collection officers, although there were few documents, but I did not encounter with the documents that remarked delivering of collected money to the beneficiaries. For this suspicion, registers of these beneficiaries should be examined to reach a more clear data on this issue. As far as I am concerned, such questions would constitute a new perspective on status or role of the beneficiaries and collection process of the *nezir*s.

*nezir*s' lifelong validity.

Some particular commitments of the people to finish the job within the time specified explicitly indicated a time limit. For instance, the inhabitants of Midilli, Molova and Kalonya had to deliver timbers necessitated for the construction of a galleon in Midilli within six months, and these people would take back their *nezir* deeds as long as fulfilling their that commitment (DABOA C. BH. 275/12687). Such *nezir*s, which indicated a specific or uncertain time period, not lifelong, were quite less than given lifelong commitments. The people or extensive groups could maintain a close relationship with the center and the provincial authorities for life, but authority to determine the validity of the *nezir*s was generally in the hands of the state. The people could be imposed to vow again after collection of their *nezir*s or forgiveness of their preceding crimes, because there were various examples on the state's *nezir* implementation on same group, even they fulfilled their promises or otherwise (DABOA C. DH. 115/5742; C. ZB. 25/1201). Considering majority of the *nezir* cases, the central government more likely intended to maintain lifelong obedience of provincial communities to the orders and collaboration with these communities, and so the state aimed to ensure adaptation of provincial communities to the imperial order for a long time.

4.2 The Implementation Areas of the *Nezir*

The *nezir* was used by both the central state and the provinces, but in the eighteenth and the nineteenth centuries, the *nezir* documents referred to an extensive implementation area of the central government in order to maintain the public order in particular. In this chapter, the primary documents have mainly illustrated the state's intention to use this practice rather than the provinces' use, but these documents have enabled to read various encounters of the central government with the provinces over several implementation areas of the *nezir*. In these areas, the state mainly aimed to maintain public security and order in the provinces by subjecting different groups to the *nezir*. The implementation areas generally concentrated on the banditry, but the term of the banditry could be considered a general and particular category of all illegal activities; in other words, anyone who was in conflict with the state order was generally considered a bandit by the central government (Faroqhi 1995, 163). For example, particularly nomads and tribes could act contrary to the orders, and so their activities were called banditry, and also, they were called bandit. The central government mainly generalized these groups because of several reasons as bandit, and so it is really hard to identify these fluid identities, because it

could be easily seen a transition from nomadism to the banditry (Tamdoğan 2006, 136-138).

The *nezir* had been frequently used to control and prevent the illegal actions of the provinces by the state since the seventeenth century. The earliest implementations of the *nezir*, in the first quarter of the eighteenth century, concentrated on the settlement policy of the central government. The state mainly used this practice to settle provincial communities to certain inhabiting regions in that period. On the other hand, this policy was carried out to prevent migration of provincial communities. It meant that the central government took a measure not to get out of control of dynamic groups in particular. Furthermore, the illegal acts that could be seen in every region such as homicide, robbery, and persecution to the people were always on the agenda of the state, and the central government could subject provincial communities to the *nezir* and collaborate with them in order to prevent such acts by encumbering communities with collective responsibility in particular. In these incidents, the central government mostly followed two paths through the *nezir*: the culprits directly made a commitment with the state not to engage in the similar actions again, and the central government collaborated with provincial communities to catch and deliver the criminals. The latter was partially a precaution for communities not to harbor an outlaw or protect the culprits. These measures were not only for provincial communities, but also for the public officials or authorities. It is quite possible to encounter with misconduct of these authorities about tax collection and oppression in particular. The *nezir* to the provincial authorities could be made through complaints of provincial communities to the centre or communities' application to the court to use this practice by obliging themselves. This mechanism also became a power in the hands of communities to prevent or declare their conflicts with these authorities. On the other hand, the state was not always a part of the *nezir* contracts. Provincial communities could use this practice to solve their conflicts with other groups, or individuals could always apply to the court to make a *nezir* contract. It should be kept in mind that although main intention of the state seemed to control the people in the province, other classes and groups like janissaries and artisans could be a party of the *nezir* contract.

4.2.1 The *Nezir* in the Settlement Policy

From the second half of the sixteenth century, the Empire faced the multiple problems which led to social dislocation and economic difficulties in the provinces. The several peasants, former soldiers, tribesmen, and other groups generally inclined to

banditry through the robbery and the oppression, and so the peasants moved to other provinces or metropolises under such circumstances. Such a situation caused to create uncontrollable groups and individuals for the central government (Kasaba 2009, 65). These people were indeed threatening the state because of various possibilities they caused: the many provincial strove to immigrate to metropolises, Istanbul, Bursa, Edirne (*bilâd-ı selâse*) in particular[2], banditry rapidly increased in the provinces under these circumstances, and the various villages and cities fell into ruin because of increased migrations (Kasaba, 61-66; Özkaya 1994, 81-87). The state decreed several governors in Anatolia in 1764 with regard to migration of the people to Istanbul and other cities. According to that imperial order, the provincials had to labor their agricultural production in their homelands, and the state subjected them to the *nezir* and made them to stand surety for each other in order not to migrate other areas, Istanbul in particular (DABOA C.DH. 297/14845). The central government gave particular importance to encourage settled life to solve the flow of migration that was out of control, because the rebellious, fleeing peasants, nomads, and refugees were considered the main amenable of increasingly destructive problems in the provinces (Kasaba, 65-66). The settlement policy, in this manner, played a crucial role to prevent migration of the people from their homelands and settle nomadic tribes and groups to the devastated areas. Within such concerns of the state, the *nezir* became prominent to carry out the settlement policy in the hands of the central government. Particularly the tribes and the nomadic groups were settled by the state to abandoned or settled areas, and they made a commitment not to leave their new areas and harm the people through the *nezir*. Such settlements were carried out to both revive devastated or abandoned regions and keep these groups out of the certain regions. On the other hand, the central government also implemented this policy in order to prevent migration of the peasants from their homelands, and so the local people made a commitment not to migrate anyplace through the *nezir*.

The forced settlement program of the Empire particularly targeted to enhance the adaptation of the nomads and tribes to the agricultural lifestyle in order to prevent potential political troubles, and the *nezir* here included a commitment between the state and these groups regarding acceptance of the settling by these groups and avoiding any illegal activities in their new places. The Beydili tribe that had an extensive population in Urfa did not lead a settled life because of their banditry. They particularly increased their oppressions on the Musacalı tribe in 1704, and

[2]The central government followed the several ways to prevent migration of the many peasants to Istanbul. In 1715, an imperial edict ordered the collection of the extra taxes from the migrants. In 1718, the rural migrants in Istanbul had to return their villages or pay agricultural taxes. The central governmet also ordered the local authorities to arrest the people who attended to migrate to Istanbul (Zarinebaf 2010, 48-50).

so the central government subjected the Beydili tribe to the *nezir* to prevent their banditry by means of their settlement in Rakka region of Syria. That commitment involved the punishment of the bandits among the Beydili tribe, and also their settlement in Rakka (DABOA. MAD. 8458, 184; Halaçoğlu 1991, 49-50). The *nezir* here provided to prevent the banditry of the Beydili tribe that would take place in the future and their settlement to Rakka with no problems. As was seen in that case, the settlement policy of the state and the punishment overlapped, because the many tribes were forced to settle by reason of their several illegal acts. This situation could be considered that the sedentarization was also a part of the punishment in consequence of rebellions and banditry, and so the state aimed to revive devastated areas and get under control potential insurrections in the rural places through the *nezir*. Furthermore, Rakka was strategically crucial for the settlement of the tribes, because this desert region was lack of many advantages of the Anatolia. The central government, therefore, strove to settle such tribes in Rakka for both punishing them with a harsh penalty and reviving that desert region with the agricultural production. For instance, the people of the Musacalı tribe did not settle their homelands and moved various areas; besides they persecuted the local people in that places. Because of that situation, the state made Musacalı tribe to stand surety and tied them to the *nezir* in 1738. Together with the *nezir*, the central government forced to settle them in Rakka if they again oppressed the people (Çetin 2015, 298-299; DABOA. C. DH. 80/3989). Settling in Rakka could be considered a more deterrent punishment rather than the *nezir*, but the *nezir* indeed referred to a probation in itself, and so it introduced a guarantee that was binding until the commitment was fulfilled. In the *nezir* cases, the central government could sometimes use additional punishments as was seen in that case, and this naturally caused the questions on effectiveness or adequateness of the *nezir* practice. The state, on one hand, could deter the people or the groups much more with these additional punishments; on the other hand, the *nezir* could be considered a tool that provided a bridge between the state and provincial communities. This contractual mechanism more likely promoted effectuation of extra punishments and subjected the second party to fulfill all obligations; in other words, the *nezir* functioned like an umbrella that could also contain and maintained other requirements.[3]

Another crucial issue in the settlement policy was the attitudes of the tribes and the nomads in the face of forced settlement program of the state. These groups naturally

[3]In addition, a penal mechanism, *kefâlet*, appeared in the *nezir* documents and was carried out together with the *nezir*. These two penal systems had similar functions, but why did the central government use both of them in an incident? The *nezir* ensured a deterrence on the people with its financial punishment in particular, and *kefâlet* could identify the people who were included in the *nezir* contract. Moreover, the *nezir* was probably considered in the law of *kefâlet*, and so this closeness could easily feature both of them in an incident by distributing different roles to them.

followed two ways as obeying the orders or not, but their encounters with the state did not illustrate a black-and-white image like that; in other words, a negotiation process over the *nezir* pointed up the grey areas in the conflictual incidents. In such encounters, the central government generally aimed to punish the rebellious groups through the collection of their *nezir*s and their settlement; however, these groups sometimes continued their banditry by escaping from the settlement. In 1705, two-hundred houses of the Karalu tribe and three-hundred houses of the Sermayelü tribe moved to Sandıklu district of Karahisar-ı Sahib by escaping their settlement and began to oppress the local people this time. The central government, therefore, ordered to collect their *nezir*s, 2500 *guruş*, and move them into their homelands (DABOA. MAD. 8458, 209; Halaçoğlu 1991, 81). The punishment was particularly carried out through the collection of their *nezir* money, but I did not come across any document regarding the collection of these tribes' *nezir* as yet. The central government, nevertheless, directly ordered to implement their certain punishments and to move their homelands in order to keep under control.

The provincial governors (*mîr*) had also a crucial role to maintain the connection between the central government and the provinces, and so lack of that governors could disrupt established order of the state in the provinces. The state forced to settle two-hundred six houses of the Şereflü tribe in Gelgen village of Rakka because of their various oppression in Kayseri, Niğde, Aksaray and Kırşehir in 1726; besides they agreed to pay 20.000 *guruş* to the governor as *nezir* if they opposed to that settlement decision. This commitment was broken by the Şereflü tribe when Rakka governors left the city for the campaign, and that tribe escaped from their areas and continued their oppressions. Then they were again forced to settle in Rakka (DABOA. MAD. 8458, 277-280; Halaçoğlu 1991, 115). Even though the *nezir* had a deterrence on the people, the governors also seemed efficient to control the tribes and maintain the contract's continuity, to some extent, as was seen in that incident. The *nezir* here seemed like an artificial commitment that became effective in the course of physical existence of the state. Furthermore, the central government punished the Şereflü tribe by settling them again in Rakka, not collecting their *nezir*s as was also seen in the case of the Sermayelü and the Karalu tribes. That situation again brought the role and the effectiveness of the *nezir* into question. Nevertheless, the *nezir* could be sometimes used by the state as part of a mutual negotiation process rather than its penal impact to a certain extent. Such a negotiation process was probably constituted considering the degree of the politicization of these groups and inclination of the central government to continue the contract with them. Breaking the contract or avoiding punishments could be considered a way of the disobedience of these communities, and they created a violent encounter with the central gov-

ernment through such acts. That politicization more likely triggered and increased these acts in these influential tribes, but the central government mostly inclined to turn this politicization into a political participation for the benefit of the imperial order through the *nezir*.

The negotiation generally arose out of a bargain process, which usually appeared a counterbalance such as obedience of the tribes and remission of punishment of the state, between the central government and the tribes. The rebellion or insubordination of the tribes did not constitute an impediment to that negotiation process; however, the continual conflict created a bargain process. Some people from Beyzeki, Mustanlı and Temranlı tribes, who lived in Samsad village of Maraş, rose against the public officials appointed by the state and declared that if the state send troops to their town, they would leave their homeland. Then the central government ordered to Diyarbakır and Rakka governors for the settlement of these tribes in Hama in 1710, but this order was countermanded by the state in return for the obedience of these tribes. The central government just tied them to pay 10.000 *guruş* to the *nezir* if they again rebelled (DABOA. MAD. 8458, 290; Halaçoğlu 1991, 52). The central government could abstain from blindly encounter with the tribes; instead, they could follow a bargain process with them. Furthermore, the central government could maintain such negotiations, even a group broke the contract. In such cases, the state could forgive the *nezir* money and aimed to make a *nezir* contract again, but the passive or active resistance of the groups had also an influence in such encounters. For instance, the Bulanıklu tribe, who was forced to settle in Kınık castle, joined a banditry with the İfraz-ı Zülkadiriyye tribe. Then these tribes accepted to pay a certain amount of the *nezir* money if they again rebelled; however, the İfraz-ı Zülkadiriyye tribe revolted in time. The central government repressed that uprising and ordered to collect 50.000 *guruş* from twenty-two tribes, but these tribes failed to pay that amount. Then the state remitted their *nezir*s under their obedience to the central government (DABOA. MAD. 8458, 83-92; Tatar 2005, 113-114). The central government inclined to negotiate with a multitude of competing groups, and the negotiation process was quite conceivable when the conditions of the eighteenth century considered. The government officials were usually forced to negotiate with the local leaders, because that period necessitated a certain cooperation between the central government and the powerful local leaders to control the provinces. Rather than directly implementing the punishments on the competing groups, the state endeavored to integrate these groups into the interest of the state.[4] On the other

[4]Karen Barkey in her study on the bandits has put forward a crucial point on this issue. According to Barkey, the several encounters between the central government and the bandits were, in fact, empowerment of the state by integrating them into the state system. Besides the central government maintained its authority through the negotiation with the competing groups rather than competition with them (Barkey 1994).

hand, the amnesty of the *nezir*s could decrease the effectiveness and deterrence of the *nezir*s or the *nezir*s could be used as a part of a negotiation process in suchlike incidents. Integrating the powerful provincial groups into the state order, therefore, more likely became prominent rather than the collection of the *nezir*s. In other words, the existence of the *nezir* played a significant role to build pathways leading to a negotiation process between the provincial groups and the central government.

4.2.2 The *Nezir* to Provincial Communities

Provincial communities were indeed one of the main parties of the *nezir* contracts, and, in these contracts, the state subjected communities to the *nezir* in order to prevent their illegal actions and collaborate with them to struggle with the culprits in particular. The areas of the political encounters between the central government and provincial communities mainly concentrated on these two intentions in the documents. That collaboration between these two sides was frequently used by the state, because the central government aimed to incorporate communities into the imperial order. This incorporation was provided with struggle of communities against the culprits together with the central government, and so provincial communities made a commitment to catch and deliver the criminals and also prevent the culprits' entrance to the town.

In 1726, some people rose against Mehmed Pasha, who was the governor of Adana, and later escaped from the city. Therefore, the central government tied the people of Adana to the *nezir* to pay 25.000 *guruş* to the Imperial Treasury if they did not deliver culprits who came to the town and report the elusive bandits (Yıldırım 1996, 268-270). This incident was a typical example of the collaboration through the *nezir*. The central government collaborated with the people who were held responsible for the cases occurred in their regions and subjected them over pecuniary punishment of the *nezir*. That financial punishment constituted large majority of the *nezir*s, it is also possible to encounter with limited punishments in kind, but the amount of the *nezir* money and the beneficiaries could vary from the incident to the incident. The state subjected Şehreküstü, Alaybeği and Debbağhane districts of Ayntab to the *nezir* to disallow the entrance of the bandits from the abolished army of the janissaries (*Ocağ-ı Mülgâ*) to Ayntab, and the people of Şehreküstü agreed to pay 50.000 *guruş* to the Imperial Mint and others agreed to pay 40.000 *guruş*. Also, they had to pay 1.000 *kîse akçe* (pursue) to the Imperial Treasury if they allowed any bandits to enter the city (Akcan 2016, 55-57). This was a collaboration between the central government and provincial communities in a large scale, but the determined

punishments and the beneficiaries varied from community to the community within an incident. Even though they did not have a constant scale or a regulation to specify the amount of the *nezir*s and the beneficiaries, the government could determine these amounts considering the population density, crime ridden area or contrary situation, economic conditions of communities, and other specific circumstances pertained to the incident. The amount of the *nezir*s was probably conceivable in direct proportion to the degree of the deterrence; however, heavily populated towns or tribes could increase that amount, because the collective penal system was binding for all town, and all people had to pay their share. Moreover, the beneficiaries were more likely determined considering needs of the state or responsible authority of the *nezir*s, but these assumptions were not valid in all cases, or the sources did not give a certain information to confirm them.

The collaboration between the state and provincial communities did not only illustrate the state's effort to maintain the collaboration, but also provincial communities could make a *nezir* contract by themselves to struggle with the culprits. Such an intention was indicating another side of that collaboration between these two sides; in other words, provincial communities most probably provided the state order by obliging themselves to create and maintain a close relationship with the center. These political initiatives were mostly constituted by local authorities or leading men of communities. In 1764, the people of İlbasan in Albania made a commitment to pay 5.000 *guruş* to the governor as the *nezir* if they did not deliver the fugitive culprits (DABOA. C. ADL. 99/5954). The leaders of these people appealed to the court in order to give a commitment about the culprits among themselves, and so they put under obligation themselves through the *nezir*. In such these commitments, the governor, *ağa*, *a'yân*, and other leaders of that provinces put their signatures under that document and were situated as witnesses in the contract. The local leaders, therefore, had a voice in the decisions of their leaders and became the representative and arbiter of their community. In 1776, the *a'yân* of Bozok and Sencanlı appealed to the court on the behalf of these provinces to give a commitment regarding their obedience to the order. If they allowed any acts of the bandits as it was before, they accepted to pay 4.000 *guruş* to the Imperial Treasury as the *nezir*, and then the kadi informed the central government about that commitment (DABOA. C. DH. 218/10862). The provincial leaders, who increased their power in the provinces in the eighteenth century, were considered one of the most important part of that negotiation process by the central government. These commitments, which were made by the state or the people, addressed to these leaders who constituted a bridge between the central government and the provinces, and so that negotiation period of the Empire maintained to increase impact of these leaders.

Although the *nezir*s between the state and the provinces mostly appeared in the banditry, the commitments did not only limit to such incidents, the state interfered the conflicts between provincial communities or people. These conflicts were particularly derived from inheritance, village affairs, mercantile affairs and taxation. Such problems could not concern the entire provinces, but the state interfered with the *nezir* when these particular conflicts began to threaten the public order. In 1803, some people of Akçeşehir, Bolu, were in disagreement because of inheritance, and this conflict spread to the town. The state subjected these people to the *nezir* to pay 12.500 *guruş* to the governor if they led to any disturbance (DABOA. C. ADL. 95/5742). The main concern of the state was perturbation in the provinces, and the central government particularly took measures to control the provinces in the eighteenth and the nineteenth centuries. Whether the incidents caused a problem or not, the state could intervene in the conflicts occurred in the provinces through the *nezir*. Among such conflicts, the *nezir*s were frequently used in the waterway problems that could cause serious conflicts among the villagers. Agha of the Janissaries built a fountain in the front of Ağakapısı in Şaban Halife district of Şumnu in 1774, but Yukarı Teke district posed a danger for that fountain and its waterways. Then the state made the people of Yukarı Teke district to stand surety for each other, and these people agreed to pay 1.000 *guruş* as *nezir* if they damaged that fountain and the waterways (Çetin 2015, 292-293; DABOA. C. BLD. 144/7178). This example was an interesting incident alongside the other *nezir*s, because Agha of the Janissaries preferred to use the *nezir* and informed the court to vow that people for an amount of the *nezir* money, and the court tied the people to the *nezir* to pay 1.000 *guruş*. The example of Tırhala also showed use of the *nezir* about use of the sources. The villagers, who blocked the drinking water of the city, caused a prohibition on the use of the drinking water in some villages. If that villagers broke this decree, they agreed to pay 1.000 *guruş* as the *nezir* (DABOA. MAD. 103777, 14; Tamdoğan 2006, 143).

4.2.3 The *Nezir* to the Tribes

Many tribes had an influence in the provinces, and so their political encounters with the central government were inevitable. As from the seventeenth century, the state aimed to control the tribes and incorporate them into the imperial order through the *nezir*. The eighteenth and first quarter of the nineteenth centuries witnessed the violent or moderate encounters between these two sides much more, and, in these periods, it is possible to say that the *nezir* was one of the main tools to illustrate such political encounters. While some tribes could disobey the state

order and organize their power in the provinces, others could strive to make a close relationship with the central government; however, such balances and roles were never fixed regarding their changing interests. Considering rise of the provincial powers, the central government mainly intended to constitute a collaboration with these powers and integrate them into the state order. For instance, the enrollment of the tribal members and the registration of the nomadic tribes into the military aimed the integration of tribal units into the state supervision (Kasaba 2009, 54-55). However, such integration policies were not always what the state intended, and besides controlling the tribes which had an extensive authority in the provinces that were particularly far from the centre was not easy for the government.

In the eighteenth and the nineteenth centuries, many tribes engaged in several crimes, and so these influential groups were threatening the public order. These crimes were striven to be prevented by the settlement policy of the state in the first half of the eighteenth century in particular, and the *nezir* was carried out to maintain the orders of this policy. Apart from the settlement policy, the *nezir* provided to constitute a contract between the tribes and the state, and so the central government particularly subjected them to the *nezir* in order to control and prevent their actions. The culprits generally did not become a party to the *nezir* commitments; rather, the state mainly aimed to tie local people who did not engage in the crime to the *nezir* and collaborate with them against the culprits. Nevertheless, the tribes were always a party of the *nezir* contract, because they were easily identified and also had an authority or a popular voice in their regions. Besides their leaders were a voice of their communities, and the state always addressed to these leaders to make the contract. In 1796, the central government subjected the Cihanbeyli tribe to the *nezir* to pay 30.000 *guruş* if they entered to Çankırı district and Çerkes township (DABOA. C. ADL. 8/552). That commitment was informed to the government and also announced to the leading men of the Cihanbeyli tribe by the kadi in the court. Some people who were members of any tribe could engage in a crime, but these members were under their leaders and leading men' responsibility. The commitments were made by these leading men' witnesses, and so they assumed that obligation. If the central government subjected the leading men or the leaders of communities to the *nezir*, such contracts involved all community of that leader in particular.

Considering rise of the influential tribes' power in the provinces, the central government also took a precautionary measure to prevent their crimes that might occurred in the future. The central government did not implement such measures to the small groups or communities, but the influential tribes, whether they were involved in a crime or not, could be a part of the *nezir* contracts. The Şeyhbızınlı tribe in Ankara

and the Cihanbeyli tribe in Konya have previously attempted to many crimes in various places, and so the state took a precautionary measure over the *nezir* to prevent their illegal acts. If these tribes continued to their acts such as robbery and homicide, each of them agreed to pay 1.000 *kîse nezir* money to the Sublime State (*Devlet-i Aliye*) (DABOA. C. DH. 119/5942). Moreover, in 1818, Türkanlı and Mirdis tribes in Ankara agreed to pay 100.000 *guruş* if they attempted to disobey an order (DABOA. C. ADL. 39/2365). In 1763, Cirid and Köçekli tribes that settled in Çankırı and its surrounding gave a commitment to pay 10.500 *guruş* to the Imperial Kitchen as the *nezir* if they engaged in illegal acts from now onward (Çetin 2015, 296; DABOA. C. ADL. 106/6349). Last contract was made by the member of an official's household (*Çûhadâr*) Mustafa Agha, and the leaders of these tribes signed it as witnesses. After two months, another document that related with this contract bears the governor of Anatolia Hüseyin Pasha's seal. This document mentioned the *nezir*s of Cirid and Köçekli tribes, but the *nezir* money of the Köçekli tribe was changed as 5.500 *guruş* in this document, and also the governor ordered return of the stolen property from the people (DABOA. C. DH. 285/14238). That amount could be reorganized by the governor, but the main point here is that this document gives a clue regarding acceptance of the *nezir* deeds. The *nezir*s, which were made by the people to give a commitment and oblige themselves, were considered by the governors and the court, and then some of them were reported to the central government. Many *nezir*s in the provinces were naturally approved by the kadis or his deputy judges, but the governors were not always present at the court. The governors mainly informed the central government about some *nezir* contracts, and these documents were registered to *Baş Muhâsebe Defterleri*. The governors more likely had an authority to approve and regulate the *nezir* contracts considering order of the central government or their authority; however, not all documents were approved or issued by the governors. In such documents, the provincial governors probably used their authority to interfere or approve some *nezir* documents that related with the central government or were conflictual.

The tribes were not only parties to the *nezir* because of their banditry, but also made a commitment to collaborate with the central government. The tribal leaders played a crucial role to main that collaboration, because they constituted the relationship between the state and their communities. Therefore, the central government always addressed to the tribal leaders and leading men of the tribes to engage their people in the collaboration that aimed to struggle against the culprits and incorporate into the imperial order. In 1734, Mehmed Beğ, who was *Çûhadâr* of Grand Vizier, was killed in Şeker Pınarı of Karaisalu district, and then Karaisalu people made a commitment to catch and deliver the murderers of Mehmed Beğ. Among the people who gave

that commitment, the eight people of the Çömlek tribe constituted a majority, and their leaders promised to collaborate with the government on behalf of their tribal members (Tatar 2005, 39-40). In 1769, the Diricanlı tribe that settled in Erguvan district of Malatya agreed to pay 5.000 *guruş* to the governor as the *nezir* if they allowed and harbored the culprits in their homeland (DABOA. C. DH. 280/13951). The central government integrated the tribes into state's supervision through such collaborations, and so ensured to both control the tribes and create a supporter or a partner in the provinces. The influence of the tribes in the provinces was quite important for the state. Through such collaborations, while the tribes maintained their autonomy in their homelands in the eyes of state, the central government localized its power and authority in the provinces. Therefore, such *nezir* contracts functioned like a mutual agreement that protected the interest of the both sides.

The central government also attached importance to the conflicts between or within the tribes to maintain the public order in the provinces. The violent conflicts between the tribes could become a serious threat for the central government, or fragmentation of the tribes could cause appearance of the small groups that were more difficult to control in the provinces. In 1823, the Dereler tribe that settled in İçel decided to leave from the Hacı İshaklı tribe, and so the state subjected the Dereler tribe to the *nezir* to pay 10.000 *guruş* to the governor if they cut loose from the Hacı İshaklı tribe (DABOA. C. AS. 567/23820). Controlling the tribes also necessitated to hold them together, because many small groups could attempt illegal activities to survive themselves, and so consolidation of the tribes became much more important than various small groups. The conflicts between the tribes also threatened the order in the provinces, and the government took a measure in order to solve such disagreements. Balbanlu ve Halikanlı tribes that settled in Şireili (Şiro) district of Malatya were in conflict with Culberlu Kurds who immigrated into Malatya from Iran. In 1783, the court called these groups and made a peaceful agreement between them. These tribes also agreed to pay 20.000 *guruş nezir* money if they again conflicted with each other (DABOA. C. DH. 252/12595). The *nezir* in the tribes collaterally proceeded with the issue of order in the provinces. Holding the tribes together and prevention of their conflicts between them were a number of measures of the central government in these periods.

4.2.4 The Public Officials -Local Notables (*A'yâns*) and Other Provincial

Governors-

The status and the role of the local notables have changed since the eighteenth century in particular. As from the seventeenth century, the Empire faced with the running battles, the political and economic difficulties, disorder in the provinces, and such problems caused to constitute new dynamics and actors both in the center and the provinces. While the central government took financial and military support from the provincial authorities, they increased their power in both center and the provinces. Such a mutual agreement ensured the rise of the local notables who gradually increased their wealth and power. These notables, without a formal duty, were already intermediary between the center and the provinces about tax collecting in particular, but they also gained an authority to control public expenditures, ensure local security, recruit local troops for imperial army, appoint local governors with the eighteenth century (Yaycıoğlu 2012, 445; Özkaya 1994, 113-124). That rise constituted a powerful bridge between the center and the province through the local notables who had an undeniable authority on their community and a recognition in the eyes of the government. The government collaborated with these authorities on various affairs as well as punished them because of their oppressions and illegal activities through the *nezir*. The several *nezir* deeds involved sign of the local notables as witness, but these witnesses also became a subject of the *nezir*s.

The *a'yân*s were one of the main officers who were in touch with the government to maintain the public order in the provinces, and so their responsibilities in the governance were controlled by the state such as maintaining the local security and fair governance in particular. The *nezir*s here provided collaborations between the government and the *a'yân*s to struggle with the culprits and restraint any support to bandits from the *a'yân*s or their communities. In 1742, the *a'yân* and the people of Zeytinli made a commitment to pay 3.500 *guruş* as the *nezir* if they could not catch and deliver the culprits who murdered Yusuf Bey and his companions, and the government would collect their *nezir*s and again subjected them to the *nezir* in the event of failure (Çetin 2015, 296; DABOA. C. ZB. 25/1201). Some *nezir*s did not subject the *a'yân*s to the *nezir* and only indicated their communities, but others, as seen in this example, also obliged the *a'yân* to fulfill the commitment. The *a'yân*s were generally situated in the *nezir* contracts as witness, but it is hard to say that these authorities had to pay the *nezir* money together with their communities when the central government did not address to the *a'yân*s as a party of the contracts. It should be kept here that the *a'yân*s were representative of a community. In other words, only subjecting the *a'yân*s to the *nezir* could also involve their communities, or the *a'yân*s could be also responsible for the *nezir* money of their communities when the state only indicated communities in the contract. Furthermore, that decree

emphasized the collection of their *nezir*s and to tie them to the *nezir* again. The collection of the *nezir*s was proclaimed by the court in almost all cases, but the emphasis on subjecting the people again to the *nezir* did not frequently appear in the documents. That point, on one hand, most probably indicated to deter the people much more; on the other hand, it illustrated that the *nezir* had validity on the people as much as the state consented.

The central government also aimed to increase deterrence of the *nezir* by indicating that much more money would be collected than determined amount. In 1759, the *a'yân*s Osman, Hüseyin, Musa, Cafer, Hacı Kemal, and Köse Mahmud Beğ agreed to pay 2.500 *guruş* as *nezir* if they again harbored an outlaw in their homelands. That decree also remarked the collection of multiple times of their determined *nezir*s in case of recurrence (DABOA. C. DH. 281/14034). Increase of the punishment rarely appeared in the *nezir*s of communities, culprits, *a'yân*s, and tribes (DABOA. C. ZB. 59/2933; C. ZB. 76/3798; C. ZB. 82/4051; C. DH. 100/4969). This implementation most probably deterred the parties of the *nezir*, but small groups or few criminals could not pay high amounts such as 100.000 *guruş* and more than this. The collection of those *nezir*s here, therefore, should be examined to grasp main purpose of the government through the *nezir*. Was the central government has not a concern or an intention to collect the money through the *nezir*?

The complaints of provincial communities on the *a'yân*s were generally on overtaxing of the *a'yân*s, and, in such situations, the central government subjected these provincial authorities to the *nezir* to prevent the oppression over the taxation. The *a'yân*s could be involved in overtaxing to increase their wealth, but the complaints on this issue were significantly considered by the central government to maintain the public order. Seyyid Hacı Musa who was the *a'yân* of Taşabad district in Sivas was overtaxing from the people in the annual tax (*sâlyâne*). Then, in 1763, he agreed to pay 10.000 *guruş* as the *nezir* if he meddled in the state affairs, and also the government ordered his residence in Taşabad district (DABOA. C. DH. 242/12092). In such incidents, the *a'yân*s were generally removed from the office and punished. The *nezir* here provided to keep the *a'yân*s away from the state affairs and also keep a close watch on them by decreeing their residence in their place of duty. The people could sometimes not complain the *a'yân*s because of people's fear from the provincial authorities, and also the *a'yân*s could continue their oppressions on the people by virtue of their consensus with the provincial governors (Özkaya 1994, 190-197). The *nezir*, therefore, played an essential role to prevent the *a'yân*s' oppressions and continuation of their formal duties. In 1768, the *a'yân* of Ankara Ahmed Efendi, the son of Müderris, forcibly overtaxed the people, and then the central government subjected him to the *nezir* to pay 20.000 *guruş* if he meddled in state affairs again

(DABOA. C. DH. 221/11010). Seyyid Salih, Hacı Memiş, Hanımzade Seyyid Osman and others complained *a'yân* Ahmed Efendi who collected 25.000 *guruş* by force from the people in the course of his term of office. While Ahmed Efendi was expelled to Bursa, the people of Ankara were striving to get their money back. He accepted his illegal activities and debt, but he could not pay his entire debts, and then they reached an agreement to be paid a certain amount (Özkaya 1994, 199-200).

Alongside the several punishments to the *a'yân*s such as exile, imprisonment and execution, the central government generally followed either the removal of the *a'yân*s or maintaining their obedience through *nezir*. The *a'yân*s, who were in conflict with the provinces or oppressed the people over taxation, brigandage, illegally seizure of property, were removed from their duties by the government. In 1782, Debbağ Ali Agha who was the *a'yân* of Lofça district was dismissed from the *a'yân*ship because of his and his helpers' conflict with the provinces and also agreed to pay 38.000 *guruş* to the governor as the *nezir* if they again meddled in state affairs, and then Mustafa Efendi was appointed to the *a'yân*ship of Lofça district (DABOA. C. DH. 240/11992). Nevertheless, the *a'yân*s could sometimes be forgiven in return for their obedience to the state order, and so continued their duties with their commitments to the government. In 1818, the *a'yân*s of Kaş, Kalkanlı, Finike and Eğridir districts respectively agreed to pay 75.000, 50.000, 50.000 and 30.000 *guruş* to the Imperial Mint as the *nezir* if they disobeyed the orders (DABOA. C. DH. 83/4130). That two incidents illustrated two different measures of the government through the *nezir*. Both implementations, in fact, included a commitment given to the government as keeping the *a'yân*s away from the state affairs and maintaining *a'yân*s' obedience to the imperial order during their term of office. Even these local authorities were removed from their duties, the *nezir* continued to control them until an uncertain period. Therefore, this mechanism functioned towards the future and the *a'yân*s' illegal acts that would occur in the future in the state affairs, not an incident only.

In the eighteenth century in particular, there were many conflicts between the leading men to be a formal *a'yân*. This competition could cause to threat the public order in the provinces, and also some leading men aimed to protect their status or be the *a'yân* by force. These authorities prepared the tax rolls like a formal *a'yân* and earned income for themselves over the people's taxes, and they also made a deal with the governors to continue their brigandage on the people (Özkaya 1994, 209-214). From the eighteenth century, the *a'yân*s, in fact, were elected by the district community and transformed into a formal office (Yaycıoğlu 2012, 445).[5] However,

[5]Mustafa Cezar and Yuzo Nagata stated that the election of *a'yân*s extended over the seventeenth century through a document dated 1695. Nevertheless, Yücel Özkaya determined that this document, which was misdated because of clerk's mistake, dated 1792. This discussion that came into view through this document illustrated appearance process of the *a'yân*s' elections by their community and formal prototype

the public participation on the election process of the *a'yân*s and the struggle among the notables to be *a'yân* created a contradictory situation in some incidents, because such a conflict to be *a'yân* frequently appeared in many parts of Balkan and Anatolia. Moreover, these struggles and their oppressions became subjects of the *nezir*s in the second half of the eighteenth century.

In Alaiye district of Antalya, Şekerlioğlu Hüseyin oppressed and punished the provinces because of his assertion on the *a'yân*ship and then was punished with the capital punishment by the governor Mehmed Sadık Pasha in time. In 1776, the central government tied Şekerlioğlu Hüseyin's relatives to the *nezir* to pay 5.000 *guruş* to the Imperial Kitchen if they put in a claim for the *a'yân*ship for his revenge, and also the leading men of several villages of Alaiye gave a commitment with their *nezir* deeds not to follow anyone who desired to be *a'yân* from the village of Şekerlioğlu Hüseyin by agreeing to pay 10.000 *guruş* to the Imperial Kitchen (DABOA. C. DH. 196/9792). Unlike other punishments of the *a'yân*s, as I mentioned above, Şekerlioğlu Hüseyin was not punished by the *nezir* to prevent his interference to state affairs, but the state strove to prohibit any assertion on the *a'yân*ship of his relatives and leading men of his village by subjecting them to the *nezir*. The *nezir* here did not remain limited to main subject of that incident, but also took a measure that contained his networks and entire provinces. Communities particularly engaged in the *nezir* deeds in order to collaborate with the government to punish the leading men who oppressed the provinces by virtue of their assertion on the *a'yân*ship. Abdülhamid Bey, Tombazoğlu İbrahim and Koca Mehmed illegaly collected tax from the people with their assertion on the *a'yân*ship in Karamursal district of Üsküdar, but they escaped when their punishments became definite. Then the state subjected the leading men of Karamursal to the *nezir* to pay 5.000 *guruş* if they could not catch these three men (DABOA. C. DH. 120/5978). The collaborations with the leading men played an essential role to foreclose the culprits who engaged in such acts, because the leading men played an active role in election of the *a'yân*s, and so these culprits were striving to receive their support to be selected the *a'yân*. However, the *nezir* implementations were not easily practiced on the *a'yân*s and the people who desired to be *a'yân*, because these people were generally influential in their provinces. They could have a vast number of soldiers or have good relationships with the provincial governors, and so the political atmosphere was one of the main determinants in the provinces.

The *nezir*s on the public officials rarely appeared in the documents. The formal notables constituted a vast majority of the *nezir* deeds through their conflicts with

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of the *a'yân*s in the eyes of the state. For detailed information, see. (Özkaya 1994, 114-115).

the provinces, but other provincial authorities could be seen in the *nezir* contracts. The de facto governors (*voyvoda*) were another subject of the *nezir*s alongside the *a'yân*s. The *voyvoda*s were generally in charge of revenues from imperial and provincial domains, and they became to supervise life-long tax farms' contracts by getting share of these contracts' profits in the eighteenth century (Levy-Daphny 2015, 46). The situation of these governors in the *nezir*s was actually not different from the *a'yân*s, the state subjected the *voyvoda*s to the *nezir* because of their oppressions on the people and their disobedience to the state order. In 1803, Salih Haseki Agha who was the *voyvoda* of İstifa district was dismissed and exiled from İstifa because of his oppressions on the people, and then the people of İstifa made a commitment that they would prevent his entrance to the district (DABOA. C. ZB. 59/2936). In another document dated 1809, Salih Haseki Agha this time interfered with the people of Ağrıboz district with his brother Hacı Mustafa and his old warden Derviş Agha who settled in Ağrıboz, and then the central government tied Salih Haseki Agha to the *nezir* to pay 15.000 *guruş* if he again engaged in banditry (DABOA. C. ZB. 34/1674). In 1790, Karaosmanzâde Mehmed Agha was charged with invitation of the *a'yân*s to the campaign for the Ottoman-Russian battle, and Acemoğlu Ahmed who was the *voyvoda* of Uşak did not respond to this call. Then the government decreed the execution of Acemoğlu Ahmed who was already engaged in several oppressions on the people, but he escaped from the city. Then the central government tied the people of Saruhan to the *nezir* to catch Acemoğulları (Uluçay 1955, 22-23). These measures by the *nezir* strove to prohibit the oppressions of the governors or the governor's disobedience to the imperial order by subjecting both the people and the governor to the *nezir*. The public officials were not a party to the *nezir* contracts in general; instead, the state ordered the public officials' exile and dismiss, and the state mainly subjected the provinces to the *nezir* to catch and deliver them and not to follow that governors.

4.2.5 The Janissaries and Other Troops

The *nezir*s on the janissaries and other troops had not had an extensive implementation area. The disobedience of the Janissaries during the campaign and some conflicts among the troops were particularly subjects of the *nezir*s. The soldiers, who caused such insubordinations, named bandit by the government, and either provincial communities or the soldiers made a commitment to prevent illegal acts or not to engage in such acts again. Like other culprits, the disobediences of the Janissaries and other troops were, therefore, considered under the umbrella of the banditry. On the other hand, such conflicts did not only limit to military area, but

also the *nezir* played an active role in the encounters of the troops with the artisans and community.

The desertion from the campaign frequently appeared in the Janissaries and the local troops. The soldiers could disobey the orders of the commander to attend the campaign, and so several *nezir* cases on these soldiers mentioned the desertion of the Janissaries and the other troops. In such incidents, the central government mainly aimed to collaborate with provincial communities to catch and deliver these soldiers. In 1791, some soldiers from Sivas troops escaped from their troops not to join the campaign, and then the central government subjected the people of Sivas to the *nezir* to pay 30.000 *guruş* to the governor if they could not catch and deliver these soldiers (DABOA. C. AS. 1191/53192). In 1746, the people of Damascus made a commitment to catch and deliver the escapee Janissaries with the state, and then they agreed to pay 12.000 *guruş* to the governor as the *nezir* if they could not keep their words (Çetin 2015, 300-301; DABOA. C. ZB. 68/3375; C. ZB. 14/678).

The banditry of the soldiers was not limited to the desertion from the campaign, but they could also engage in several illegal acts in the provinces. In 1776, the central government tied the people of Chios to the *nezir* to restrain the entrance of the Janissaries, who engaged in several crimes in Chios, to the island. If the Janissaries came to the island, the people of Chios promised to catch and deliver these culprits (Çetin 2015, 301; DABOA. C. ZB. 67/3331). In such incidents, provincial communities collaborated with the central government as was seen in other illegal acts. The soldiers were most likely not separated from other culprits and always named bandit in the documents. Therefore, provincial communities strove to prevent any banditry in their homelands as they did in other cases. Furthermore, the central government could subject all leading men of the province, the soldiers who were not involved in the crime, and the people to the *nezir* to collaborate against the criminal soldiers. The state most likely emphasized all leading men of the province and their communities in the large-scale incidents. Like provincial communities, the soldiers were also involved in the contract to incorporate the soldiers into the state order and prevent their disobedience in particular. In 1779, after a riot of the soldiers in Ruse, volunteer Aghas (*Serdengeçti Ağaları*), imams, leading men, and the people of the districts in Ruse gave a commitment to obey the governors of Ruse and catch and deliver the culprits who caused that riot. They accepted, otherwise, to pay 30.000 *guruş* to the governor as the *nezir*. Then the Grand Vizier informed the governors about acceptance of that *nezir* deed (Öztürk 2014, 179-215).

The Janissaries had gradually become ineffective because of the military resistance to the innovation, dissolution of their discipline and solidarity and their interac-

tion with rural and urban society in particular (McGowan 1995, 659). The *nezir*s got involved in such deteriorations, particularly in lack of their discipline and their merging areas with society, even though they had rules to maintain the discipline among themselves. By the sixteenth century, the local forces were gradually engaged in military to mobilize local irregular bands, known as *levend*, *sarıca* and *sekban*. *Sarıca* and *sekban* referred to armed infantry musketeers, and *levend* referred to armed, vagrant and landless peasants in the early periods, but *levend*s into fighting forces named 'household *levend*' or 'state *levend*' (İnalcık 1980, 292-295; Aksan 1998, 27-28). After 1700s in particular, the provincial governors played an essential role to organize and control these *levend* troops concerning growth of the provincial dynasties of the local notables (İnalcık, 301-308). These troops, who were composed of vagrant and landless peasants, also engaged in unlawful activities, not surprisingly, because controlling these groups were always difficult for the government, particularly the *levend*s who had not belonged a household. The *nezir* here came into prominence to control and prevent that *levend* bandits as was seen in the Janissaries. In such incidents, provincial communities were considerably held responsible to restrain the entrance of these culprits to the town and to catch and deliver them to the governor as communities did in the cases of the Janissaries. A decree dated 1776 was ordering killing of people who wandered under cover of *levend*s, removal of the *levend*s, *levend* Aghas and head of the district security force (*bölükbaşı*) from the households, and forgiveness of the people who masqueraded as Agha of Enderun, armorer (*tüfekçi*) and volunteer because of that the *levend*s no longer attended the campaign, and the peasants engaged in several illegal activities under cover of the *levend*s. In this manner, provincial communities made a commitment not to protect the *levend*s and deal with the *levend*s (Uluçay 1955, 218-223). Through this edict, the central government was subjecting all provincial communities in Anatolia to the *nezir*. Such large-scale implementations rarely appeared in the documents, but yet it illustrated that the central government could use this practice to reach a large population; in other words, the *nezir* sometimes functioned like a public act in the provinces.

The conflicts among the Janissaries were also a subject of the *nezir*. Even though the Janissaries had certain orders and rules to maintain the control among themselves, the *nezir* interfered in that area to solve such conflicts. Through continual conflicts among the Janissaries, in 1767, the central government tied the Janissary troops to the *nezir* not to let the conflict among themselves. For that contract, seventy-sixth and twelfth troops agreed to pay 5.000 *guruş*, and fifty first troop who had fault less than other troops agreed to pay 2.500 *guruş* as the *nezir* if they again conflicted among themselves in Kalkandelen district (Çetin 2015, 300; DABOA. C. AS.

1082/47694). In 1744, Seyyid Mehmed was killed in the wake of a conflict between first and twenty-sixth troops in Bolu, and then the murderer escaped. Alongside the order on arrest of the escapee, the state subjected all Janissaries in Bolu to the *nezir* to pay 30.000 *guruş* to the Treasury if they again caused such incidents (Çetin 2015, 300; DABOA. C. AS. 1181/52644). The *nezir*s on the Janissaries did not only act to maintain order and discipline in the military, but also strive to prevent violent acts of the Janissaries which disturbed the public order. On the other hand, the encounters of the Janissaries with society should be questioned here. Through the Janissaries, did the *nezir* actually intervene in the military area and class, or did the state consider the Janissaries artisans from the eighteenth century on worlds in particular?

Until the Janissaries got involved in commercial and productive activities, they were only recognized with their military and administrative duties; however, since the end of the sixteenth century, the Janissaries have gradually engaged in commercial activities, and increasingly continued such activities until their destruction (Kafadar 1981, 84; Kafadar 1991, 273). This adaptation increased appearance of the Janissaries and introduced their different roles among society. Therefore, several groups and classes in the Empire could not only be recognized by their fixed identities and positions; rather, it is possible to encounter fluid identities in the Empire by the seventeenth century in particular. For instance, the Muslim artisans could also take part in the military corps by second half of the seventeenth century and were constituting paramilitary groups in the military (Faroqhi 2006, 346). In the *nezir* documents, various examples on the conflicts of the Janissaries with other groups should be questioned through the Janissaries' adaptation into the commercial-productive activities. For example, in 1793, a conflict between the Janissaries and the artisans in Ayntab was solved by Hacı İbrahim Pasha who was the governor of Adana and Maraş. Each group agreed to pay 50.000 *guruş* as the *nezir* if they disobeyed the orders (DABOA. C. DH. 111/5507). It is no doubt that the central government used the *nezir* practice to subject provincial communities to an obligation in particular. Did the state identify the Janissaries as artisan in their *nezir*s? Considering main intention of the state over the *nezir*, the *nezir* practices of the Janissaries could be an indication of their entrepreneurial activity (*esnaflaşma*).

4.2.6 The Production, Purchase, Sale and Money

Another extensive implementation area of the *nezir* was the production, purchase and sale of the goods and raw materials in the eighteenth and nineteenth centuries in

particular. In this commercial-productive area, the artisans could be a party to the *nezir* contract because of their productions, purchase and sale on forbidden goods. Some raw materials and goods could only be produced by certain artisans and institutions, and purchase and sale of some materials were forbidden by the central government. The economic activities were more or less supervised by the political authorities. The government generally controlled both production and distribution. That domination of the state extended over from price determination of buyers and sellers to craftsmen' range of profits; in other words, all classes of society had to promote power of the ruler, and so the state strove to regulate all economic activities and social institutions (İnalcık 1969, 97; Faroqhi 2006, 336). The *nezir* could also be considered a tool that provided this domination by controlling manufacture, purchase and sale process of the artisans and guildsmen. For instance, the government forbade the purchase of saltpeter (*güherçile*), which was one of the elements of gunpowder, to enemy infidels (*harb-i kefere*) and other neighborhoods in Thessalonica gunpowder work (*Selanik Baruthânesi*). In 1744, the central government subjected the people of Köprülü to the *nezir* to pay 1.000 *guruş* to the governor on that order (Çetin 2015, 302; DABOA. C. AS. 74/3467). Thessalonica gunpowder work was established in the seventeenth century together with other major gunpowder works such as Bor in Karaman, Gallipoli and İzmir, and particularly manufacturing saltpeter in these works became important during the war times (Agoston 2005, 115). In this manner, the government attached importance to the gunpowder works and sometimes used the *nezir* to prevent sale of the materials producing in the gunpowder works. The workers in the gunpowder work also engaged in manufacturing gunpowder from the saltpeter and illegally sold that powders to neighborhoods as the workers of Kayseri saltpeter work did it. In 1803, Kayseri saltpeter work was closed down by the government because of such illegal acts. Then the state tied the people of Kayseri to the *nezir* to pay 50.000 *guruş* to the governor if they again attempted to manufacture gunpowder to sell (Çetin 2015, 302; DABOA. C. AS. 365/15140).

Through the *nezir*, in rural and urban areas, the central government addressed to an extensive artisan network to prevent and control illegal acts of the artisans. This practice so maintained the domination of the state on the purchase, sale, and manufacture process of the artisans. The central government subject the gold-thread artisans (*kılaptancı*) who were attached to the bazaar of goldsmiths and silversmiths (*Simkeşhâne*) to the *nezir* to pay 2.000 *guruş* to the Imperial Mint if they purchased and manufactured substandard gold-thread (*koltuk halkası*) in 1788. However, the state informed Halil Efendi who was responsible of *Simkeşhâne* about collection of this *nezir* money from all gold-thread artisans because of the fact that the gold-

thread artisans sold *koltuk halkası* to Çuhacıoğlu Anton (Çetin 2015, 294 and 301; DABOA. C. BLD. 128/6375). Providing gold and silver was quite important for the state to maintain coining of the Imperial Mint, and so the state monitored the artisans such as goldsmiths and silversmiths and could monopolize necessary raw materials for gold and silver (Genç 2007, 69-70). From this point of view, manufacturing *koltuk halkası* outside *Simkeşhâne* was forbidden by the Imperial Mint to prevent collection of gold and silver with a high price outside the Imperial Mint (Bölükbaşı 2013, 97-98). Furthermore, *Simkeşhâne* was under control of the Imperial Mint, and also the beneficiary of that *nezir* case was the same institution. That parallelism should be questioned to examine the relationship between the responsible institutions or people and the beneficiaries, because the beneficiaries could naturally collect and utilize the *nezir*s occurred in their area of responsibility as was seen in the previous incident. Illegal manufacture of *koltuk halkası* became spread in the eighteenth century, but the punishments such as hard labor (kürek cezası) and the *nezir* were not sufficiently deterrent as was also understood from frequently established directives and several complaints (Bölükbaşı, 96-97).

In 1738, six Jewish men, who illegally manufactured *koltuk halkası* in Beyoğlu attached to Tophane, were detected, and three of these men were jailed in Paşakapısı and others escaped. These three men got out of jail in return of their acceptance to pay 500 *guruş* each as the *nezir* if they attempted to such illegal activities (DABOA. C. ZB. 64/3194). The *nezir* here functioned as a way of getting out of the jail; in other words, imprisonment was forgiven by the government in return of another punishment or commitments of the culprits. Such *nezir*s could, therefore, appear more deterrent than imprisonment, or it could be read as a part of a moderate negotiation process. Rather, the central government more likely aimed to oblige the culprits with a future-oriented penalty, because these Jewish men made a commitment which was valid for their life. In another incident, four people who illegally manufactured nitric acid (*kezzâb* or *tizâb*) were forgiven by the government in return of their commitments to pay 2.500 *guruş* to the Imperial Treasury as the *nezir* if they again attempted such illegal activities in 1804 (Çetin 2015, 301; DABOA. C. DRB. 10/460). Manufacturing *kezzâb*, which was one of the main raw materials of the saltpeter, was also under monopoly of the Imperial Mint and was forbidden to manufacture outside such as *koltuk halkası* and liquating silver (Bölükbaşı, 74-75). These four people such in previous case got free from their given punishments in return of their commitments to the state through the *nezir*. Another remarkable point in the preceding case is implementation of the *nezir* to the non-Muslims. The non-Muslims could apply to the sharia courts to oblige themselves or subject their community to the *nezir*, and so such *nezir* incidents illustrated that the *nezir* be-

came an available apparatus for all society living in the Empire by an alteration of the *nezir* in the hands of the state and also provided importance of the oath in entire community regardless of the religion.

The state has provided its control on the artisans by way of guilds in particular, and so the guild authorities regulated the artisans' manufacture process from purchase of the raw materials to distribution of these materials. That responsibility generally belonged to the guild wardens.[6] The guild wardens had responsibility to equally share available raw materials among the masters; however, that principle did not always work in practice (Faroqhi 2006, 338-339). In 1848, head of the felt-makers (*Keçeci Şeyhi*) Abdurrahman, the masters Mustafa, Ali, and Eyüp complained head of the guild (*şeyhbaşı*) and *yiğitbaşı* about that the raw materials shared every year were no longer distributed, and that they unfairly distributed the materials among the masters. Through that complaint, the central government subjected the masters in Urfa to the *nezir* to give hundred dishes and two batman, which was a weight unit, coffees to Urfa if they broke equal distribution of the materials (Yıldız 2010, 249). This case illustrated that the *nezir* punishments were not always composed of cash penalties. Even though the cash penalties constituted a vast majority of the *nezir*, the sentences in kind rarely appeared in the *nezir* incidents. Moreover, it is quite possible to say that the beneficiaries were selected considering local needs in order to provide vowers' contribution to their homelands.

Another *nezir* case made among the artisans about supply of raw materials occurred in Ayntab in 1703. Some coppersmiths bought raw coppers outside the town regardless of distribution of raw copper among craftsmen, and then the state tied them to the *nezir* to pay 50 *guruş* each for repair of the court building if they violated the principle about preemptive purchase of unprocessed copper (Canbakal 2011, 85-86). That contract also determined the beneficiary regarding the local needs; however, such cases directly indicated purpose of the *nezir* money instead of a vast majority of the pecuniary punishments or the payments in kind. Another example to clearly determine the purpose of the *nezir* money was that the craftsmen in 1738 agreed to pay 50 *guruş* for cleaning of the Sacur River as the *nezir* if they again put oxen hair in the felt (Canbakal, 86). These contracts made among the artisans illustrated appearance of the *nezir* as a control mechanism in the manufacture, purchase and sale process of the artisans, and the *nezir*s did not always address to craftsmen, but also the guild authorities and the head of the artisans were punished by the *nezir*. In other words, the authorities could provide their domination on the artisans through

[6]Suraiya Faroqhi has stated that Ottoman guild leadership changed in different periods and regions. Guild wardens, the heads (*şeyh*s) of the guilds, and *yiğitbaşı*s had responsibilities to manage the guilds (Faroqhi 2006, 349-352).

the *nezir*; however, that authority could be punished by a higher authority with the same penal mechanism through the artisans' complaints.

Alongside the control of the state on the forbidden raw materials and goods, the government also took measure on provisioning rural and urban areas, particularly İstanbul, and maintaining income of the works. Particularly between 1718 and 1774, the growing economic isolation of the Empire from the European world necessarily caused to develop self-sufficiency based on grain production, and so the state had to embark on systematical policy through the cultivation and harvesting of grains to storage and distribution of the grains (Murphey 1987, 219-221). Since the sixteenth century, grain exports, in fact, had been forbidden by the government because of several reasons such as preventing famine, providing provisions for the military and larger cities. The government, in this manner, took measures in order to prevent grain smuggling.

In 1722, some people from Güzelhisar-ı Menemen in İzmir illegally dealt in grain to other countries by maritime trade, and the state subjected them to the *nezir* to pay 15 *kîse akçe* to the Imperial Kitchen. Nevertheless, these people continued illegal grain export, and then the government ordered collection of their *nezir* money, but they resisted the collector Abdullah Pasha to repudiate their *nezir*s by gathering from other culprits (Uluçay 1955, 65). The *nezir* was not always sufficient to deter the culprits as seen in this case, and particularly extensive and powerful groups could struggle with the provincial governors to avoid their punishments. Such situations more likely related with politicization of the provinces although the term of politicization had not always a negative meaning for the central government. The government strove to control grain export through the *nezir* and appealed to other penal systems. Alongside such controls of the state, the government gave weight to supply of the goods to İstanbul, and the artisans sometimes gave a commitment to deliver the goods to İstanbul without any problem. In 1808, the central government tied the soap makers in İzmir to the *nezir* to pay 5.000 *guruş* in order to sufficiently deliver the soaps to İstanbul, and also the government warned these artisans about that their workplaces would be closed down together with the collection of their *nezir*s in the contrary case (Öztürk 2002, 854). In this incident, the government warned the artisans with an additional punishment together with the *nezir*. That situation could not refer to inefficacy of the *nezir*; rather, the government probably increased the deterrence with additional punishments in important matters. The encounters of the central government in such issues, maintaining income of the works was also considered a part of collective responsibility, and that responsibility sometimes appeared in reaching a certain annual revenue of the works through a commitment. In Ayntab, sixty-three dye works owners gave a *nezir* deed in order

to complete determined annual revenue -72.720 *akçe*- of three dye works belonged to Hasru (?) Pasha foundation (*vakıf*) in 1715. These owners accepted to pay 5 *kîse* as the *nezir* to the Imperial Kitchen in any contrary case (Kayaçağlayan 2011, 448-449). That annual revenue could be delivered to Hasru (?) Pasha foundation in every year by dye works owners in Ayntab, and these owners were obliged by themselves to provide cash flow to that foundation through the *nezir*.

Fluctuant economic situation of the Empire necessitated to take measures on circulation of lower-value coins (*zuyûf akçe*) in the market, selling golds for more than determined amounts and the money which was driven out of the circulation. In the eighteenth century in particular, several edicts were issued on such matters and ordered various measures such as the *nezir* to prevent that illegal money circulation. In an edict dated 1787, it mentioned that the circulating gold coins were sold for more than the amounts which were determined by the Imperial Mint, and that situation was on the increase despite to be ignored. This edict ordered that the gold coins were not sold or purchased for more than determined amounts; otherwise, all people had to make a *nezir* contract to obey that order (Çatal 2012, 244-246). In this edict, the *nezir* was considered a penal mechanism to punish people who would violate that order, and so it has been determined as a way to deter the people in the contrary cases. In another edict dated 1728, it ordered that *kırkık* (cripped) coins were driven out of the circulation because of their usage for more than determined amount and several counterfeiting on that coins, and then these coins were changed with new coins, *akçe*s, and golds. Through that order, all people of each district gave *nezir* deeds in order to obey determined values written in that edict (Şola 2014, 151-154). These edicts both declared alterations in the monetary policy of the Empire and warned the people to obey current values or new changes in the money through the *nezir*. Alongside the edicts, the *nezir* of people on these issues frequently appeared, and all *nezir* deeds composed of people's commitments to obey new changes in the monetary policy of the Empire and several counterfeiting on money in the eighteenth century (DABOA. C. DRB. 27/1320; C. DRB 2/98; C. ML. 209/8640). In this manner, the government both provided obedience of the people to changes in the monetary policy and strove to prevent illegal activities of the counterfeiters as such in other implementation areas of the *nezir*.

4.3 The *Nezir*s of Non-Muslims (*Zimmî*s)

The non-Muslims had a legal and communal authority to solve their legal affairs and apply their customary laws in their own courts in the Ottoman Empire except

the crimes that crossed the religious boundaries, included capital punishments and threatened the public order (Al-Qattan 1999, 429). Besides, they had access to the kadi court and the Imperial council to solve their cases occurred among themselves such as their family matters as well as to respond to charges made by Muslims (Jennings 1978, 251-274; Jennings 1993, 69). Their courts or religious dignitaries also had not an extensive authority to judge penal matters without excepting members of their communities (Heyd 1973, 222-223). Such a relationality of the non-Muslims with the Ottoman courts also seemed to be the case the *nezir*. The *nezir*s of the non-Muslims, like the Muslims, illustrated state's efforts to control the non-Muslims to maintain public order as well as their own obligations through the *nezir* or their complaints on the provincial authorities.

Through the *nezir*, the state's control area on the Muslims had similar measures concerning non-Muslims as well. The brigandage, tax collection, ensuring obedience of the people and conflicts with the provincial authorities identically constituted a vast majority of the *nezir* cases of the non-Muslims. Some culprits forcibly took the people's animals in Eflak, two agents (*mübâşir*), head of the palace doorkeepers (*kapıcıbaşı*) Muhammed Agha and *turnacıbaşı*[7] Hüseyin Agha, were sent to Eflak in order to expel the culprits from the town, demolish their buildings and take back people's animals in 1760. Besides clergymen (*rahip*), *boyar*s and the people of twelve districts in Eflak agreed to pay 10.000 *guruş* to the governor as the *nezir* if they sold their animals in this way (DABOA. C. HR. 16/780). In 1815, the central government subjected the local Serbian chiefs (*knez*s) written their names in the document to the *nezir* to pay 10.000 *guruş* to the Imperial Treasury if they disobeyed the state orders (DABOA. C. HR. 76/3770). In 1798, the state ordered population census in all villages of Akçakızanlık in Bulgaria, and then all Muslim and non-Muslim people who lived in these villages stood surety for each other and agreed to pay 10.000 *guruş* to the governor as the *nezir* if they could not catch and deliver the culprits in their homelands (DABOA. C. ZB. 8/372).[8] These *nezir*s on public security and order were made by the imperial edicts sent to the governor, *voyvoda*, *a'yân*s and the kadis. That contracts actually did not differ from the Muslim's contracts, the subject of the *nezir*s has changed only. Besides the state could provide collaboration with all subjects of the Empire regardless ethnicity or religion as was seen in the last case.

The non-Muslims also appealed to the Ottoman courts to make a *nezir* contract be-

[7]This official was the commander of sixty eighth troop of the Janissaries.

[8]There was also an imperial edict that ordered population census and subjected the people to the *nezir* together with this document. Both documents indicated census of people who were young and old alike and taking the *nezir* deeds of these people to struggle with the banditries. See. (DABOA. C. ZB. 9/419).

cause of their conflicts with the provincial authorities. In 1698, some non-Muslims in Ayntab, particularly from Armenian community, obliged themselves to pay 300 *guruş* to the governors of Rakka as the *nezir* if Kara Abraham, who was responsible from the collection of annual taxes, meddled with the state affairs again. Then Kara Abraham was dismissed from the state affairs because of the fact that he continued his illegal acts (Çiftçi 2017, 250-251). These non-Muslims gave a commitment through the *nezir* to solve their problems among their communities. Application to the Ottoman court seemed natural because this conflict directly related with the state officers, and so their courts had very limited authority to try such penal cases. The crucial point here was that the non-Muslims obliged themselves through the *nezir* and used this Islamic practice to solve their problems. The state could also use the *nezir* on the non-Muslims to guarantee their taxes. Because of nonpayment of poll taxes (*cizye*) by a monastery in Aynaroz district, all monasteries in that district were forced to stand surety for each other's payment in poll taxes and to accept to pay 15.000 *guruş* as the *nezir* to Guild of Imperial (*Hâssa Ocağı*) if any of them did not pay their taxes in 1807 (DABOA. C. ML. 46/2116). The non-Muslims appeared in the Ottoman courts to make the *nezir* by their wills or entering into obligation through state's order in such affairs.

Other *nezir*s of the non-Muslims rarely seemed in the Ottoman courts. These cases were limited examples; unlike the Muslims, the non-Muslims did not have various incidents on these issues. The central government subjected some Jewish people to the *nezir* to pay 500 *guruş* because of manufacture of *koltuk halkası* that was forbidden to be produced outside *Simkeşhâne* by the Imperial Mint (Çetin 2015, 301; DABOA. C. ZB. 64/3194). The non-Muslim artisans who were engaged in such illegal activities did not actually appear in the *nezir* cases except that incident. Another singular issue was about a conflict occurred in rites of Armenian community. In 1781, some Armenian people in Ankara began to leave their usual rites and organized their own rites with their own priests in the churches of Cerciş, Karasun, Surbuki and Hisar. Because of the fact that these people caused a communal subversion in Armenian community, the state tied these four churches to the *nezir* to pay an amount determined considering their economic situations as 10.000, 5.000 and 2.500 *guruş* if they again obeyed the priests who were not appointed by Armenian patriarch (Uzun 2004, 151-152). This case illustrated state's interference in the affairs of a non-Muslim community through the *nezir*, and so the state took a measure to prevent any disturbance among them. Furthermore, the *nezir* money was here determined regarding economic situations of churches' community. The rich, the middle class and the poor people respectively agreed to pay 10.000, 5.000 and 2.500 *guruş* as the *nezir*. In the *nezir*s of the Muslims, it was sometimes indi-

cated different amounts to each community, but the state never mentioned reasons of the different amounts. Only in the collection process, the state could forgive a part of the *nezir* money because of the vowers' economic situations. However, that document clearly remarked that the *nezir*s of non-Muslims could be collected considering their economic conditions.

In comparison to such limited cases, the non-Muslims were generally situated in the Ottoman courts to solve their domestic issues. The non-Muslims could litigate for their intra-communal issues such as marriage, divorce and inheritance in the Ottoman courts. Besides they could willingly litigate their domestic affairs in the Ottoman courts or they could sometimes avoid their own communal courts (Al-Qattan 1999, 430; Jennings 1978, 274-276). In 1743, in Turmuş Fakıh district, Bogos appealed to the Ottoman court to solve his inheritance problem with their brothers. He obliged himself to pay 500 *guruş* to the governor kitchen as the *nezir* if he again unjustly litigated his brothers and strove to litigate inconsistently with the sharia (Ceylan 1996, 495). Alongside solving inheritance conflict, Bogos indeed made a commitment because of that he abused the court many times. Such abuses could be seen in the *nezir*s of the non-Muslims. In 1765, the state subjected Rum people who settled in the villages of Eğin to the *nezir* to pay 14.500 *guruş* if they unnecessarily occupied with the relevant institutions of the state and groundlessly complained the Muslims (Çetin 2015, 297; DABOA. C. DH. 329/16408).

The non-Muslims engaged in the *nezir* deeds as a party of the contract, but the testimony of the non-Muslims did not function like the Muslims. The non-Muslims had a limited authority to be a witness in the Ottoman courts. Their witnesses were only possible in the cases occurred among their community, with certain exceptions; however, the Muslims frequently testified for both parties, non-Muslims and Muslims, in the court (Jennings 1978, 257-260; Heyd 1973, 245). Considering witnesses to proceedings in the *nezir* deeds of the non-Muslims, a non-Muslim could testify against another non-Muslim, and Muslims could appear as witness in entire cases. In a case about inheritance conflict among the non-Muslims, six Muslims and six non-Muslims were situated as the witnesses to proceedings alike (Ceylan 1996, 495). In another case about a complaint of the non-Muslims against a tax-collector, five Muslims attended the court hearing to testify the case (Çiftçi 2017, 250-251). This case was out of a lawsuit occurred among the non-Muslims, and so testimony of the non-Muslims was not accepted by the court. Moreover, in the *nezir*s of the non-Muslims, the Muslim witnesses generally had honorable titles such as *ağa*, *el-hâc*, *es-seyyid* or did not have a title. The non-Muslim witnesses were ordinary men in such deeds, and their fathers and grandfathers were particularly registered in the court records.

Taking of the *nezir* by the non-Muslims still remained a controversial issue. The *nezir* originally based on Islamic principles and was constituted by Islamic legal interpretations. Earlier discussions of Hanafis, Malikis, and Shafiis on the *nezir* particularly indicated that the *nezir*s of the non-Muslims were not accepted, even though that issue partially involved some controversies by Hanbelis and some Shafiis (Esen 2003, 64-65). In the Ottoman fatwas, Ebussuûd Efendi remarked that the *nezir*s of the non-Muslims were invalid (*bâtıl*), and Islam was necessity for validity of the *nezir*s (Düzdağ 2018, 112-113). These interpretations roughly drew limits of the *nezir*'s use by the non-Muslims. However, the non-Muslims gradually came into sight in the *nezir* deeds by transformation of the *nezir* in the seventeenth century. Canbakal has argued that the *nezir* was desacralized by use of the non-Muslims (Canbakal 2011, 96). However, Tamdoğan has stated that the central government deliberately used the term of the *nezir* because of the sacred meaning of this practice (Tamdoğan 2006, 145). The transformation of the *nezir* could enable participation of the non-Muslims in the Ottoman courts to use this practice, and also the state aimed to carry out this practice on all subjects of the Empire. Considering this intention of the state, the *nezir* was probably not considered a sacred tool by both the central government and the non-Muslims. On the other hand, why did the non-Muslims prefer to use this practice that had a certain Islamic background, even to solve their problems with their co-religionists? Such a benefit could arise from importance of promise in non-Muslim community as well as Muslim society. According to Nabti, personal vows (*nidr*) were effectively used by both Christians and Muslims alike in Lebanese culture (Nabti 1998, 65-82). Such cultural practices, in fact, featured the importance of the promise that was one of the underlying elements of the *nezir* within society, regardless religion of communities. That moral aspect of the *nezir* and prevalent usages in different forms should, therefore, be kept in mind in order to grasp and examine the non-Muslims' *nezir*s in the Empire.

In the eighteenth century in particular, the kadis as urban officials became more important to provide the connection between the state and provincial communities regardless of ethnicity or religion of the subjects, and so, as Zarinebaf has stated, that role of the kadis partially caused a growth in the participation of the non-Muslims to the Ottoman courts, particularly in Istanbul (Zarinebaf 2010, 147). In the provinces, the most important part for the *nezir*s, the increasing use of the Ottoman court by the non-Muslims was clearly put forward by Jennings over the case of Kayseri. Jennings in his study has shared an interesting statistic that illustrated a parallelism about use of the Ottoman courts made by women and the non-Muslims (Jennings 1978, 250-253). That participation of the non-Muslim women partially illustrated their desires to benefit Ottoman court's rights in marriage, divorce and

inheritance cases in particular (Al-Qattan 1999, 430-433; Zarinebaf 2010, 147-148). Therefore, the Ottoman courts could gradually become public legal arena for all subjects of the state (Al-Qattan, 429-444). These examinations play an essential role to understand the role of the Ottoman courts for the non-Muslims and the courts' perspective to the non-Muslims. The appearance of the non-Muslims in the courts gradually increased in the eighteenth century in particular, and so that public legal arena became a state institution where all subjects of the state, regardless religion or ethnicity, could be situated. Moreover, utilization of the non-Muslims from the sharia law was not a new phase or trend. In this manner, it should be kept in mind that the Ottoman courts and their legal enforcements could constitute an interface between non-Muslim communities and Ottoman legal system, or Islamic jurisprudence produced this interface.

Such flexibilities could produce an intricate area that promoted political and legal participation of the non-Muslims through the *nezir*. Although the non-Muslims had a legal autonomy to implement their customary laws, the Empire could restrict that legal pluralism in certain cases that threatened public order and security in particular. The *nezir*s were generally carried out to the non-Muslims in such cases, and the *nezir*s could be implemented on the non-Muslim subjects regarding that legal rights of the state. The Islamic background of the *nezir*s could be eliminated or flexed by a cooperation between the Ottoman *kânûn*s and *fatwa*s. Furthermore, Islamic jurisprudence could create grey areas in the legal status of the non-Muslims; in other words, could Islamic jurisprudence have produced a kind of secularization in the earlier periods? The scholars have mainly aimed to discuss the secularization through large-scale reforms of the Empire in the nineteenth century and establishment of the Republic as an inevitable consequence.[9] That secularization was produced by external or foreign elements at one point. However, could such a secularization be eliminated by a different aspect that put forward an internal secularization? The *nezir*s of the non-Muslims could constitute an intersection between the non-Muslims and Islamic jurisprudence. This area was more likely enlarged by some legal acts such as taking of the *nezir* by the non-Muslims. Islamic jurisprudence could here produce a secularization that spread all subjects of the Empire in the legal sphere in particular, or Islamic law could be considered a source of the secularization.

4.4 Collection of the *Nezir*s

[9] Niyazi Berkes was one of the scholars who have discussed this issue in this context. For detailed information, see. (Berkes 1998).

One of the particular features of the *nezir* was the financial sanction named *nezir akçesi*. Although pecuniary punishments constituted a vast majority of the *nezir*s, it is possible to encounter with payment in kind in a few cases. That financial sanction naturally had a certain ability to provide and increase deterrence of the *nezir*s on the people. In the collection process, the state officials or the beneficiaries played a crucial role to collect the *nezir* money. When the vower or a party who was subjected to the *nezir* by the central government broke the commitment, the officials who were appointed by the state or the beneficiaries were responsible for collection of the *nezir* money. Nevertheless, this process naturally was not linear; in other words, the state could order not to collect the *nezir* money, or provincial communities could resist not to pay their punishments. In addition, that general process of the *nezir* actually did not refer to a fine what was urgently taken; however, this practice indicated a postponed fine because of its process. In the light of such encounters, the collection of the *nezir* constituted another important area which mainly indicated grey areas between the central government and the provinces and effectiveness and functionality of the *nezir*s within Ottoman society.

It is possible to encounter several edicts that ordered to collect of the *nezir* money from the people who did not fulfill their commitments, but the documents which indicated the collection were quite limited among the *nezir* documents. The central government sent such edicts to the state officials who were in charge in the provinces such as the governors (*vâli* and *mutasarrıf*), the kadis and head of the corps of imperial guards (*bostancıbaşı*). The *mutasarrıf*s were frequently charged with the collection in these edicts in comparison to other officials (DABOA. C. DRB. 32/1572; C. DRB. 27/1320; C. ZB. 31/1502). Although the *bostancıbaşı*s rarely seemed in these documents, they were also charged with the collection (DABOA. C. ML. 164/6888; C. ZB. 26/1281). The kadis or their deputies and the *vâli*s could be informed by the government in the case of the collection treatment or some complicated issues, and, as far as we know, these provincial governors usually did not play an active role in that process (DABOA. C. ML. 587/24178; C. ML. 736/30034; C. ZB. 21/1026). These edicts generally did not share a detailed information on the collection process. They only indicated a summary of the case and the orders to the collectors. If any problems occurred in this process, it was also encounter with other correspondences between the central government and the collectors or the governors, and besides these correspondences involved more detailed information than typical edicts that only ordered the collection of the *nezir* money. Such edicts, of which I found out fourteen documents out of two hundred and eighty-six *nezir* documents, could be considered a sign for state's effort or intention to implement that financial sanctions.

In the collection process, the central government could forgive a certain part of the

nezir money to ease the payment in particular. In 1778, Hüseyin Agha who was the *bostancıbaşı* of Edirne was charged with the collection of the *nezir*s of people of Gümülcine because of that they did not fulfill their commitments on brigandage. The people of Gümülcine already paid 1.800 *guruş* due to the same reason in 1741 (Çetin 2015, 306-307; DABOA. C. ZB. 43/2131). They this time had to pay much more as the *nezir*. In an edict dated 1778, the state ordered that half of the *nezir* money of the people of Gümülcine was forgiven, and they had to pay rest of the amount only (DABOA. C. ML. 709/28943). It was understood that this partial forgiveness was decided in order to do a favor to poor people through the official letter (*tahrîrât*) of Hüseyin Agha, and then the collection of 35.300 *guruş* from the people of Gümülcine was decreed by the state in another edict written to Head of Provincial Treasury (*Defterdâr*) (DABOA. C. ML. 164/6888). The state could readjust the payable *nezir* amount considering economic situation of the people, and also correspondences with the *nezir* collectors had influence to determine such regulations.

In the same region, the people of Dimetoka did not fulfill their commitments as well, and an edict on collection of the *nezir*s from Dimetoka again addressed to Hüseyin Agha (DABOA. C. DH. 300/14997). The people of Dimetoka had to pay 98.850 *guruş* as the *nezir*, but the state determined to collect 32.300 *guruş* from them and pardoned the remaining amount (DABOA. C. ML. 552/22737). Another case on the collection similarly remarked forgiveness of a certain *nezir* amount by the state. A certain *nezir* amount of the people of Ezine-i Kazdağı and Tuzla, respectively 24.000 *guruş* out of 51.000 *guruş* and 20.600 *guruş* out of 43.600 *guruş*, was pardoned, and so the state decreed that 50.000 *guruş* would be collected from both districts in total (DABOA. C. ML. 587/24178). As is also understood from these cases, the state could aim to rearrange the *nezir* amounts considering economic situations of the people or unspecified reasons. Such regulations were completely for the people who had to pay high amounts, and so these high amounts could be forgiven to receive the *nezir* money without giving any reason. These regulations were not only limited to partial forgiveness in the *nezir* amount, but also the state granted an extension of time for payable *nezir*s. In 1779, the people of Ferecik had to pay 2.550 *guruş* as the *nezir* within eleven days, and this amount would be delivered to the governor by their leading men (DABOA. C. ML. 552/22737). That policy could be implemented by the state in order to collect the *nezir*s without any problem, or the government could pursue a deliberative policy through the *nezir* instead of complicating administration. In other words, it could be that the Empire both aimed to prevent a decrease in the dissuasive power of the *nezir*s by collecting them and avoid any potential conflicts with the provinces.

The state rarely employed different ways to collect the *nezir*s such as selling culprits' properties when the culprits escaped to default their *nezir*s and avoid additional punishments. Halil, son of Hacı Ahmed, and his friends Ahmed, son of Hasan Çavuş, and Hasan Sipahi formerly agreed to pay 20.000 *guruş* as the *nezir* because of their oppressions on the people of Viranşehir in Bolu, but they continued to pressure the people although the leader, Halil, was exiled a few times. Then the state decreed that their friends were jailed to Samsun castle, and Halil was exiled to Tenedos (Bozcaada) after collection of their *nezir*s from the leader (DABOA. C. ZB. 66/3296). Halil, however, escaped from Viranşehir, and then the collector detected his properties by the help of the people of Viranşehir and sold his properties to supply determined *nezir* amount (DABOA. C. ML. 676/27736). This case was clearly a sign of the decidedness of the central government to collect the *nezir* money. Nevertheless, such acts could not be implemented to influential or extensive groups; rather, the state probably employed different ways in small groups or some culprits who settled in a district.

Particularly these influential groups could tend to resist the collectors to default their *nezir*s, and continue their disobedience against the state. Even though a contract was made between the central government and these groups, avoiding to pay the *nezir* money and additional punishments was also a sign of the disobedience of these rebellious groups against the state order. For instance, in 1743, several nomad tribes, some of which Kenezlü, Meleklü and Çandır tribes played an active role in this process, declared that they would not pay their *nezir*s and accept to settle to isolated regions. That situation was informed to the center by Çelik Muhammed Pasha, *mutasarrıf* of Teke district, and then the central government ordered collection of their *nezir*s and to quell the continuance of their riot. After several conflicts with these tribes, the state collected their *nezir*s and implemented additional punishments (DABOA. C. DH. 33/1631; Koç 2011, 525-528). Kara İsmail and his entourages agreed to pay 10.000 *guruş* as the *nezir* if they again meddled the state affairs in Tikveş, but he broke his commitment with his claim on the *a'yân*ship by the help of some state officials and leading men. Then a *Çûhadâr* was charged with the collection of their *nezir*s in 1774; however, they did not accept to pay their *nezir*s and resisted the collection officer by weapon (Çetin 2015, 307; DABOA. C. DH. 19/935). Such conflicts between the central government and provincial communities more likely determined their directions considering position or attitude of the state and the provinces. Some provincial groups could continue their disobedience against the imperial order by not fulfilling their commitments, or the central government could acutely react to them instead of carrying out bargaining policy that frequently appeared in other *nezir* cases. It could be said that attitudes of those who had to

pay their *nezir*s became important in determining the position of the government, or the state could carry out different policies considering subject of the contract. Furthermore, the government was in need of provincial governors and leading men to both collect the *nezir*s and control the culprits. For instance, when *bostancıbaşı el-hâc* Hüseyin Agha was charged with collection of the *nezir*s being valid from 1776, the state ordered that he could ask for support from *a'yân*s and leading men such as artisans and sayyids in a province in the case of potential oppositions of the offenders (DABOA. C. ZB. 26/1281). These men could help the government in the collection process by both persuading the culprits and providing the state with local troops or their influential groups. Through such collection processes, the government could strive to engage leading men of the provinces in the state affairs, and clearly stress a need to these men to control the provinces.

After the parties broke their commitments, the government rarely implemented additional punishments together with the collection of the *nezir*s. Additional punishments were generally determined in the beginning of *nezir* process; however, the government could also impose additional punishments after the collection. In 1753, the state officials collected 5.000 *guruş* as the *nezir* from five people who settled in Turgudlu, and then the government also ordered their settlement in a different region (DABOA. C. ZB. 78/3860). In 1767, Mustafa, who was possessor of interpretership in Haleb court, agreed to pay 5.000 *guruş* to the governor as the *nezir* if he again presented difficulties to the people who went to the court, and promised to handle his affairs in the court by favor of an agent (Çetin 2015, 306; DABOA. C. ADL. 104/6216). However, he continued to oppress the people, and then was exiled to Baghdad and punished with disciplinary punishment (*ta'zîr*) together with collection of his *nezir* (Çetin, 306; DABOA. C. ADL. 64/3858). Such additional punishments were sometimes carried out by the government when the offenders continued their undesirable acts. These punishments were also determined in the beginning of that process by increasing amount of the *nezir* and implementing additional penalties such as settlement, capital punishment, disciplinary punishment, imprisonment, exile and removing the wages (DABOA. C. AS. 28/1291; C. DH. 12/570; C. DH. 96/4792; C. DH. 251/12546; C. DH. 6/269; C. DH. 233/11612; C. DH. 281/14034; C. ZB. 89/4443; C. ZB 66/3296). Such documents, in fact, sparked a crucial discussion on effectiveness of the *nezir* in society. In other words, in order to grasp the *nezir*'s impact in society, it should be questioned why the government needed to implement additional punishments before or after the collection. It is actually hard to argue that the *nezir* was not a sufficient mechanism to deter and control the people with such limited documents. Rather, the government could in need of additional punishments considering tenor of each cases, or aim to increase

deterrence of the *nezir*s with such penalties for further cases. Moreover, the state could use additional punishments in the beginning of the *nezir* process in order to give a warning and increase deterrence of the *nezir*s. The additional punishments could not be sufficient to deter the culprits as well (DABOA. C. DH. 33/1631; C. ML. 676/27736). Therefore, it is really hard to introduce precise arguments on effectiveness of the *nezir*s in society through these documents.

Whether collection or non-collection of the *nezir*s by the state has also importance for examining effectiveness of the *nezir* as well as understanding main role or different roles of the *nezir* in society should be further investigated. The *nezir* documents on the collection were quite limited, only twenty-three documents out of two hundred and eighty-six *nezir* documents, in the catalogue of *Cevdet*, and the court records I have examined did not contain any documents on that issue.[10] Through these documents, it can be said that the state did not tolerate during the collection except partial forgiveness in the *nezir* amounts, and even received the *nezir* money by selling the culprits' properties. The state, therefore, seemed to have been quite decisive in the collection process. On the other hand, the *nezir* amount could be pardoned by the government in the case of influential tribes in particular. Although İfraz-ı Zülkadiriyye tribes broke their commitments, their uprising was repressed and they were subjected to the *nezir* to pay 50.000 *guruş*. They, however, did not accept to pay that amount, and then the state forgave their *nezir*s in return for making a commitment once again (DABOA. MAD. 8458, 83-92; Tatar 2005, 113-114). Such cases, on the other hand, could decrease effectiveness of the *nezir* in society, because these groups could avoid most important sanction of the *nezir* by re-making a commitment. The *nezir* here turned into a negotiation tool between the influential tribes and the government. The government could renounce their *nezir* money in order to maintain their engagements in the state order. Nevertheless, that situation was still insufficient to grasp *nezir*'s role or effectiveness in society, because the state could aim to collect the *nezir*s of influential groups by continuing violent conflicts instead of conducting negotiation (DABOA. C. DH. 33/1631). In this manner, the government could aim to seem as intolerant in the collection process or control the groups in the provinces by carrying out particular policies such as negotiation. On the other hand, if we consider that the *nezir* involved a negotiation process in itself, the collection process could illustrate various policies of the central government; in other words, negotiation or moderate policies could not be continued after termination of the contract. The collection process, therefore, should be discussed with scrupulous attention to detail, because the *nezir* mechanism probably introduced a

[10] *Baş Muhâsebe Defterleri* and *Mâliyeden Müdevver* in the state archive should be particularly examined to find more precise answers to that questions, because the *nezir* deeds were also registered in these catalogues.

multifaceted discussion through its such different aspects.

4.5 Abolition of the *Nezir*

In the nineteenth century, the *nezir* was still used by both the central government and the people, but its usage has considerably decreased in comparison to the eighteenth century. Considering the catalogue of *Cevdet*, only sixty *nezir* documents out of two hundred and eighty-six documents were registered in the nineteenth century. As for the court records, the usage rate was quite low in that period. It is an indisputable fact that the *nezir* mechanism was widely used in the eighteenth century, but the questions of why the *nezir* decreased its effectiveness in the nineteenth century or why the *nezir* was gradually cancelled after the Gülhane Edict (*Tanzîmât Fermânı*) should be examined in order to understand the alteration in the usage of the *nezir*. This penal mechanism slightly continued its widespread implementation areas until the Tanzimat; however, after that period, its usage was almost nonexistent except a few cases.

Such an alteration could be seen in some correspondences between the central government and the provincial authorities. In 1844, the central government sent a decree, which involved the previous *nezir*s of Sürmene and Of districts and the current situation of the Empire on implementing that penal system, to the governor of Trabzon. The state had previously subjected the people of Sürmene and Of to the *nezir* to pay 1.000 *kîse* to the Imperial Kitchen, but the culprits once again attempted to illegal activities after three years. Through this incident, it was indicated that the crimes such as extortion and homicide have increased in these districts, and so reviving of the *nezir* mechanism was necessary to prevent such crimes. However, that request was overruled according to the decisions of the Supreme Council for Judicial Ordinances (*Meclis-i Vâlâ-yı Ahkâm-ı Adliye*).[11] This council disapproved the *nezir* mechanism because of that unrelated, blameless people could be punished in that penal system, and so the culprits would be appropriately disciplined by the government (Çetin 2015, 303-304; DABOA. C. DH. 113/5601). It was understood that the provincial governors asked permission from the central government to implement the *nezir* anymore, and so the authority of the governors on that issue was probably minimized by the government. Again in 1844, Şerif Pasha, in his letter, made a request from the Sultan to carry out the *nezir* for the culprits who engaged

[11] *Meclis-i Vâlâ-yı Ahkâm-ı Adliye* was established by Mahmud II instead of Imperial Council (*Dîvân-ı Hümâyûn*) in 1838. This supreme council has administered executive, legislative and judicial powers of the Sultan. For more information, see. (Seyitdanlıoğlu 1996).

in illegal acts in Bursa; however, that request was also refused by *Meclis-i Vâlâ* because of that the *nezir* mechanism was incompatible with the reason of Tanzimat (Satıcı 2008, 279-280; Satıcı 2008, 193-194). Such correspondences indicated that the *nezir*s could not easily be carried out by the provincial governors anymore. However, these decisions of the council did not seem to reach all over the Empire, because the artisans in Urfa made a commitment through the *nezir* in order to provide equal distribution of the materials after four years (Yıldız 2010, 249). That situation, in fact, illustrated a natural process for the Empire, because the abolition of the *nezir* mechanism, which was used for almost more than 150 years, might not have been possible in all provinces. In this manner, it could be said that the *nezir* mechanism was gradually abolished after the Tanzimat and rarely carried out in some provinces until second half of the nineteenth century.

These two documents also give several clues about the situation of the *nezir* in the nineteenth century. Such correspondences on the requests of the governors to implement the *nezir* mechanism initially questioned effectiveness of the *nezir* as a current issue. In the case of Trabzon, it was indicated that the crimes of homicide and extortion were prevented by way of the *nezir* mechanism to a certain extent, and so rising crimes in the districts were closely related to abolition of the *nezir* (DABOA. C. DH. 113/5601). The request of Şerif Pasha involved similar concerns, but he also complained about the leading men of the districts who took part in crime or protected the culprits (Satıcı 2008, 279). By looking at rising crimes in current situation, both governors may have surmised that the *nezir* mechanism was quite efficient to prevent the crimes, but the main point on their statements was probably about collective binding of the *nezir*. That feature, in fact, has provided to engage the entire people in obeying the state orders, and the leading men particularly played an active role in that process. The government directly addressed to these individuals, because they had ability to control their communities. Considering the statements of both governors, the abolition of the *nezir* most likely caused loss of the intermediary tools between the state and the provinces. However, the *nezir* mechanism was a crucial tool for provincial communities to increase their political initiatives in both center and the provinces. On the other hand, *Meclis-i Vâlâ*, in its decree to Şerif Pasha, indicated that the old penal system, *nezir*, has never worked (Satıcı 2008, 279-280). This exact statement could be a counter policy of the central government under such requests of the provincial governors, because the council also emphasized that the *nezir* was incompatible with the Tanzimat. Through such assumptions, it could be understood that reviving of the *nezir* was non-negotiable for the council because of new regulations of the Tanzimat.

Another point in these documents was criticism of the collective punishment, which

was an important feature of the *nezir*. Through the request of the governor of Trabzon, the council remarked that the *nezir* could accuse the blameless people, and so that penal system was inappropriate (DABOA. C. DH. 113/5601). Lûtfî Efendi has also shared similar observations in his chronical. According to Lûtfî Efendi, all people were forced to pay *nezir akçe*si regardless of who was guilty or not, and so the blameless people were damaged because of that collective penal system (Ahmed Lûtfî Efendi 1999, 743; Pakalın 1971, 691-692). The significant part of the *nezir*'s sanction power was based on the collective punishment, but this feature could lead to mistaken practices as stated in these criticisms. The blameless people could mistakenly be included in the *nezir* deeds (DABOA. C. DH. 287/14320; C. ZB. 46/2279; C. DH. 258/12851), or they could be slandered, and so had to pay a certain *nezir* amount (DABOA. C. DH. 323/16128; C. ZB. 86/4288). As seen in such cases, these criticisms were partly true, but these cases were limited to very few examples. The collective penal systems were not seen for the first time with the *nezir*; on the contrary, the central government has already implemented several collective penal systems such as *kasâme* and *kefâlet*. These criticisms were more likely to find a voice in society during the most common period of the *nezir*, but the rising criticisms in the nineteenth century could be related to establishing new atmosphere of that period.

In the light of such criticisms through these two documents of the governors, these requests of the governors could be considered an intention to revive the *nezir* practice; in other words, these documents, in fact, referred to a conflict between old and new political culture in the state order. Tanzimat was a crucial breaking point at this point. After declaration of Tanzimat, the state government witnessed several conflicts between the state officials who supported and did not support Tanzimat. For instance, according to Cevdet Pasha, İzzet Mehmed Pasha, in his grand viziership between 1841 and 1842, strove to maintain old order instead of the rules of Tanzimat (Cevdet Paşa 1953, 9). Such an intention was influential in the state governance, particularly in the period of the grand viziers like İzzet Mehmed Pasha, and the requests of the governors to revive the *nezir* could be read through this political atmosphere. This meant that the *nezir* practice was also a sign of the old order or early-modern state, and these governors probably indicated importance of old order through the *nezir*.

The nineteenth-century Empire witnessed several reforms which gradually undermined early-modern characteristics of the state. After proclamation of the Tanzimat in particular, the central government followed new paths, which were never seen in Ottoman history, promising fairness to all Ottoman subjects. This edict promised new regulations and laws which put forward guarantee of life and property rights

of all Ottoman subjects, prevention of bribery, regulation on taxes and recruitment of men. Besides, the reform edict of 1856 maintained the administrative fairness by granting equality to non-Muslims and providing a more solid legal system (Hanioğlu 2008, 72-75).[12] These edicts, in fact, referred to a change in the official ideology of the state, which particularly necessitated legal innovations. The intention of the state in the legal area was completely to constitute rule of law in this reform era. On this basis, the legal norms of the nineteenth century highlighted individuality rather than community which mainly identified early-modern concept of the state. The state aimed to constitute a solid legal area, which predicated on the individuals and individual trials instead of collective punishments, anymore. The *nezir* was naturally considered out of this modern concept of the state, because this practice mainly based on community identity. Therefore, the criticisms of *Meclis-i Vâlâ* on the inconsistency between the *nezir* and the Tanzimat were more likely one of the main reasons of abolishment of this penal mechanism; in other words, the *nezir* was no longer practicable for the new political culture of the nineteenth century.

Another step of such transformations was the alteration in the balances between the central government and provincial power-holders. The accession of the dynamic sultans (Selim III, r. 1789-1807 and Mahmud II, r. 1808-1839) in the Empire has enhanced the tendency to the reform programs in military and fiscal issues in particular. The new period was generally considered a gradual transformation or inclination of the Empire to the centralization; however, rising influence of the power-holders in the provinces has continued their impacts in the late eighteenth and early nineteenth centuries in many Ottoman provinces, particularly with the Russo-Ottoman war of 1787 and 1792 (McGowan 1995, 658-679). Nevertheless, that expansion has not always been a threat to the central government; instead, the power-holders could sometimes struggle with the government or engage in the state affairs. For instance, according to Hourani, the *a'yân*s in the Arab provinces had an intermediary role between the state and the provinces, and looked out or protected provinces' benefits (Hourani 1968, 41-65). However, some scholars argued that the *a'yân*s in the Arab provinces could oppress the people and sometimes collaborate with the governors (Doumani 1995, 5; Marcus 1989, 85-86). The power-holders, therefore, could exhibit different stances regarding the political alternations; in other words, while some of them incorporated into the state authority, others challenged the state orders. The state developed particular strategies in order to control the provincial power-holders by negotiating with them in particular. In fact, the state neither totally recognized nor explicitly ignored their interests (Yaycıoğlu

[12]For a narrative on privilege of the non-Muslims over the reform edict of 1856 and responses to these developments, see. (Cevdet Paşa 1953, 67-89).

and Masters 2009, 65-66). However, the nineteenth century gradually enabled the state power on the such power-holders, and so they lost their effective power in the provinces. They were integrated into the imperial elite as bureaucrats, soldiers and politicians or eliminated by the central authority (Yaycıoğlu and Masters, 66).

To examine the changing balances between the central government and the provinces from the eighteenth century through the nineteenth century is quite significant, because different encounters between these two sides can be directly related to the situation of the *nezir*. If the *nezir* was partly established to ensure the negotiation between the central government and the provinces, decreasing influence of the provincial power-holders in the nineteenth century may also have reduced the *nezir*'s importance. In the nineteenth century, the centralized and modernized state had different concerns in comparison to the eighteenth century, and so tools of the early-modern period were more likely questioned by changing central authority. Furthermore, the provincial power-holders played an active role to keep under control their communities, and the central government was in need of these leaders to maintain the public order. However, the paramilitary forces such as gendarme were established by the government, and these forces were particularly engaged in crime prevention in the rural areas (Özbek 2008, 47-67). That gradual establishment of the paramilitary forces in the rural areas, even though it was a little bit late for the *nezir*, should also be questioned to grasp new struggle ways of the Empire with the culprits, and so such new methods could change a sense on the early-modern characteristics in struggle with the crime.

5. CONCLUSION

In pre-Islamic Arabia, vows and oaths pertaining to the connection between an individual and the divine power were commonly used by society, as far as we know, for private purposes. That private relationship took place by dedicating something to the divine power in exchange for mainly one's own request or will. Such votive practices across cultures would constitute a debt with a binding pledge. The votive customs of pre-Islamic Arabs were integrated into Islamic culture and used in various forms throughout Islamic history. Islamic society initially used the vows and oaths by preserving their primary intention, yet the Islamic authority, mainly Quran and Sunnah, used Islamic rituals in vows instead of extra-canonical practices of the pre-Islamic Arabia. To a large extent, Islam prioritized closeness of an individual to God by way of the *nezir*. In Islamic fiqh literature, the term of *kurbet*, which meant religiously mandatory acts (*fard* or *wâcib*) that made people come close to God, constituted a considerable part of such concerns on the *nezir* together with the term *îcâb* that meant to oblige oneself unnecessary things. Islamic scholars emphasized that the pledge (*menzûrun bih* or *menzûr*) should involve *kurbet* in order not to violate Islamic principles.

That basis of the vow in Islamic culture was commonly considered by Islamic sects, but its two forms, conditional and unconditional, led to the difference of opinions among Islamic scholars. The conditional vows, which contain certain expectations of an individual in either positive or negative wish, and the unconditional vows made without any request were considered lawful by Hanafi scholars, but others had not had a clear stance on this topic. Both of the vows were closer to lawful than unlawful (*tenzîhen mekrûh*) according to Shafii and Hanbali scholars, and the Malikis approached both of them as lawful as long as the conditional vow was not continuous. Such a controversial integration of the vows into Islamic culture primarily concentrated on two main concerns: a Muslim should avoid pre-Islamic practices such as lighting a candle in shrine, and the pledges or acts should be prioritized for coming close to God. The vow, in this manner, was considered a religious and moral obligation in Islamic society. The jurists could not interrogate

or judge the vow-takers if they did not fulfill their commitments, they were just considered sinful. Whether the vow was fulfilled or not was up to the vow-takers only, and so it was not beyond a private relationship between an individual and God. The vow-taker was engaged in several acts that come close to God, strove to keep his/her promise, expected something or not, and maintained self-discipline. Such acts appeared to have strengthened one's religious and moral obligations in society, but the vows had not had a legal enforcement and obligation. Islamic fiqh system divided judicial and religious adjudications to clearly express such issues, but how could religion and law be strictly separated from each other in the classical period of Islamic law or were there any flexible boundaries between religion, law, and morality? In order to answer these questions, other structures and features of the vow should be examined in order to grasp its evolution and adaptation process into Islamic culture.

The vows were contractual commitments in the private sphere. An individual obliged oneself or undertook with his/her own promissory words and consent (*rızâ'*), and declared his/her own commitment in both conditional and unconditional vows. They resemble unilateral contracts rather than two-party transactions, because the private vows occurred with only a vow-takers' statement of will. Although it seems that the private vow as a unilateral contract constituted a legal enforcement in Islamic contractual law, Hanafi scholars argued that the unilateral contracts were not binding. That contractual basis more likely did not correspond to a certain legal enforcement in the Islamic law. Even if the beneficiaries (*menzûrun leh*) were included in a vow, this also meant that even in vows that concerned others, responsibility of the obligation was only up to the vow-taker. Like jurists, the beneficiaries could not interfere in the vow process or claim from the vow-takers. Nobody could force the vow-takers to fulfill his/her commitment, and so s/he had a moral obligation with making a contract. Moral and legal spheres have always been complicated and confusing in legal theories. Islamic law particularly attached importance to moral and ethical teachings. Likewise, these principles always emphasized consent, real intention and motive and fulfilling the responsibilities in good faith of an individual in the contractual law. That flexible boundary between morality and legality was also seen in vow practices, but this does not mean that the vow had a legal enforcement. Even though the Islamic law of contract was commonly derived from customs (*'urf*), because it was not particularly systematized, not all of them were accepted or had a certain legal enforcement. The vow was also a customary contract which had been used by pre-Islamic societies. The customary tools naturally were not frozen; however, there was a changing and developing process between law and quotidian or social reality. The vows as a customary tool were a part of that process

as well.

The customary tools were not approved as a formal source in Islamic law to a large extent. Instead, they were considered a material source; in other words, they had a de facto recognition in the legal system. The vows were one of the examples of those intermediary acts. They were integrated into Islamic culture as a material source by determining vow's Islamic boundaries. Such adaptations occurred particularly within the knowledge of the Islamic jurists over a gap between theory and practice consisting because of social needs, but the jurists were always deliberate not to cross the line of Islamic rules. Therefore, there were several ways to integrate customary tools into an Islamic legal system without any references to the custom. Juridical or personal preference (*istihsân*), necessity (*darûra*), identifying the custom with Sunnah, consensus of the jurists (*ijmâ'*) and approaching it so-called written stipulation were some of these legal interpretations that were valid in Islamic law. This legal system was not passive or unconscious on the custom. The custom was frequently evaluated with other legal sources, but it was not an independent legal source in Islamic law, particularly in pre-classical and classical period of Islam. The vows, in this manner, should be examined in a flexible area between custom and law. They did not constitute a formal source within the law, but quite likely had a de facto recognition. Furthermore, emerging new genres, such as *fatwa*s, commentaries and treaties, and expanding fiqh literature have created a wider platform to discuss such issues in Islamic law. In the Ottoman realm, the appearance of the vows through *fatwa*s has also provided more interpretable and questionable aspects of customary tools.

Private vows were mainly seen as a religious prayer in Ottoman *fatwa*s, but some *fatwa*s treated the vows as partly out of determined Islamic principles. For instance, the new beneficiaries such as the chief of the prophet's descendants (*nakîbü'l-eşrâf*), *sayyid*s and servant of the state (*ehl-i örf*) were pronounced in many *fatwa*s. However, the beneficiaries should be chosen in order to avail religiously acceptable parties such as the poor. Although Shaikh al-Islam did not approve such vows, the changing form of the vows, in other words, the fact that the vows gained a certain publicity, gradually appeared and had been discussed in many *fatwa*s since the sixteenth century. Establishing new realities in society were interpreted in new genres of Islamic law, and also position of the customary tools in Islamic law was gradually advanced by Islamic jurists, mainly from the sixteenth century. It can be argued that this post-classical period increased the appearance of the custom within the law in comparison to earlier periods; in other words, the already flexible sphere between law and custom further expanded. The *fatwa*s played a crucial role to build that area, because they could address daily issues and changing facts in society, and so partly

used as a means of change by updating Hanafi fiqh tradition in the Empire. They were actually located between normative and social aspects of law. I doubt that how such developments affect status of the vow in Islamic law, but here we should also evaluate appearance on state's particular use of that practice. An overlap between Islamic and sultanic law was an undeniable reality in the Empire, but there is no evidence in sultanic law or *fatwa*s about the state's effort to transform the private vows into sultanic law's own usage. The central government began to carry out the public vows to control local populations and culprits in last quarter of the seventeenth century. How did the state transform the vows into its benefit in contrast with their religious usage? What happened when the vows appeared outside the *fatwa*s? What was the performative power of the vows in the Ottoman courts?

The sultanic law was particularly consisted of the customary tools, and also it was legitimized by the jurists in the Empire. As for the position of these tools in Islamic law, they were gradually recognized as a formal source during the rule of the Ottomans. The changing form of the vow was visible in many *fatwa*s, and Shaikh al-Islam did not accept the private vow's transformation of a religious and moral obligation into a legal obligation, but this customary tool had been used in the Ottoman courts since the seventeenth century. A woman could make a vow towards her prospective husband not to force her to live in the village after their marriage in the court. Such early practices probably materialized public vows and increased their impacts in the Ottoman courts. If the woman also did not find the husband's promise sufficient she could demand to register that promise in the marriage contract. Although parole evidences like oaths had a certain impact in the Ottoman courts, written legal culture had been gradually prioritized since the sixteenth century. Parties with written documents came into prominence in the courts rather than the parole evidences. Instead of non-binding statements of the *fatwa*s, written documents that had a certain binding power in the Ottoman court may have particularly been respected by people. Increasing documentation could have introduced an extensive usage area in the Ottoman courts, and so written contracts that were sealed with a *nezir* could partially constitute a binding area in the courts. Earlier cases about the public vow, as far as we know, were treated in the Ottoman courts before the state's use of that practice. A bottom-up transformation was already occurring in relation to the vows by changing beneficiaries and subjects that were out of their primary usage. People were rarely using this practice with its new form to oblige or guarantee themselves. The central government more likely began to use that expanding area in its own benefit and transformed the public vows into a penal system.

In the seventeenth century, the *nezir* was a collective penal system that was deter-

rent, future-oriented and promissory in the hands of the central government, and the state mainly aimed to control local communities and constitute a guarantee towards their illegal or undesirable activities in the future. Ottoman subjects were already familiar with collective penal mechanisms through oath of compurgation (*kasâme*) and surety (*kefâlet*), and these tools could be carried out in the same areas with the *nezir*. Why did the state constitute another similar penal system? I argued that the *nezir* was based on a consensual framework occurring between state officials and local people rather than its state-imposed practices. The contractual foundation of the *nezir* could have had influence on its transformation towards the state's use. There were several examples about how the *nezir* functioned in these penal systems, but the *nezir* was located beyond them. Considering primary sources on the *nezir*, one could conclude that this tool was mainly used by the central government in the eighteenth century. In the eighteenth and early nineteenth centuries, provincial authorities in particular and provinces increased their appearance and impact in public administration. Provincial communities were engaged in various collective practices such electing or dismissing the officials and enhanced their political participation in provincial issues. The central government also promoted that rising enterprise. Rather than depicting provincial communities of these periods as passive or active and law-abiding or unruly, a mutual relationship between the central government and provinces by both increasing participation of provincial communities in several local affairs and promoter policies of the center could be produced in Ottoman political and administrative culture. The *nezir* mechanism can be considered an intermediary tool between central government and provincial communities in the light of such developments in the eighteenth century. Through this mechanism, the central government could maintain the public order and significantly integrate provincial communities into the imperial order. The provinces could also ensure loyalty to the state, keep the administrators under control and increase their effectiveness in local affairs. It is possible to say that the *nezir*, on one side, enabled localization of the state governance and, on the other side, triggered the politicization of provincial communities together with their increasing political initiatives in both local and central politics.

Although individual liability continued its impact in public vows, collective liability mainly came into prominence in that atmosphere. In almost every case, the central government addressed to entire community to receive a commitment in several conflicts or disobedience of the provincials. Such *nezir*s could be implemented to collaborate with local communities or fight the culprits together with the state or directly to prevent illegal activities of a community or group. The central government not only ensured integration of provincial communities into the state order but

also encouraged their collective participation in public affairs. On the other hand, these communities obliged themselves or undertook a responsibility to declare their obedience or disobedience to the state or solve their various problems with other provinces or administrators. It is certain that increasing collective initiatives of that period confirmed such relationalities, but why did these communities voluntarily oblige or vow themselves? With rising participation of local notables (*a'yân*) and leading men in governance, these actors as representatives of a community became one of the main figures in constituting a bridge between provincial communities and the central government. In *nezir* process, the state mainly addressed these men when it was decided to make *nezir* with their communities or collected their *nezir*s. Moreover, the leading men were usually located in witnesses to proceedings (*şuhûdülhâl*) and so served crucial roles in both state court and their communities. These representatives, in this manner, could be a main actor to obtain the consent of communities to vow or maintain the *nezir* deed's continuity without any problems. On the other hand, particularly some local representatives of the eighteenth and early nineteenth centuries actually intended to engage with or have a voice in governance. The *nezir* could provide such participations by initiating a negotiation process with the central government. The local representatives and provincial communities became important sides of that negotiation through this practice. Collective liability was not only constituted to obey the state orders, but also to be used against the state authority. In the light of such assumptions, the *nezir* can be evaluated in the frame of interests between the state, provincial leading men and their communities.

Maintaining the order in provinces and integration of provincial communities into the imperial order were main intentions of the central government. The *nezir*, in this manner, was used almost in every area, but banditry in particular took up an extensive place among *nezir* cases. However, as Faroqhi has stated, people who were engaged in any disorder were stigmatized as brigands (*eşkıyâ*) (Faroqhi 1995, 163). It is possible to encounter cases in which nomadic groups, tribes, ordinary people, artisans, leading men and janissaries named brigands or their activities were called banditry. According to Faroqhi and Tamdoğan, pecuniary punishment of the *nezir* created a considerable pressure in the provinces to deter and prevent these banditries, because the central government collected determined *nezir* amount from all community and signatories when they broke their commitments (Faroqhi, XX-XXII; Tamdoğan 2006, 142). High amounts were determined by the central government and substantially enough to deter or threaten the provinces of these periods, but to what extent were the *nezir*s collected? The documents on *nezir*s' collection, as far as I detect, are quite limited. Considering these sources, extensive communities could

resist the state officials not to pay their *nezir*s or just to declare that they would not pay, and so the state struggled to collect their *nezir*s and repress the uprising, or renewed *nezir* instead of collection. On the other hand, the central government could forgive a considerable part of total sum mainly regarding economic status of the provinces. These different policies probably depended on local conditions containing extent of their relationality with the state or, as Anastasopoulos has argued, degree of "politicization" of local communities and their leaders (Anastasopoulos 2011, 142). It is clear that we need to examine much more sources on collection, if there are, but I have a suspicion that collection of the *nezir*s, through several documents I examined, was one of the main concerns of the state. Financial sanction was more likely to be used as a means of a deterrent mechanism, but the state generally preferred to avoid violent conflicts with the provinces in any contrary situation, or ensure to be closed of provincial communities to the state order with their consent. Therefore, the *nezir* did not illustrate a black and white image within formal and fixed rules; rather, it included more intricate or grey areas about the relationship between the state and the province.

The *nezir*s by the state or individuals or communities did not concern only the Muslim subjects of the Empire, but also non-Muslims could use this practice to oblige themselves or solve their internal problems, or the state intended to incorporate all subjects into the *nezir*s. Even though non-Muslims had a legal autonomy, though not independent in all issues, to apply their customary laws in own courts, they could also use sharia courts mainly in their family issues or responding to charges made by Muslims. Therefore, appearance of the non-Muslims, with their own consent, in Ottoman courts was not unusual, but their being a party of the *nezir* was. How could an Islam-based practice be used by non-Muslims? Non-Muslims could be seen in Ottoman courts to vow since the seventeenth century. I assume that transformation of the *nezir*, which took place mainly in the seventeenth century, threw its religious basis out of focus in the hands of the state. Tamdoğan has argued that the *nezir* was transformed because of its sacral meaning which would produce a strong effect in society (Tamdoğan, 145). However, I tend to think in the same vein with Canbakal on this issue. The *nezir* was desacralized by the integration of non-Muslims into public vows (Canbakal 2011, 96). Instead of sacral basis of the *nezir*, the central government more likely aimed to use its contractual base and include all subjects of the Empire. From another angle, such a desacralization may have introduced an interface or grey area between Islamic law and the non-Muslims; in other words, an internal secularization produced by Islamic law could enable the use of this practice by the non-Muslims. Is it possible to spark a debate on such an internal secularization by the *nezir* rather than an external or a foreign secular-

ization? Another question is why non-Muslims used this Islam-based practice. In many societies, pledge and its fulfillment were highly considered, and I think that Ottoman subjects attached importance to the *nezir* as a pledge or a commitment to a large extent. Moreover, oaths and vows had been used by many religions and societies in various forms. Therefore, non-Muslims in the Empire could voluntarily consider this customary tool by desacralizing it.

Regardless of ethnicity or religion, all subjects could use the *nezir*, and this practice was seen in both central and other provinces of the Empire, but what about the capital city –Istanbul-? Up to now, we have evaluated the *nezir* as both an individual or collective mechanism in the provinces. Although all incidents, as far as I examined, occurred in provinces, I did not encounter any cases in Istanbul except the *nezir* of non-Muslims because of *koltuk halkası* (substandard gold-thread) manufacturing in Beyoğlu in 1738 (DABOA C. ZB. 64/3194).[1] Besides, there is not one imperial edict on the implementation of the *nezir* in Istanbul, but edicts established in the eighteenth century on other collective punishments can give us an idea on this issue. According to two decrees dated 1746 and 1752 on *kasâme*, this collective practice had not been used in the capital city and its surroundings as of time immemorial, so the central government did not allow implementation of *kasâme* in Istanbul (Akman 2002, 792-793). These decrees were established on a case of killing a man in the near of Silivrikapı, and relatives of victim were insistent on the implementation of this practice. Can the *nezir* be considered through a similar logic? Were there any requests from the people who lived in the capital city to use the *nezir*? These collective practices had not probably been carried out in Istanbul because of its heavy population.[2] More extensive or anonymous groups in the capital city may not have been easily controlled, and so the *nezir* could have become ineffective in Istanbul. Only non-Muslims could be controlled by the central government through the *nezir* because of their small population, but there was an increasing non-Muslim population in the eighteenth-century Istanbul. This is not more likely considered valid, and we do not have sufficient evidence on the implementation of the *nezir*s on the non-Muslims living in Istanbul either. On the other hand, the central government considered different policies through networks of local leaders, local judges, moral guarantors like surety and janissary corps in order to control increasing crime in the capital city of the eighteenth century (Zarinebaf 2010, 125-140). Such policies

[1] We need to examine much more sources on this issue for certain, but I suppose that we would encounter *nezir* cases occurred in Istanbul because of that collected *nezir defterleri* and catalogue of *Cevdet*, which constitute vast majority of the *nezir* documents in the state archive, are completely related with provincial communities or provinces. Councils convening, under the presidency of grand vizier, in Wednesday and Friday can be considered on this issue, because they functioned in Istanbul like kadi courts in the provinces.

[2] According to Zarinebaf, the population of Istanbul was around half a million at the end of the eighteenth century (Zarinebaf 2010, 38).

were an indication of hard power of the state in the capital city, and authority of the central government was naturally quite influential in Istanbul rather than in the provinces. Would the *nezir* be implemented in cities where the state's administrative power was lacking? The central government most likely did not need to carry out this practice in Istanbul because Istanbul was controlled by the state in a more direct manner to a large extent.

The *nezir* that had been more practicable in the provinces of the eighteenth century but its use decreased in the nineteenth century, and it was gradually removed after Tanzimat. This practice was no longer carried out starting from second half of the nineteenth century until the end of the Empire. Through the requests of two provincial governors, in Trabzon and Bursa, in 1844 to implement the *nezir*, the Supreme Council (*Meclis-i Vâlâ-yı Ahkâm-ı Adliye*) did not allow its implementation because they concluded that the *nezir* could punish innocent people and was incompatible with the reason of Tanzimat. Such criticisms of the *nezir* were increasing at that period. Chronicler Ahmet Lütfî Efendi also criticized this practice in such a way that innocent people were damaged because of that collective penal system (Ahmet Lütfî Efendi 1999, 743; Pakalın 1971, 691-692). It is possible to encounter several cases in which some innocent people were punished with the *nezir*, but the state was correcting such mistakes. It was possible that such mistakes would occur in a collective penal system. Why was the *nezir* removed while other collective penal systems, *kasâme* and *kefâlet*, survived until end of the Empire? I argue that the *nezir* had a more specific role than other penal systems in such a way that it could be mainly produced to ensure contractual relationship between the central government and provincial communities and leaders. Therefore, changing political culture of the Empire in the nineteenth century could be more effective in the abolition of this practice rather than highlighting early-modern features like collectivity. Gradually, the increasingly centralized and modernized state began to carry out different policies in the provinces, and also the provincial authorities and leaders were mainly integrated into the imperial elite or became eliminated. In other words, administration became more prominent than governance in that period. The *nezir* was a crucial part of the governance. It could be considered a tool of intermediary process, in the eighteenth and early nineteenth centuries, of the Empire, but I conclude that this tool did not contain a path towards modernization. Rather, it could be interpreted as a tool of early-modern state, or more precisely it could be produced as a necessary practice for both the central government and provincial communities towards creating a unique political culture in the eighteenth and early nineteenth centuries.

PRIMARY SOURCES

Archival Material

Devlet Arşivleri Başkanlığı Osmanlı Arşivi

- Cevdet
- Mâliyeden Müdevver
- Bâb-ı Defteri/Başmuhâsebe Kalemi/Nezir Hücceti

Books

Ahmed Lûtfî Efendi. 1999. *Vak'anüvîs Ahmed Lûtfî Efendi Tarihi 4-5.* Edited by Yücel Demirel. İstanbul: Yapı Kredi Yayınları.

Cevdet Paşa. 1953. *Tezâkir 1-12.* Edited by Cavid Baysun. Ankara: Türk Tarih Kurumu Basımevi.

Defterdar Sarı Mehmed Paşa. 1995. *Zübde-i Vekaiyât, Tahlil ve Metin (1066-1116/1656-1704).* Edited by Abdülkadir Özcan. Ankara: Türk Tarih Kurumu.

Demirtaş, H. Necati. 2014. *Açıklamalı Osmanlı Fetvâları: Fetâvâ-yı Ali Efendi - Cild-i Evvel.* İstanbul: Kubbealtı.

İzzî Süleymân Efendi. 2019. *İzzî Tarihi (Osmanlı Tarihi 1157-1165/1744-1752).* Edited by Ziya Yılmazer. İstanbul: Türkiye Yazma Eserler Kurumu Başkanlığı.

Tursun Beğ. 1977. *Târîh-i Ebu'l-Feth.* edited by Mertol Tulum. İstanbul: Baha Matbaası.

BIBLIOGRAPHY

Abou-El-Haj, Rifa'at Ali. 1984. *The 1703 Rebellion and the Structure of Ottoman Politics*. Leiden: Nederlands Historisch-Archeologisch Instituut.

Abou-El-Haj, Rifa'at Ali. 2005. *Formation of the Modern State: The Ottoman Empire Sixteenth to Eighteenth Centuries*. Syracuse: Syracuse University Press.

Adanır, Fikret. 2006. "Semi-autonomous Forces in the Balkans and Anatolia." In *The Cambridge History of Turkey*, ed. Suraiya Faroqhi. Vol. 3 New York: Cambridge University Press p. 157–185.

Akcan, Leyla. 2016. 1824-1834 Tarihleri Arasında Gaziantep'te Sosyal, Siyasî ve İktisadî Yapı (142 Numaralı Şer'iyye Sicili Metin Transkripsiyonu ve Değerlendirmesi S. 1-253. Master's Thesis. Gaziantep Üniversitesi.

Akdağ, Mustafa. 1974. *Türkiye'nin İktisadî ve İctimaî Tarihi*. İstanbul: Cem Yayınevi.

Akman, Mehmet. 2002. "Osmanlı Hukukunda Kasâme." *Türkler* 13: 789–794.

Akman, Mehmet. 2007. "Osmanlı Hukukunda Faili Bilinmeyen İtlâf Durumlarında Öngörülen Ortak Sorumluluğun Hukuki Niteliği." *Türk Hukuku Tarih Araştırmaları* 3: 7–12.

Akpınar, Yusuf. 2015. 1748-1749 M. (1161-1162 H.) Tarih ve 545 Numaralı Karahisar-ı Sahip (Afyonkarahisar) Şer'iyye Sicili. Master's Thesis. Fırat Üniversitesi.

Aksan, Virginia H. 1998. "Whatever Happened to the Janissaries? Mobilization for the 1768-1774 Russo-Ottoman War." *War in History* 5(1): 23–36.

Al-Qattan, Najwa. 1999. "Dhimmis in the Muslim Court: Legal Autonomy and Religious Discrimination." *International Journal of Middle East Studies* 31(3): 429–444.

Anastasopoulos, Antonis. 1999. Imperial Institutions and Local Communities: Ottoman Karaferye, 1758-1774 Phd diss., University of Cambridge.

Anastasopoulos, Antonis. 2011. "Political Participation, Public Order, and Monetary Pledges (Nezir) in Ottoman Crete." In *Popular Protest and Political Participation in the Ottoman Empire*, ed. M.Erdem Kabadayı Eleni Gara, and Christoph K. Neumann. İstanbul: Bilgi University Press p. 127–142.

Arı, Abdüsselam. 2010. "The Problem of Mode in Declaration of Intent in Islamic Law." *İstanbul Üniversitesi İlahiyat Fakültesi Dergisi* 23: 45–76.

Aydın, Ahmet. 2006. Çivizâde Muhyiddin Mehmed Efendi'nin Fikhî Görüşleri. Master's Thesis. Marmara Üniversitesi.

Aydın, İsa. 2015. 1780-1782 m(1195-1197) Tarih ve 4 Numaralı Kütahya Şer'iyye Sicili. Master's Thesis. Fırat Üniversitesi.

Barbir, Karl. 1980. *Ottoman Rule in Damascus 1708-1758*. New Jersey: Princeton University Press.

Barkey, Karen. 1994. *Bandits and Bureaucrats: The Ottoman Route to State Centralization*. Ithaca and New York: Cornell University Press.

Berkes, Niyazi. 1998. *The Development Secularism in Turkey*. London: HurstCompany.

Bilmen, Ömer Nasuhi. 1998. *Büyük İslâm İlmihali*. İstanbul: İpek Yayınları.

Buzov, Snjezana. 2005. The Lawgiver and his Lawmakers: The Role of Legal Discourse in the Change of Ottoman Imperial Culture Phd diss., The University of Chicago.

Bölükbaşı, Ömerül Faruk. 2013. *18. Yüzyılın İkinci Yarısında Darbhâne-i Âmire*. İstanbul: İstanbul Bilgi Üniversitesi Yayınları.

Canbakal, Hülya. 2007. *Society and Politics in an Ottoman Town: Ayntab in the 17th Century*. Leiden: Brill.

Canbakal, Hülya. 2011. "Vows as Contract in Ottoman Public Life (17th-18th Centuries." *Islamic Law and Society* 18(1): 85–115.

Ceylan, Hadi Ensar. 2017. İslâm Borçlar Hukukunda Akdin Bağlayıcılığı Phd diss., Ankara Üniversitesi.

Ceylan, Metin. 1996. 17 No'lu (H. 1156-1157 M. 1743-1744) Adana Şer'iye Sicili Transkripsiyon ve Kataloğu. Master's Thesis. İnönü Üniversitesi.

Cezar, Yavuz. 1999. "From Financial Crisis to the Structural Change: The Case of the Ottoman Empire in the Eighteenth Century." *Oriente Moderno* 18(79): 49–54.

Coşgel, Metin, and Boğaç Ergene. 2016. *The Economics of Ottoman Justice: Settlement and Trial in the Sharia Courts*. Cambridge: Cambridge University Press.

Crone, Patricia. 1984. "Jahili and Jewish Law: The Qasama." *Jerusalem Studies in Arabic and Islam* 4: 153–201.

Darling, Linda T. 1996. *Revenue-Raising Legitimacy Tax Collection Finance Administration in the Ottoman Empire 1560-1660*. Leiden: Brill.

Demirci, Süleyman, and Hasan Arslan. 2012. "Osmanlı Türkiyesinde Eşkiyalık Faaliyetlerini Önlemeye Yönelik Alınan Tedbirler ve Uygulanan Cezalara Dair Gözlemler: Maraş Eyâleti Örneği (1590-1750." *History Studies* 7(3): 74–103.

Doumani, Beshara. 1995. *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900*. Berkeley and Los Angeles: University of California Press.

Düzdağ, M.Ertuğrul. 2018. *Şeyhülislâm Ebussuud Efendi Fetvaları: Kanunî Devrinde Osmanlı Hayatı*. İstanbul: Kapı Yayınları.

Düzenli, Pehlul. 2013. *Ma'rûzât: Şeyhülislâm Ebussuûd Efendi*. İstanbul: Klasik.

Eldem, Edhem. 1999. "18. Yüzyıl ve Değişim." *Cogito* 19: 189–199.

Ergene, Boğaç. 2004. "Evidence in Ottoman Courts: Oral and Written Documentation in Early-Modern Courts of Islamic Law." *Journal of the American Oriental Society* 124(3): 471–491.

Ertuğ, Hüseyin Nejdet. 1997. Osmanlı Kefâlet Sistemi ve 1792 Tarihli Bir Kefâlet Defterine Göre Boğaziçi. Master's Thesis. Sakarya Üniversitesi: .

Esen, Bilal. 2003. İslam Hukukunda Nezir ve Adak. Master's Thesis. İstanbul Üniversitesi.

Fadl, El, and Khaled Abou. 2017. "Qur'anic Ethics and Islamic Law." *Journal of Islamic Ethics* 1: 7–28.

Faroqhi, Suraiya. 1995*a*. "Introduction." In *Coping With The State: Political Conflict and Crime in the Ottoman Empire 1550-1720*, ed. Suraiya Faroqhi. VII-XXIII. Istanbul: The ISIS Press.

Faroqhi, Suraiya. 1995*b*. "Räuber, Rebellen und Obrigkeit im osmanischen Anatolien." In *Coping With The State: Political Conflict and Crime in the Ottoman Empire 1550-1720*, ed. Suraiya Faroqhi. Istanbul: The ISIS Press p. 163–178.

Faroqhi, Suraiya. 2006. "Guildsmen and Handicraft Producers." In *The Cambridge History of Turkey*, ed. Suraiya Faroqhi. Vol. 3 New York: Cambridge University Press p. 336–355.

Findley, Carter Vaughn. 2006. "Political Culture and the Great Households." In *The Cambridge History of Turkey*, ed. Suraiya Faroqhi. Vol. 3 New York: Cambridge University Press p. 65–80.

Genç, Mehmet. 2007. *Osmanlı İmparatorluğu'nda Devlet ve Ekonomi*. İstanbul: Ötüken Neşriyat.

Gerber, Haim. 1994. *Society, and Law in Islam: Ottoman Law in Comparative Perspective*. New York: State University of New York Press.

Gerber, Haim. 1999. *Islamic Law and Culture 1600-1840*. Leiden: Brill.

Gruber, Christiane. 2016. "Nazr Necessities: Votive Practices and Objects in Iranian Muharram Ceremonies." In *Ex-Voto: Votive Giving Across Cultures*, ed. Ittai Weinryb. Chicago: University of Chicago Press p. 246–275.

Göker, Gökden. 2015. 2 Numaralı Sivrihisar Şer'iyye Sicili (Transkripsiyon-Tahlil. Master's Thesis. Eskişehir Osmangazi Üniversitesi.

Gül, Abdulkadir. 2015. "Osmanlı Dönemi Dersim Bölgesinde Yaşanan Güvenlik Sorunları." *Akademik Sosyal Araştırmalar Dergisi* 3(18): 1–33.

Gürbüz, Sevda. 2009. 296 Numaralı Karaman Şer'iye Sicili Çerçevesinde 1829-1832 Yılları Arasında Karamanda Sosyal, İdarî ve Hukukî Hayat. Master's Thesis. Selçuk Üniversitesi.

Halaçoğlu, Yusuf. 1991. *XVIII. Yüzyılda Osmanlı İmparatorluğu'nun İskân Siyaseti ve Aşiretlerin Yerleştirilmesi*. Ankara: Türk Tarih Kurumu.

Hallaq, Wael B. 1999. "Qadi's Communating: Legal Change and the Law of Documentary Evidence." *al-Qantara* 20: 437–466.

Hallaq, Wael B. 2002. "A Prelude to Ottoman Reform: Ibn Âbidîn on Custom and Legal Change." In *Histories of the Modern Middle East: New Directions*, ed. Israel Gershoni, Hakan Erdem, and Ursula Woköck. Boulder London: Lynne Rienner Publishers p. 37–61.

Hallaq, Wael B. 2004. *Authority, Continuity and Change in Islamic Law*. Cambridge: Cambridge University Press.

Hallaq, Wael B. 2005. *The Origins and Evolution of Islamic Law*. Cambridge: Cambridge University Press.

Hallaq, Wael B. 2009. *Sharia: Theory, Practice, Transformations*. Cambridge: Cambridge University Press.

Hanioğlu, Şükrü. 2008. *A Brief History of the Late Ottoman Empire*. Princeton and Oxford: Princeton University Press.

Hassan, Hussein. 2002. "Contracts in Islamic Law: The Principles of Commutative Justice and Liberality." *Journal of Islamic Studies* 13(3): 257–297.

Hathaway, Jane. 1997. *The Politics of Households in Ottoman Egypt: The Rise of the Qazdağlis*. New York: Cambridge University Press.

Heyd, Uriel. 1969. "Some Aspects of the Ottoman Fatwâ." *Bulletin of the School of Oriental and African Studies* 32(1): 35–56.

Heyd, Uriel. 1973. *Studies in Old Ottoman Criminal Law*. Oxford: Clarendon Press.

Hourani, Albert. 1968. "Ottoman Reform and the Politics of Notables." In *Beginnings of Modernization in the Middle East: The Nineteenth Century*, ed. William R. Polk, and Richard L. Chambers. Chicago and London: The University of Chicago Press p. 41–65.

Imber, Colin. 1997. *Ebu's-su'ud: The Islamic Legal Tradition*. Edinburg: Edinburg University Press.

Jennings, Ronald C. 1978. "Kadi, Court, and Legal Procedure in 17th c. Ottoman Kayseri: The Kadi and the Legal System." *Studia Islamica* 48: 133–172.

Jennings, Ronald C. 1993. *Christians and Muslims in Ottoman Cyprus and the Mediterranean World 1571-1640*. New York: New York University Press.

Johansen, Baber. 1988. *The Islamic Law on Land Tax and Rent: The Peasants' Loss of Property Rights as Interpreted in the Hanafite Legal Literature of the Mamluk and Ottoman Periods*. London, New York, Sydney: Croom Helm.

Johansen, Baber. 1995. "Casuistry: Between Legal Concept and Social Praxis." *Islamic Law and Society* 2(2): 135–156.

Johansen, Baber. 1999. *Contingency in a Sacred Law, Legal and Ethical Norms in the Muslim Fiqh*. Leiden, Boston, Köln: Brill.

Kafadar, Cemal. 1981. Yeniçeri-esnaf Relations: Solidarity and Conflict. Master's Thesis. McGill University.

Kafadar, Cemal. 1991. "On the Purity and Corruption of the Janissaries." *Turkish Studies Association Bulletin* 15(2): 273–280.

Karagöz, Mehmet. 1994. "XVIII. Yüzyılın Başlarında Malatya ve Çevresindeki Eşkiyalık Hareketleri." *OTAM* 5: 193–207.

Karakuş, Hasan. 2006. 121 Numaralı 'Ayntab Şer'iyye Sicili H. 1179-1200/M. 1765-1785. Master's Thesis. Fırat Üniversitesi.

Kasaba, Reşat. 2009. *A Moveable Empire: Ottoman Nomads, Migrants, and Refugees*. Seattle and London: University of Washington Press.

Kayaçağlayan, Naime Yüksel. 2011. 1714-1715 Tarihleri Arasında Gaziantep'te Sosyal, Siyasî ve İktisadî Yapı (65 Numaralı Gaziantep Şer'iye Sicili Metin Transkripsiyonu ve Değerlendirmesi). Master's Thesis. Kilis 7 Aralık Üniversitesi.

Khoury, Dina Rizk. 1997. *State and Provincial Society in the Ottoman Empire: Mosul 1540-1834*. New York: Cambridge University Press.

Khoury, Dina Rizk. 2006. "The Ottoman Centre Versus Provincial Power-Holders: An Analysis of the Historiography." In *The Cambridge History of Turkey*, ed. Suraiya Faroqhi. Vol. 3 New York: Cambridge University Press p. 135–156.

Koç, Yavuz. 2011. 149 Numaralı Mühimme Defteri (1155-1156/1742-1743) İnceleme-Çeviriyazı-Dizin. Master's Thesis. İstanbul Üniversitesi.

Külek, Ahmet. 2010. 71 Numaralı Gaziantep Şer'iye Sicili Transkripsiyonu (1-101. Sayfalar-H.1132/M. 1720). Master's Thesis. Yüzüncü Yıl Üniversitesi.

Kılıç, Muharrem. 2009. "Osmanlı Fetva Literatüründe Gayrimüslimlere Tanınan Din ve İbadet Özgürlüğü: Fetâvâ-yı Ali Efendi Örneklemi." *İslam Hukuku Araştırmaları Dergisi* 13: 63–82.

Kırlı, Cengiz. 2010. "Devlet ve İstatistik: Esnaf Kefalet Defterleri Işığında III. Selim İktidarı." In *Nizâm-ı Kadîm'den Nizâm-ı Cedîd'e III. Selim ve Dönemi*, ed. Seyfi Kenan. İstanbul: İSAM p. 183–212.

Kısa, Yavuz. 2015. H. 1091-1092/M. 1680-1681 (s. 125-247) Tarihli Harput Şer'iyye Sicili (Transkripsiyon ve Değerlendirme). Master's Thesis. Fırat Üniversitesi.

Libson, Gideon. 1997. "On the Development of Custom As a Source of Law in Islamic Law: Al-rujūu ilā al-urfi aadu al-qawāidi al-khamsi allatī yatabannā alayhā al-fiqhu." *Islamic Law and Society* 4(2): 131–155.

Libson, Gideon. 2000. "Urf (Custom." In *Encyclopaedia of Islam*, ed. P.J. Bearman, C.E.Bosworth Th. Biancuis, E. Donzel, and W.P. Heinrichs. p. 887–888.

Libson, Gideon. 2003. *Jewish and Islamic Law: A Comparative Study of Custom during the Geonic Period*. Cambridge, Mass, United States: Harvard University Press.

Marcus, Abraham. 1989. *The Middle East on the Eve of Modernity: Aleppo in the Eighteenth Century*. New York: Columbia University Press.

Masters, Bruce. 2006. "Semi-autonomous Forces in the Arab Provinces." In *The Cambridge History of Turkey*, ed. Suraiya Faroqhi. Vol. 3 New York: Cambridge University Press p. 186–206.

Masud, Muhammad Khalid, Brinkley Messick, and David S. Powers. 1996. "Muftis, Fatwas, and Islamic Legal Interpretation." In *Islamic Legal Interpretation: Muftis and Their Fatwas*, ed. Muhammad Khalid Masud, Brinkley Messick, and David S. Powers. Cambridge, London: Harvard University Press p. 3–32.

McGowan, Bruce. 1995. "The Age of the Ayans, 1699-1812." In *An Economic and Social History of the Ottoman Empire, 1300-1914*, ed. Halil İnalcık, and Donald Quataert. Cambridge: Cambridge University Press p. 637–758.

Mottahedeh, Roy P. 2001. *Loyalty and Leadership in an Early Islamic Society*. London, New York: I. B. Tauris.

Murphey, Rhoads. 1987. "Provisioning Istanbul: The State and the Subsistence in the Early Modern Middle East." *Food and Foodways: Explorations in the History and Culture of Human Nourishment* 2(1): 217–263.

Nabti, Patricia Mihaly. 1998. "Contractual Prayer Of Christians and Muslims in Lebanon." *Islam and Muslim-Christian Relations* 9(1): 65–82.

Nagata, Yuzo. 1999. *Muhsin-zâde Mehmet Paşa ve Âyanlık Müessesesi*. İzmir: Akademi Kitabevi.

Orhonlu, Cengiz. 1987. *Osmanlı İmparatorluğu'nda Aşiretlerin İskânı*. İstanbul: Eren Yayıncılık.

Orhonlu, Cengiz. 1990. *Osmanlı İmparatorluğu'nda Derbend Teşkilâtı*. İstanbul: Eren Yayıncılık.

Pakalın, Mehmet Zeki. 1971. *Osmanlı Tarih Deyimleri ve Terimleri Sözlüğü*. Vol. 2 İstanbul: Milli Eğitim Basımevi.

Pedersen, Johs. 1993. "Nadhr." In *Encyclopaedia of Islam*, ed. P.J. Bearman, C.E.Bosworth Th. Biancuis, E. Donzel, and W.P. Heinrichs. Leiden: E. J. Brill p. 846–847.

Peirce, Leslie. 2003. *Morality Tales: Law and Gender in the Ottoman Court of Aintab*. Berkeley and Los Angeles, California: University of California Press.

Peters, Rudolf. 2002. "Murder in Khaybar: Some thoughts on the Origins of the Qasama Procedure in Islamic Law." *Islamic Law and Society* 9(2): 132–167.

Quataert, Donald. 2005. *The Ottoman Empire 1700-1922*. Cambridge: Cambridge University Press.

Reinhart, A.Kevin. 1983. “Islamic Law as Islamic Ethics.” *The Journal of Religious Ethics* 11(2): 186–203.

Salur, Rabia. 2019. Şeyhülislam Hoca Sâdeddin Efendi’nin Fetva Mecmuası ve Tahlili. Master’s Thesis. Sakarya Üniversitesi.

Salzman, Ariel. 1993. “An Ancien Regime Revisited: “Privatization” and Political Economy in the Eighteenth-Century Ottoman Empire.” *Politics Society* 21(4): 393–423.

Salzman, Ariel. 2004. *Tocqueville in the Ottoman Empire: Rival Paths to the Modern State*. Leiden and Boston: Brill.

Samıkıran, Oğuzhan. 2006. 138 Numaralı Edirne Şer‘iyye Sicili H. 1119-1161/M. 1707-1748. Master’s Thesis. Fırat Üniversitesi.

Satıcı, Emre. 2008*a*. 19. Yüzyılda Hüdavendigar Eyaleti PhD Thesis Ankara Üniversitesi.

Satıcı, Emre. 2008*b*. “Tanzimat Dönemi Bursa Eyaletinde İç Güvenliğin Sağlanmasına Yönelik Önlem ve Çabalar (1839-1867.” *OTAM* 24: 175–203.

Saydam, Abdullah. 1997. “Kamu Hizmeti Yaptırma ve Suçu Önleme Yöntemi Olarak Osmanlılarda Kefâlet Usûlü.” *Tarih ve Toplum* 164: 68–76.

Seyitdanlıoğlu, Mehmet. 1996. *Tanzimat Devrinde Meclis-i Vâlâ 1838-1868*. Ankara: Türk Tarih Kurumu.

Shabana, Ayman. 2010. *Custom in Islamic Law and Legal Theory: The Development of the Concepts of ‘Urf and ‘Âdah in the Islamic Legal Tradition*. United States: Palgrave Macmillan.

Tamdoğan, Işık. 2006. “Nezir ya da XVIII. Yüzyıl Çukurovası’nda Eşkıya, Göçebe ve Devlet Arasındaki İlişkiler.” *Kebikeç* 21: 135–146.

Tanyu, Hikmet. 1967. *Ankara ve Çevresinde Adak ve Adak Yerleri*. Ankara: Ankara Üniversitesi İlahiyat Fakültesi.

Tatar, Özcan. 2005. XVIII. Yüzyılın İlk Yarısında Çukurova’da Aşiretlerin Eşkıyalık Olayları ve Aşiret İskanı (1691-1750 PhD Thesis Fırat Üniversitesi.

Tok, Özen. 2007. “XVIII. Yüzyılda Çorum ve Çevresinde Eşkiyalığı Önlemeye Yönelik Nezre Bağlama.” In *Uluslararası Osmanlı’dan Cumhuriyet’e Çorum Sempozyumu*. Vol. 1 Çorum: Çorum Belediyesi Kültür Yayınları p. 203–214.

Tsameret, Levy-Daphny. 2015. “To be a Voyvoda in Diyarbakır: Socio-Political Change in an 18th-Century Ottoman Province.” In *Society, Law, and Culture in the Middle East: “Modernities” in the Making*, ed. Dror Ze’evi, and Ehud R. Toledano. Berlin: De Gruyter p. 44–58.

Tuğ, Başak. 2017. *Politics of Honor in Ottoman Anatolia: Sexual Violence and Socio-Legal Surveillance in the Eighteenth Century*. Leiden and Boston: Brill.

Tülüveli, Güçlü. 2005. "Honorific Titles in Ottoman Parlance: A Reevaluation." *International Journal of Turkish Studies* 11(1-2): 17–27.

Uluçay, M.Çağatay. 1955. *Yüzyıllarda Saruhan'da Eşkiyalık ve Halk Hareketleri*. İstanbul: Berksoy Basımevi.

Uzun, Asuman. 2004. 857 Numaralı Ankara Şer'iyye Sicili H.1195-1196/M.1781-1782. Master's Thesis. Fırat Üniversitesi.

Watson, Alan, and Khaled Abou El Fadl. 2000. "Fox Hunting, Pheasant Shooting and Comparative Law." *The American Journal of Comparative Law* 48(1): 1–37.

Yaycıoğlu, Ali. 2012. "Provincial Power-Holders and the Empire in the Late Ottoman World." In *The Ottoman World*, ed. Christine Woodhead. London and New York: Routledge.

Yaycıoğlu, Ali, and Bruce Masters. 2009. "Ayan." In *Encyclopaedia of Islam*, ed. Gábor Ágoston, and Bruce Masters. New York: Facts on File p. 64–66.

Yıldırım, M.Zahit. 1996. 30 Numaralı Adana Şer'iye Sicil Defteri (1115/1703-1171/1757). Master's Thesis. İnönü Üniversitesi.

Yıldız, Ali. 2010. 204 Numaralı Şer'iye Sicili Defterine Göre Urfa'da Ekonomik Sosyal ve Kültürel Hayat. Master's Thesis. Marmara Üniversitesi.

Zarinebaf, Fariba. 2010. *Crime and Punishment in Istanbul, 1700-1800*. Berkeley and Los Angeles: University of California Press.

Ágoston, Gábor. 2005. "Behind the Turkish War Machine: Gunpowder Technology and War Industry in the Ottoman Empire, 1450-1700." In *The Heirs of Archimedes: Science and the Art of War through the Age of the Enlightenment*, ed. Brett D. Steele, and Tamera Dorland. Cambridge: MIT Press p. 101–133.

Çatal, Hazım. 2012. Karaferye Kazası Hicri 1201-1202 (Miladi 1787-1788) Tarihli Şer'iyye Sicili (Transkripsiyon ve İnceleme. Master's Thesis. Ege Üniversitesi.

Çetin, Cemal. 2013. *Ulak Yol Durak Anadolu Yollarında Padişah Postaları (Menzilhâneler) (1690-1750*. İstanbul: Hikmetevi Yayınları.

Çetin, Cemal. 2015. "Kamu Düzeninde Alternatif Bir Yöntem: Nezir." *Uluslararası Sosyal Araştırmalar Dergisi* 8(36): 287–310.

Çiftçi, Betül. 2017. 49 Numaralı Antep Şer'iyye Sicili Değerlendirme ve Transkripsiyonu. Master's Thesis. Kahramanmaraş Sütçü İmam Üniversitesi.

Özbek, Nadir. 2008. "Policing the Countryside: Gendarmes of the Late 19th-Century Ottoman Empire (1876-1908." *International Journal of Middle East Studies* 40(1): 47–67.

Özcan, Tahsin. 2001. "Osmanlı Mahallesi: Sosyal Kontrol ve Kefalet Sistemi." *Marife* 1: 129–151.

Özel, Ahmet. 1988. "Adak." *Diyanet İslam Ansiklopedisi* I: 337–340.

Özkaya, Yücel. 1994. *Osmanlı İmparatorluğu'nda Âyânlık.* Ankara: Türk Tarih Kurumu Basımevi.

Öztürk, Emrullah. 2014. R-8 Numaralı Rusçuk Kadı Sicili Transkripsiyon ve Tahlili (H. 1192-1193/M. 1778-1779). Master's Thesis. Eskişehir Osmangazi Üniversitesi.

Öztürk, Said. 2002. "Osmanlı Devleti'nde Tüketicinin Korunması." *Türkler* 10: 850–860.

İnalcık, Halil. 1969. "Capital Formation in the Ottoman Empire." *The Journal of Economic History* 29(1): 97–140.

İnalcık, Halil. 1977. "Centralization and Decentralization in Ottoman Administration." In *Studies in Eighteenth Century Islamic History*, ed. Thomas Naff, and Roger Owen. Carbondale and Edwardswille: Southern İllinois University Press p. 27–52.

İnalcık, Halil. 1980. "Military and Fiscal Transformation in the Ottoman Empire, 1600-1700." *Archivum Ottomanicum* 6: 283–337.

İnalcık, Halil, and Carter Vaughn Findley. 1991. "Mahkama." In *Encyclopaedia of Islam 6*, ed. P.J. Bearman, C.E.Bosworth Th. Biancuis, E. Donzel, and W.P. Heinrichs. Leiden: E. J. Brill p. 1–11.

İpşirli, Mehmet. 1992. "İnsan Hakları ve Sosyal Hayat Açısından Osmanlı Fetvâları." In *Türklerde İnsanî Değerler ve İnsan Hakları, Osmanlı İmparatorluğu Dönemi 2. Kitap.* İstanbul: Türk Kültürüne Hizmet Vakfı p. 103–118.

Şola, Erhan. 2014. 537 Numaralı Karahisar-ı Sâhib Sancağı Şer'iyye Sicili (1140-1142 H. / 1727-1729 M.). Master's Thesis. Atatürk Üniversitesi.