CONTROLLING THE BACHELORS OF ISTANBUL DURING THE OTTOMAN MODERNIZATION PERIOD AND THE REGULATIONS ON VAGABONDS

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ABSTRACT

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Keywords: Bachelor, Vagabond, Late Nineteenth Century, Istanbul, Ottoman
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This study examines the perception of being a bachelor, a vagabond, and a worker
in the late nineteenth and early twentieth centuries of Ottoman Istanbul, especially,
focusing on the state's attitude towards vagabonds. The aim of this study is to
analyze how these conceptions overlap and part from each other. In this sense,
I discuss that bachelors were categorized as vagabonds if they were unemployed,
and in case of their employment, they were categorized simply as workers. The
categorization of vagabonds meant to control some groups in society by labelling
them as 'potential criminals', which was applied not only by the Ottoman state
but also by the British and French states. In this context, I compare two Ottoman
legislations on vagabonds. The first one is the Regulation on Vagabonds of 1890,
and the second one is the Law on Vagabonds of 1909. By comparing both legal
documents, I analyze the changing definition to be considered as a vagabond.

In order to understand the historical context of these legislations, the political,
economic, social and legal contexts of the nineteenth century have been taken into
consideration. Concluding my study, I suggest that these regulations on vagabonds
were one of the tools for legitimizing Ottoman state's administrative and ideological
control over the working population.

ÖZET

OSMANLI MODERNLEŞME SÜRECİNDE İSTANBUL'UN BEKARLARININ KONTROL EDİLMESİ VE SERSERİLER HAKKINDA DÜZENLEMELER

LAYRA METE

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Bu çalışmada, 19. yüzyıl sonu ve 20. yüzyıl başı Osmanlı İstanbul'unda bekar, serseri ve işçi olmanın algılanışı, özellikle devletin serserilere karşı tutumuna odaklanarak incelemektedir. Amaç bu kavramların birbirleri ile nasıl kesiştiğini ve ayrıldığını analiz etmektir. Bu anlamda, bekarların işsizler ise serseri olarak sınıflandırıldığını ve işleri olduğunda da basitçe işçi olarak kategorize edildiklerini tartışmaktayım. Sadece Osmanlı devleti için değil, İngiliz ve Fransız devletleri için de bazı gruplar serseri sınıflandırılması ile 'potansiyel suçlu' olarak etiketlenmiş, böylelikle de toplumun kontrol edilmesi amaçlanmıştır. Bu bağlamda, serserilerle ilgili iki Osmanlı kanununu karşılaştırmaktayım. Birincisi 1890'daki Serseri Nizamnamesi, ikincisi ise 1909'daki Serseri Yasası. Her iki yasal belgeyi de karşılaştırarak, serseri olarak sayılmak için değişen tanımı analiz etmekteyim.

Bu yasaların tarihsel bağlamını anlamak için on dokuzuncu yüzyılın siyasi, ekonomik, sosyal ve hukuki bağlamları dikkate alınmıştır. Çalışmamı sonlandırırken, serserilerle ilgili bu düzenlemelerin Osmanlı devletinin emekçi nüfus üzerinde idari ve ideolojik denetimini meşrulaştıran araçlardan biri olduğunu önermekteyim.

ACKNOWLEDGEMENTS

To my family and friends

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LIST OF ABBREVIATIONS

CUP: Committee of Union and Progress

DOA: Devlet Arşivleri Başkanlığı Osmanlı Arşivi

MMZC: Meclis-i Meb'usan Zabıt Cerideleri

1.   INTRODUCTION

The nineteenth-century Ottoman Empire has been a subject of numerous studies on various issues. It is especially an attractive century to study regarding the dissolution of the empire and the formations of new nation-states. This disintegration process of the empire was to a significant extent a spillover effect of the nationalist ideas that sparkled with the French Revolutions and expanded following the Napoleonic Wars. In terms of these, the Ottoman Empire tried to take some precautions such as transforming the existing economic, political, and social institutions or reforming them. Although some of the institutions dissolved in time, some other institutions were reformed or maintained to survive and adapted according to the needs of the empire. There are a number of studies delving upon different aspects of institutional changes such as M. Mert Sunar's research on military reform (2006), Y. Hakan Erdem's investigations on slavery as an institution (1996), S. A. Somel's works on education (2001), or G. E. Balsoy's surveys on public health issues (2015), to mention among others. However, notable scholars such as Bernard Lewis, Şerif Mardin, and Carter Findley have studied Ottoman nineteenth century from the perspective of the Modernization paradigm by comparing the Ottoman Empire with other states in terms of its relative backwardness. From this perspective, the Ottoman state's various attempts to transform the existing structures or to establish new institutions considered signs of progress to build a modern economy, society, and state.

From the viewpoint of the Modernization paradigm, historical events have been evaluated as dichotomies and have been considered in terms of binary analyzes. While this kind of perception helped to understand the historical events within a wider inference, it lacked multifaceted analyzes on the subjects and the events. In order to overcome this shortcoming, studies focusing on the historical agencies of concrete social groups, their networks, individuals have been undertaken in recent decades. To understand the social history of a capital city such as Istanbul during the era of modernization in a comprehensive manner, there is a need to study the bachelors of this major city in the late nineteenth and early twentieth century. For centuries bachelors used to constitute a significant economic component of the urban population. Since my research interest lies in the history of the working class

in Istanbul, the main focus of this study is the bachelors of Istanbul during the late nineteenth century. I have been particularly curious about the vagueness of the legal categorization of these individuals, either, as vagabonds or as working poors in the capital.

Istanbul was the main political and economic center of the Ottoman Empire. Also, it had a symbolic meaning of representing the Islamic conquest by ending the last heritage of the Eastern Roman Empire. After the conquest of Constantinople, the Ottoman Empire became a multi-religious structural empire comprising various ethnic groups. Also, due to various issues such as war, scarcity, and/or natural disasters Istanbul had an increasing trend of incoming migrants for centuries. "As a port city and as the capital of a vast empire, Istanbul was a magnet for migrants because of its numerous opportunities for newcomers of every religious and ethnic background" (Zarinebaf 2010, 35).

On the other hand, in the nineteenth century, nationalism was one of the main ideologies which affected the Ottoman Empire as well as the globe. In 1821, Greeks engaged in a rebellion to gain independence. It was not the first rebellion or a riot in the Ottoman territories. It was, however, the first one that resulted in establishing a sovereign state. Due to the war and its results, there was a migration movement to the remaining lands of the empire or the other way around (Zurcher 1998, 33-7). Due to political, economic, military, or social several reasons as well as the independence of Greece, the emphasis on controlling society, maintaining the territorial integrity of the empire, and suppressing the nationalist ideas became increasingly important for the continuity of the empire during the century. As a result, the Ottoman state undertook various steps to ensure its territorial integrity based on its capabilities such as implementing new regulations and reforming attempts were integrated to earlier mechanisms to maintain social order. These capabilities included developments in state governance and technological advancements throughout the century. The outcomes of these developments were infrastructural and communicational investments in fields such as telegraph, railways, and newspapers. But as a paramount effect, the modernization of the bureaucracy was both an example and an outcome of the increasing capacity of the state to expand its operational capabilities. These operational capabilities included collecting information as well as using this information to control society.

Rising nationalist movements were one facet of the nineteenth century. Along with the integration of the global capitalist economy, the empire became a semi-peripheral state. It was not a colony, but there was only limited development in terms of its economic, political, military, and social structures compared to central states such

as England and France. As an example for the Ottoman state to overcome the lack of adaptation to the world system in terms of military structure, the Janissary Corps was abolished in 1826. Until the abolishment of the Janissary Corps, they represented mostly Muslims working poor class of Istanbul's society such as porters and boatmen (Quataert 2010, 33). Some retired Janissaries could work as innkeepers who were guarantors of bachelors which was a way of social controlling mechanism. Nonetheless, with the abolishment of the Janissary Corps' new social order mechanisms became necessary to control bachelors (Zarinebaf 2010, 128).

In Istanbul, controlling society not only meant controlling bachelors but also meant controlling the population movement from inside and outside of the empire. For the first 400 years of the empire, the main reason for the migrations was derived from economic grounds, but starting with the eighteenth century forced migration regarding political reasons became the main reason, and it continued to extend its importance in the nineteenth century, additionally, almost all of these politically and religiously forced immigrants were Muslims (Karpat 2003, 15). Even centuries before the last hundred years of the empire, there were settlement policies to strengthen the central authority in the provinces as much as possible. Also, there was a *çift-bozan* (farmer breaker's) tax to restrict peasants to abandon their lands and to limit their mobility. Regarding the nationalist ideas and limiting the possible threats, controlling the population movements gained special importance during the nineteenth century (Herzog 2011, 119).

The issue of bachelors might also be approached from the perspective of population movements (Ener 2005, 505). They were recognized as possible threats to the traditional social order in various periods and tried to be controlled by the state (Ener 2005, 508). In practice, it was impossible to establish complete control over them. Bachelors were either not married or they migrated to the city without their families (Riedler 2008, 240). They could be permanent residents of the city or temporary residents such as seasonal workers (Duben and Behar 2014, 39). Their existence in the city created concerns as a possible threat to honor of women (Basiretçi 2001, 41), to social order in terms of possible criminal activities (Ergut 2004, 124), to hygiene in terms of the spread of diseases[1], and so on. Together with the modernization process of the empire, the controlling mechanism on bachelors also evolved and gained varying shapes (Ener 2005, 504). The reason for that was their various identities aside from being a bachelor. Some of them were workers or unemployed people. The working bachelors were mostly the members of the working poor class of Istanbul (Ergut 2004, 70), and they were the backbone of Istanbul's economic activities (Riedler 2008, 235). Most of the time, they worked at badly-paid jobs for

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[1]Devlet Osmanlı Arşivi, DH.MKT., 1761-114, 2 Safer 1308 (17 Sep. 1890).

long hours.

Moreover, controlling attempts on bachelors of the Ottoman state was not distinctive to the nineteenth century. There were several regulations and implementations to maintain the public order, especially, in Istanbul. Therefore, examining the early implementations on bachelors to understand the evolving controlling mechanisms are necessary. In this context, I will also examine earlier regulatory attempts to underline the importance of the 'Regulation on Vagabonds and Suspected Persons' that was enacted in 1890, and the 'Law on Vagabonds and Suspected Persons' promulgated in 1909.

Further, the long history of the Ottoman state on controlling bachelors was originated and was formed from the need of regulating society in order to prevent any possible disorderly event. Due to the state attempting to take action for preventing possible perturbing events, some groups in society were categorized as 'suspected criminals.' However, the vague definition of the state in categorizing 'suspected criminals' also caused uncertainty while labeling bachelors. For example, in most cases, the bachelors stayed at inns/bachelor rooms, and innkeepers/managers were their guarantors. Yet, when the situation for the wealthy bachelors was considered, they might have bought a home or might have stayed for some time with their family's friends. Therefore, they might not be controlled by a guarantor. Even though the social controlling practices developed in the nineteenth century with the support of statistical improvements in the Ottoman Empire, it was impossible to control people in that detail. Nonetheless, it is possible to study the attempts of the state to control bachelors regarding the regulations and the law.

1.1 Literature on Bachelors and Vagrancy

The main sources of this study are the legislations of the Ottoman Empire on vagrancy. To be more specific, these primary sources are the 'Regulation on Vagabonds and Suspected Persons' that was enacted in 1890, and the 'Law on Vagabonds and Suspected Persons' that was enacted in 1909. These two legislations also correspond to two highly examined periods in studies of the Ottoman Empire by historians.

The first legislation, the Regulation of 1890 corresponds to the reign of Abdülhamid II (1876-1909). The second one, the Law of 1909 corresponds to the last year of Abdülhamid II's reign, and also to the period in which the Committee of Union and

Progress (CUP) was dominant as the ruling elite. These legislations can be found in the register of laws (*Düstur*) which should be evaluated as an outcome of the codification project of the Ottoman Empire. The underlying period of these legal transformations, especially, for the register of laws was the period of Tanzimat. "The codification project expanded in tandem with the growth of official publications. Some collections of statutes that came out irregularly in the early 1850s evolved into the single most important platform for distribution of laws, the *Düstur* (register of laws). The first volume came out in 1863..." (Rubin 2019, 12).

The register of laws was categorized into two periods, the first layout of the eight volumes covers the legislations that were enacted until 1908. The second layout of the twelve volumes covers the period from 1908 to 1920. Due to the research topic of this study, the Regulation of 1890 takes part in the first layout of the register of laws' sixth volume. This sixth volume covers the legislations that correspond to the period nearly between 1887 to 1890. The second legislation that I examine on vagabonds that is the Law of 1909 takes part in the second layout of the register of laws' first volume. This first volume covers a period roughly from 1908 to 1910. Both volumes of the register of laws can be found in the library of the Grand National Assembly of Turkey (*Türkiye Büyük Millet Meclisi*) that are also digitilagized on their website.

Further, aside from these legislations, other primary sources that were used in this study can be categorized into three. The first category of these primary sources are texts that were written by witnesses such as Basiretçi Ali Efendi, Francis Marion-Crawford, and Hagop Mıntzuri. Basiretçi Ali Efendi was an Ottoman journalist who recorded the daily issues that he witnessed or heard by other people in the 1870s. Francis Marion-Crawford was an American writer who wrote his witnessings on daily life in Istanbul for the period of the early 1890s. Lastly, Hagop Mıntzuri was a worker who migrated to Istanbul from eastern Anatolia to work. He was an Armenian subject of the empire, and he recorded his witnessings for a period between 1897 to 1940. Furthermore, apart from these memoirs, the second category of the primary sources is the other state documents. I used the records on parliament discussions of 26 May 1877 and 24 March 1909 on vagrancy, and the two inspection reports on the places that bachelors lived that dated as 1890 and 1901. The final category for the primary sources that I used is a newspaper article that was published in *Tanin* on the issue of the Law on vagrancy. Also, I should remark that *Tanin* was established after the promulgation of the Second Constitutional Period in 1908, and it was known for its close relationship with the CUP.

The existing studies in the literature on bachelors and vagrancy in Istanbul have

primarily concentrated on four approaches. These four approaches can be sorted as studies that focus on social controlling mechanisms, legal developments, social interactions such as places and social relationships, and migration. The approach that focuses on the social controlling mechanisms examines the Ottoman state's and/or ruling elites' attitudes or precautions on any groups who could cause a disorder in society such as poors, bachelors, beggars, and vagabonds. The studies that mainly focus on the topic of social controlling mechanisms also can be distinguished into two according to the periodization of the studies. The first period corresponds to the studies that examine the pre-nineteenth century (Başaran 2014; Zarinebaf 2010). The second period corresponds to the studies that examine the controlling mechanisms or ruling elites' discourses in the nineteenth century (Ergut 2004; Özbek 2009; Yılmaz 2014). These studies on social controlling mechanisms or -in general- public order focus on the state by examining the institutional transformations. All studies from both periodizations of the pre-nineteenth century and the nineteenth century refer to the significance of the Janissary Corps to maintain order in Istanbul (Ergut 2004; Yılmaz 2014; Zarinebaf 2010). Examining the role of Janissaries' involvements in the social, political and economic structures in terms of their role of controlling bachelors had a significant role. However, with the abolition of the Janissary Corps, new mechanisms to sustain public order emerged to control the poor, bachelors, and vagabonds.

Moreover, not only for the studies that focus on the Ottoman Empire but also for the context of England and France, vagrancy was studied with a close relationship with poverty (Berlanstein 1979; Lawrence 2000). In the literature, there is quite a study analyzing vagrancy due to its relationship with poverty, because the poor class was considered as the suspected criminals by the ruling elite and the precautions were attempted to be taken accordingly. In this regard, the studies examine not only vagabonds but also beggars or the poor in general (Özbek 2009; Vorspan 1977), as well as the policing practices of the poor (Ener 2005; Lawrence 2017).

On the one hand, the studies that examine the bachelors regarding their social interactions mostly focus on the places to examine the interactions of the state-society relationships. These studies that focus on the places analyze the interaction within society by concentrating on coffeehouses, taverns, bachelor rooms, inns, and guesthouses (Çokuğraş 2013a; Kırlı 2006; Tamdoğan-Abel 2008; Tellan 2016). On the other hand, while examining social interactions some studies focus on the issue from a larger scale such as concentrating on neighborhoods (Behar 2004; Duben and Behar 2014), and compatriotness (Kırlı 2015). On top of that, some studies approach the issue from a wider angle compared to examining places or interactions. The study of Boyar and Fleet (2010) examines the nineteenth century transformation of

the city by considering various issues. As the authors state those transformations: "New fashions arrived from Europe, new political ideas and concepts of state began to permeate the political circles of the capital, and even views on how a city should be laid out altered. Yet for all this innovation, Istanbul remained the lively, disorganised, chaotic and dynamic metropolis it had always been, and novelties arrived, were absorbed and became part of the Ottoman fabric just as they always had" (Boyar and Fleet 2010, 271).

Moreover, the studies on migration approach in the literature examines bachelors as immigrants or according to the migration policies of the state. In these studies, bachelors are examined as people who migrated to Istanbul freely such as seasonal workers, or people who migrated to the city because they were forced by an order of the state or as a consequence of a warfare (Herzog 2011; Lafi 2011; Riedler 2008; Riedler 2011).

Additionally, the existing studies in the literature on bachelors employ two discourses; the studies of the first discourse question the documents of the state and inquire about the daily practices as much as possible. While employing this discourse, as an example of social control or public order studies, İlker Cörüt in his thesis examines the changing perception of work, society, and crime in the late Ottoman empire. He examines the criminal activities by separating them into two as the property crimes and the crimes of violence. As a result, he says that there was not a criminal class that was separated from other classes of society. Yet, he says that the regulations on vagabonds contributed to constructing an image of the criminal unemployed class (Cörüt 2005, 4). As he mentions that, such a division between the poor or vagrant people was not possible but they had assumed as the criminals regarding their evil nature, who were labeled as *homo criminals*. By referring to Ferdan Ergut, he mentions that these attempts had been taken by the ruling elites to legitimize the police department (Cörüt 2005, 4). Similar to my inquiry, he mentions the impossibility to draw strict lines between classes or a group of people in terms of social grouping. Labeling people as criminals to create a criminal class was a way for establishing hegemony on these people (Cörüt 2005, 113). Besides, from a methodological approach it was possible to separate the professional criminals by not making generalizations as 'vagabonds'. This conceptualization of vagabonds and working poor within a social context as criminals was a tool for legitimizing the need for a government-controlled social order (Cörüt 2005, 110).

On the contrary, the studies that employ the second discourse used the language of the state documents. In other words, these studies of the second discourse, employ a state-centric understanding with a lack of questioning the facts of the opponent's

side. In this case, the opponent is the marginalized groups of society. Also, these studies do not question the discourse of the state documents, they accept them as accurate, and they use the same language of the state while marginalizing these groups.

I encountered this approach in Mehmet Demirtaş's study (Demirtaş 2017). In his article, Demirtaş examines the Ottoman state's struggle to eliminate perturber groups which caused a public disorder in the first half of the nineteenth century. He classifies these perturber groups in two categories, the first one is the crimes against property, such as theft and pickpocketing; and the second one is the crimes against the security of life, such as murder and bodily harm (Demirtaş 2017, 481). Demirtaş states that 'mob' people such as vagabonds, thieves, or beggars kept mostly state officials occupied in the first half of the nineteenth century (Demirtaş 2017, 481). In his study, Demirtaş does not only interiorize the discourse of the Ottoman state against the marginalized groups, but he also makes generalizations by using the state's discourse without concrete evidence. For example, he makes a generalization regarding Croatians by saying that they were part of every evil activity and brigandage 'since ever' as well as their actions of crimes were increasing in terms of theft and violence (Demirtaş 2017, 485). But he does not elaborate on the issues such as (1) Since when the Croatians were part of every evil activity? (2) What does every evil activity mean? (3) Since when Croatians' criminal activities were increasing and why? (4) Who were these Croatians; were they bachelor men, widowed women, orphan children, and/or elderly people who were not capable of work so they had to beg or steal? (4) What was their motivation to commit a crime? (5) Did they commit a crime to defend themselves or to survive? (6) Or did they just commit a crime without any reason or because it was in their 'nature'?

In his study, Demirtaş does not discuss the cases in a detailed manner, and he does not elaborate on the events by focusing on each event separately. Instead, he generalizes these events on crimes with a lack of evidence while not referring to the limitations of the events. For example, he mentions from 'some soldiers' who created chaos in Üsküdar and threatened the lives and the property of people who also made immoral activities to normalize prostitution, shoot in the streets randomly at nights, and hurt people (Demirtaş 2017, 496). He refers to these events without mentioning any time, also without criticizing the reality of these events. He acknowledges these kinds of official information in a literary way. He mentions these events by referring to the source of *'Cabi Tarihi'* and he says that these soldiers were judged but not punished (Demirtaş 2017, 496). However, he does not mention any record of this trial or any attempt to find this record on trial which could demonstrate evidence for these events. To sum up, in his study, Demirtaş does not criticize the discourse

of his sources or the Ottoman state's attitude on the marginal groups of society, and he examines the issues subjectively.

Lastly, I want to refer to the significance of the studies on Istanbul done by Reşat Ekrem Koçu and Ahmet Refik Altınay. These studies of two authors on the social life of Istanbul are valuable. Especially, their mentionings on bachelors and relevant concerns with bachelors in these studies that need an examination in a more detailed manner. These studies of those authors provide various information for researchers to analyze the bachelors of Istanbul in detail, which might be subject to future research. Specifically, the examination of Ahmet Refik Altınay's studies on the tenth, eleventh, and twelfth Hijri centuries of Istanbul is a subject of study of itself. With these three studies, Altınay conducted social history research covering almost three hundred years of the city, which covers an extensive period for an important city like Istanbul. Ahmet Refik Altınay's study on the tenth Hijri century approximately examines the period from the end of the fifteenth century to the end of the sixteenth century (Altınay 2000). His examination of the eleventh century of Istanbul roughly analyzes a period from the end of the sixteenth century to the end of the seventeenth century (Altınay 1931). Eventually, his work on the twelfth Hijri century of Istanbul's history covers the period from around the end of the seventeenth century to the end of the eighteenth century (Altınay 1930).

Further, the mentionings of bachelors by Reşat Ekrem Koçu in the Istanbul Encyclopedia are likewise of great importance (Koçu 1961) as Altınay's studies. Reşat Ekrem Koçu suggests in his encyclopedia that the concept of 'bachelors' holds an exceptional significance in the history of Istanbul, and to emphasize this significance, he gives an example of the word 'bachelor' in some street names (Koçu 1961, 2392). While emphasizing the importance of bachelors in the city, Koçu indicates the value of some well-known bachelors such as writers, poets, academics, or medical doctors and their effects on the social, educational or cultural structures of Istanbul and the empire (Koçu 1961, 2393). Furthermore, Koçu refers to the perception of the residents of Istanbul on bachelors. While explaining this perception of other people, he refers to the early Tanzimat period, and he mentions that bachelors were considered morally suspicious people (Koçu 1961, 2393). In general, he defines bachelors as who came to work in Istanbul. Also, he defines bachelors as people who were afraid of subverting the rule and order in the city (Koçu 1961, 2393). In other words, he indicates that bachelors have considered suspiciously immoral persons. In his study, Koçu identifies the 'common bachelors' with poverty. He states that bachelors were commonly married to poor girls that indicate an understanding of the socially accepted norm regarding both sides' socioeconomic statuses (Koçu 1961, 2404). Besides, he explains the relationships of bachelors with various places such

as bachelor rooms, inns, hotels, and brothels, and a commonality of these places was providing accommodation 'temporarily' as opposed to the family homes (Koçu 1961, 2392-2408).

1.2 Research Topic and Outline

My inquiry employs a perspective that focuses on social controlling mechanisms and public order by examining legislations. Due to the varying categorizations on defining bachelors with the centralization and the modernization of the Ottoman empire, I study the continuing as well as varying controlling mechanisms on bachelors, especially focusing on the issue of vagrancy. To be more specific, I compare the 'Regulation on Vagabonds and Suspected Persons' in 1890 and the 'Law on Vagabonds and Suspected Persons' in 1909.

Bachelors were the temporary immigrants of the city from any religion, ethnicity, or country. They stayed at the small cubbies of the shops that they worked in, inns, or bachelor rooms. On the other hand, aside from economic reasons, there were other reasons for bachelors to move from one place to another. Sometimes, they were deported by the command of central authority to stabilize the social order or they migrated as a result of warfare. For that reason, I aim to take into consideration the political, economic, social, and legal contexts of the nineteenth century while also referring to the pre-nineteenth century controlling mechanisms on bachelors. I examine the issue of being a bachelor in Istanbul in four contexts. The first one is the political, economic and social background that focuses on the eighteenth and the first half of the nineteenth century. The second one is the legal developments of the Ottoman Empire that concentrates on mostly the first half of the nineteenth century. While examining the legal developments I also refer to the Tanzimat Period, and I compare the English and French legal developments concerning vagabonds with the Ottoman legislations. The third one, concentrates on the reign of Abdülhamid II until the 'Declaration of Freedom' in 1908. Lastly, I examine the period after the 'Declaration of Freedom' in 1908 until the enactment of the Law of 1909 that approximately covers one year.

In this study, I considered the importance of various factors and the roles of bachelors aside from focusing only on the political events and the role of political elites. By acknowledging that, I extended my research on bachelors to deconstruct a per-

spective of one-sided understanding of history and historical events. Focusing on bachelors, provides the researcher the potentiality to diversify its agencies to understand the roles of bachelors to write a history from below. In this regard, this study examines the relationship between the ruling elites and bachelors. However, while writing this study, I encountered the inevitable difficulties of writing a history from below by using the documents of the ruling elites. In this case, these documents are the Regulation of 1890, the Law of 1909, and the records of the discussions at the parliament for these two legislations. Aside from the difficulties that I encountered by using these legal documents that were constituted by the ruling elite, also these documents were considering bachelors, particularly vagabonds, as a homogeneous group.

On the other hand, considering vagabonds as a homogenous group reveals how the political elites have adopted an approach while criminalizing vagrancy. This approach of homogeneity was also discussed during the second parliamentary period in terms of its vagueness in the parliament while defining vagabonds. It is a striking fact that it was almost impossible to determine who were temporary workers looking for a job in the city or who were vagabonds without seeking employment which also was discussed in the parliament.

The existing studies in the literature lack on comparing both legal documents in a detailed manner and fail to consider the discussions in the parliaments to label bachelors as vagabonds. The lack of such an evaluation prevents us from understanding the political impact of the changing socio-economic dynamics upon the late Ottoman administration and their reaction to these dynamics in terms of categorizing working people. For this reason, this study focuses both on the history of the bachelors in the nineteenth century as well as the official documents belonging to the Hamidian and Young Turk eras. Therefore, I will first discuss the bachelors of the late nineteenth century's Istanbul to understand the perception of vagrancy in labeling these people as criminals. And then, I will inquiry about the parliament discussions while comparing the legislations of two periods which are the 'Regulation on Vagabonds and Suspected Persons' that was enacted during the reign of Abdulhamid II in 1890, and the 'Law on Vagabonds and Suspected Persons' that was enacted during the Second Constitutional Period in 1909.

Moreover, by examining these documents that were written by the political elites, I also examined memoirs to understand the daily life of Istanbul from their experiences as well as their perceptions on bachelors. This study examines the changing descriptions of vagabonds by the state and the reasons for this alteration, also benefiting from the memoirs. All the sources have contributed to this study to understand the

interactions between the political and social structures.

The following chapter focuses on the political, social, and economic conjuncture of the nineteenth century of Istanbul by concentrating on the developing accommodation opportunities for immigrants in Pera to picture how the newcomers could change the texture of the city. In Chapter 2, I continue with a specific group of these new coming immigrants who were bachelors, and I refer to the factors that could affect the bachelors' daily lives such as *hemşehrilik*, neighborhoods, and places of marginality. After mentioning the relationship between the marginality and bachelors, I focus on the controlling mechanisms regarding bachelors and why those controlling mechanisms were perceived as necessary for the Ottoman state. In that section, I make a brief introduction to the issue of vagrancy as one of the reasons why bachelors needed to be controlled.

In Chapter 3, I focus on the legal developments in the Ottoman Empire before the reign of Abdülhamid II by concentrating on vagrancy while examining the possible interactions among the Ottoman, English and French states. I examine the legal developments on vagrancy and I elaborate on these interactions by comparing them with each other.

In Chapter 4, I concentrate on the reign of Abdülhamid II starting with a brief political and economic background of the 1870s as well as considering the discussions on the 'Regulation on Vagabonds and Suspected Persons' in the parliament, and the approach of an Ottoman journalist towards bachelors and vagabonds. I continue to elaborate on the context of the Regulation of 1890 by examining the document itself in a detailed manner. I also use a witness's writings on the early 1890s' Istanbul, the incidents that took place through the 1890s, and the political developments that impacted the Ottoman state, so to explain the context that prepared the ground for a necessity of a new Law on Vagrancy.

In Chapter 5, I focus on political developments in 1908 and 1909, I examine the discussions in the parliament regarding the 'Law on Vagabonds and Suspected Persons', and I compare the Regulation of 1890 and the Law of 1909. While concluding my study, I touch upon the issues that I mentioned in the earlier chapters with a brief supplementation to elaborate on the Ottoman state's concern on vagrancy.

2. POLITICAL, SOCIAL, AND ECONOMIC CONTEXT

2.1 A Nineteenth Century Background: Istanbul

Prior to the seventeenth century, existing social and economic institutions allowed the Ottoman Empire to build a rich and powerful state that enabled it to expand its territories on three continents. Due to political setbacks in the seventeenth and eighteenth centuries accompanied by economic and social problems, the Ottoman Empire faced several challenges in the late eighteenth and nineteenth centuries to rebuild its economic and military strength (Findley 1986, 82). However, the rise of nationalist and separatist movements throughout the nineteenth century rendered the attempts to reorganize and to keep the empire together insufficient, and as a result the Ottoman territories became dissolved and new nation states established (Zurcher 1998; Findley 2019).

During the nineteenth century, Istanbul underwent numerous changes that might be examined as examples and outcomes of the economic and social transformations the Ottoman empire was facing (Karpat 2002, 243). Studying these changes in the capital would help us to understand the transformations of the empire that began to emerge in the end of the eighteenth century, in regards to the economic and military problems encountered with European states (Karpat 2002, 267).

In regards to these transformations, Istanbul's cultural and demographic structures underwent significant changes. For example between the 1840s and 1880s, nearly half of the population of the city was non-Muslim. Yet, approaching the 1900s almost 70% of the population came to consist of Muslim subjects as a consequence of the Russo-Ottoman War in 1877-8 as well as series of migration waves from Caucasus and Balkans. On the other hand, economic initiatives that were established by both Muslim and non-Muslim subjects drew poor people or peasants of the Ottoman interlands to the capital with an expectation to find employment (Karpat 2003,

122).

The necessity to control commerce depended on an independent capability to build political relations with other states in order to take precautions to maintain the economic activities for the benefit of the Ottoman state. However, in the end of the eighteenth century and during the nineteenth century, the Ottoman empire became economically dependent on other states (Karpat 2003, 124). As a consequence of the industrial revolution in the West, urbanization increased and transformed the consumptive habits of people. Also, technological and military advancements changed the patterns of trade. As Zurcher states that:

> "At the same time, the British blockade of Napoleonic Europe and the counterblockade known as the 'continental system', introduced by the French, increased the importance of the Ottoman Empire for trade in and out of central Europe. Selim III had actively tried to improve conditions for Ottoman merchants in their competition with the Europeans by establishing consulates in the major Mediterranean trading centres. Not being backed up by a system of capitulations such as had been granted to the European nations by the Ottoman sultans, these consuls could of course never play their roles as effectively as their Western counterparts."

> (Zurcher 1998, 29)

Due to the increasing trade relations with Europeans, the closed-economy of the Ottoman empire was dissolved throughout the nineteenth century. Yet, the rising foreign trade volumes of the Ottoman empire were interrupted as a consequence of the Napoleonic Wars, it continued to increase during the nineteenth century (Quataert 1987, 18). Even though the trade and investment activities of Europeans in the Ottoman territories continued to increase particularly between 1881-1908, the importance of agricultural production in the Anatolian territories of the empire preserved its significance (Quataert 1987, 19).

As a consequence of competition of cheap industrial products coming from Western industrial states, the emphasis on craft production as well as the employment in the craft work decreased. The decrease in the quantity of people engaged in the production activities affected led to the intensification of controlling mechanisms toward immigrants who migrated to the city to find employment: controls started to be more often. For example, the countings of immigrants in Istanbul were taking place in every three years until the 1750s, but at the end of the nineteenth century the frequency of countings increased to every six months (Karpat 2003, 126).

Policies of the Ottoman state to control society were not limited to immigrants. The

attempts of Sultan Selim III to establish a new order (*Nizam-ı Cedid*) as well as a modern and centralized army (1793) with the aim of improving the military power of the state wasn't only aimed at to strengthen the empire outside enemies, but also aimed at to improve the central government's authority over the local notables, known as *ayans* (Karpat 1972, 248). However, the rebellion of the Janissary Corps in 1807 resulted with the dethronement of Selim III. In this process, support of a powerful local notable, Alemdar Mustafa Pasha, had a significant role in enthronement of Mahmud II. Besides, it seems that the urban poor of the capital city, in addition to the *ayans* had an indirect role in this process, and because of this the government tried to close down all bachelor rooms in the city after the death of Alemdar Mustafa Pasha (Karpat 2003, 127). In addition to the internal conflicts in Anatolia, the European peninsula of the empire populated by Christians became the pioneers of Balkan nationalism that would evolve to the Serbian, Greek, and Bulgarian national states (1804-78) (Karpat 1972, 151-2).

The rebellion of the Greeks in 1821 had a dissolving impact on the traditional ethno-religious order in the empire particularly in Istanbul. As a response to this rebellion, the Greek sailors of the Ottoman navy have become so untrustworthy for the government that they were expelled and replaced with other bachelors in the city. Thus, as a consequence of fearing from a possible rebellion by Greeks in the city, the government permitted the armament of its trustworthy Muslim subjects, and as a result they attacked to non-Muslims which increased robberies and caused a disorder in Istanbul (Karpat 2003, 128). Moreover, some Greek immigrants, who were suspected for their possible spying actions, were deported from the city. In regards to these events, controlling the incoming immigrants to the city had an increasing importance and two checkpoints were established in Küçükçekmece and Bostancı in order to control the granting permit to pass (*mürur tezkeresi*) to the city (Karpat 2003, 128).

Even though the public places in the capital transformed noticeably during the nineteenth century, neighborhoods remained almost intact for a long time. In this respect, a new controlling mechanism to maintain the public order in neighborhoods was introduced in the 1820s. This new controlling mechanism on neighborhoods gave authority to the neighborhood representatives (*muhtar*) to be responsible for controlling temporary residents or newcomers to their area, and they had jurisdictions to grant permits to immigrants (Karpat 2003, 129).

In spite of all the controlling attempts of incoming immigrants to the city, Istanbul was immigration receiving city as a consequence of its economic activities related to transportation, production, and distribution of commodities. This immigration

caused the rise of the population of the capital city. The overall male population of the city was nearly 214.000 people in 1844, yet it reached almost to 509.000 in 1885 (Karpat 2003, 141). Among these immigrants, people who mostly came to the city to find employment were categorized as bachelors. One of the aims of this official categorization was to impose upon them regulatory measures (Karpat 2003, 140).

2.2 Accommodation of Immigrants: the Example of Pera

One of the high immigration receiving zones of Istanbul was Pera. It was also the culturally Western part of the city which became the symbol of modernization for the empire during the second half of the nineteenth century (Karpat 2003, 135). Starting from the first half of the nineteenth century, the improving transportation technologies of steamships, and later followed by railways, played a major role in increasing numbers of travelers and immigrants to the city. As a part of this increasing population, a necessity arose to accommodate these temporary people. Pera was receiving immigrants even before the second half of the nineteenth century, but as a consequence of transformations in the economic and social structures of the Ottoman empire during the century as well as the increasing immigration to Pera, the hosting business flourished in this part of the capital. To provide shelter to these people an early example of hotels emerged; in terms of the uncertainty of naming these new emerging places some of them were called hotels, and others were called inns. These hotels were a new group of inns with larger public spaces, and there were also family businesses such as guesthouses with less capacity than hotels and inns (Tellan 2016, 127). These places might be differentiated by their institutional nature and motivations; such that the places that were established by *waqfs* to provide for the needs of travelers without an aim of earning money, might be categorized as *khans* (Tellan 2016, 134). The other places that were established to make profit, were guesthouses, inns, or hotels.

On the other hand, the interactions between Ottomans and Europeans increased parallel to the expanding economic activities with the West. The Baltalimanı trade agreement, signed in 1838 with Britain, provided a lower rate of custom duty of imports to the British tradesmen. Within a few years, the Ottoman government signed similar agreements with other states, and trade activities of the Ottoman state were increased as well as the number of visitors (Tellan 2016, 134). This was accompanied by a rising number of incoming immigrants with various identities

to the Ottoman lands. The need for accommodation opportunities were expanded mostly in regards to the job related travels of Westerner people, mainly to Pera. The majority of the population in Pera was Christian Ottomans. Related to religious closeness, high probability of knowing the same languages with Europeans, and most hotels being located in this area, made Pera popular among the Western guests. The accommodation to European visitors in Pera were mostly provided by guesthouses of the Italian and Levantine families in the 1820s and 1830s (Tellan 2016, 132).

Eventually, the social life in Istanbul underwent changes throughout the century due to the expanding trade relations, and cultural influences of Europeans. In this context, these guest houses from the 1840s onwards mostly transformed to hotels that signified a shift from the household hospitality to the institutional hospitality (Tellan 2016, 145). Additionally, the shift might be examined as an evolving example of a social degradation in terms of differentiating immigrants who could afford to stay in these places, such as wealthy bachelors and bachelors of the working poor class.

In regard to the bachelors of working poor class, they were accommodated mainly at inns. In the inns, various groups of people from different religions, socioeconomic statuses and ethnicities were sheltered and some of these places had their own coffee-houses as both separate and intertwined public places with inns. In the nineteenth century, the majority of the guests were composed of bachelors as a result of high possibility to find employment in the big cities, and it became hard to differentiate bachelor rooms from inns (Tandoğan-Abel 2008, 392). The customers of the inns counted as guests (Tandoğan-Abel 2008, 400), and they were considered temporary residents of the city. Meanwhile, the Ottoman government exercised a social control mechanism at the level of inns; whenever an act of crime took place such as robbery or murder, all temporary guests and innkeepers were kept responsible to find the criminals (Tandoğan-Abel 2008, 393).

2.3 Immigrants of Istanbul: Bachelors

As Cengiz Kırlı argues that, even though the birth and death rate of Istanbul was almost stable, in regards to the increasing number of incoming immigrants, the population of the city continued to rise, and a sizable amount of these immigrants were bachelors (Kırlı 2015, 72).

Particularly, in the second half of the nineteenth century, as a consequence of the immigration waves from the Balkans and Russia, the Muslim population in the remaining landscape of the empire increased (Duben and Behar 2014, 38). The big cities of the empire offered more job opportunities for bachelors compared to small villages or towns (Kırlı 2015, 72). In comparison to the big cities such as Smyrna, Thessaloniki, Alexandria, and Beirut, there was the charm of Istanbul. Due to its central position in regard to economic opportunities, Istanbul was attractive to bachelors to find employment and shelter. As one of their motives to migrate to the city, bachelors' relatives or acquaintances had mostly a determinant role. Most bachelors found employment and shelter through the networks with their relatives, or acquaintances from their hometowns who had already migrated to the city (Kırlı 2015, 73).

2.3.1 *Hemşehrilik*

It might be assumed that bachelors were excluded by Istanbul's community by their temporal resident statuses, and they could develop only a limited sense of belonging to the city. Perhaps due to such circumstances, they formed a way of solidarity based on their geographical backgrounds and cultural commonalities which was known as *hemşehrilik* (compatriotness). Compatriotness was a way of forming relationships based on common cultural and geographical roots that still exists in the twenty-first century Istanbul. It was an extensive way of forming relationships on common identities between bachelors, and people who shared similar cultures and geographical backgrounds were called *hemşehri* (compatriot).

Most of the compatriots worked in similar jobs, and in the nineteenth century, workers of small shops with less than 5 or 6 people mostly belonged to the same religious communities (Kırlı 2015, 73). Compatriots shared their knowledge and resources with their compatriots, such as the immigrant muslim population in Istanbul working typically as barbers, leathermen, ironworkers; Greeks as candlemakers, furriers; Jews as silkmen, doctors, tinsmiths; or Armenians as locksmiths, tailors, tobacconists or bakers (Kırlı 2015, 73).

Compatriotness was significant in terms of the continuity of the existing occupations of bachelors. Most bachelors' guarantors were their previously migrated relatives, who sometimes asked their compatriots to migrate to Istanbul by informing them about employment opportunities. In this respect, the memoirs of Hagop Mıntzuri

provide us lively impressions. As we know from Mıntzuri, there was a coffeehouse in the next shop of their bakery in Beşiktaş. Probably an ex-soldier or a civilian with a nickname of sergeant, Musa Çavuş and his son Hakkı were running this coffeehouse. Mıntzuri mentions that Hakkı had two sons and a wife in his hometown, but his father asked him to come and help him with the coffeehouse. But Mıntzuri says that, instead of helping his father, Hakkı was always sleeping or lying at the yard of Sinan Pasha mosque. According to Mıntzuri, Hakkı was a perfect depiction of bachelors such that they were always unoccupied, vacant, homeless, and sleeping over at coffeehouses or at the yards of mosques (Mintzuri 2017, 27).

Hagop Mıntzuri himself was an Armenian bachelor from a village of Armıdan, in Erzincan and in eastern Anatolia. He was a worker of a bakery in a close neighborhood to the palace in the late 1890s and early 1900s. He mentions that he was the only one in their neighborhood who was literate, and that is why he read and wrote the individual and official writings for people in his surroundings (Mintzuri 2017, 28). He says that there were seven people who worked in the bakery and belonged to different communities. He came from his village directly to the bakery, and that is why his knowledge on neighborhoods other than Beşiktaş was limited. The owner of the bakery was Sefer Agha. He was an Albanian and some of his employees were his compatriots (Mintzuri 2017, 43). Mıntzuri was not the first one from his family in Erzincan who migrated to Istanbul. His grandfather and his father worked in Ortaköy, his uncle worked in Pera (Mintzuri 2017, 55). They were *tablakars*[2]. In his memoir, he refers to an occupational continuity within compatriots. He mentions some close villages to his birthplace with a cultural intimacy by saying that their elders migrated to Istanbul and they have become bakers, as like his elder Hagop also became baker, too (Mintzuri 2017, 37). He does not directly indicate that his family elders as bakers, but he says that people who distributed breads were called as *tablakars* (Mintzuri 2017, 54), as similar to his occupation in Beşiktaş.

Compatriotness was also an important factor that was formed for bachelors to where to live as well as their occupation. Their guarantors were mostly provided work and shelter to bachelors while taking their responsibility in exchange for cheap labor, loyalty and trust (Kırlı 2015, 78). It can be considered, compatriotness was a means of mobilization for bachelors as in the case for Hagop Mıntzuri to find employment. In a sense of social mobilization, it affected where they lived, or in a sense of economic mobilization it affected their occupations. Moreover, it can be considered that compatriotness might be a tool of recruiting people to jobs (Kırlı 2015, 79).

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[2] *Tablakar* is an occupation that refers to carrying food in big residences from women's sphere (*harem*) to men's sphere (*selamlık*), or it refers to hucksters. But in this case it refers door to door sellers of bakery products.

2.3.2 Neighborhoods

The time span between the Russo-Ottoman War of 1877-78, and the population census of 1885 witnessed one of the most dense population movements within the empire (Duben and Behar 2014, 38). The population of Muslims and Turks in Istanbul continued to increase, as has been recorded by the census of 1907.

According to the 1885 census, only 51 percent of Istanbul's population were born in the city who were residents (Duben and Behar 2014, 39). This percentage shows that Istanbul was a high immigration-receiving city. Thus, as a consequence of the immigration waves, the area of the city was expanded during the century.

Alan Duben and Cem Behar (2014) estimate that there were more bachelors aside from the state records, and most of the immigrants came from Balkans and Russia which was also an important factor to determine the changing characteristics of the city. Even though the census systems became more efficient during the nineteenth century, it was still impossible to achieve precise numbers. Also, according to Duben and Behar, the censuses focus on the 'residents' of Istanbul, and do not include places such as bachelor rooms, because of the 'temporary resident' status of guests. However, as their study reveals, in the beginning of the twentieth century, the 13% of the residents of Istanbul were comprised of people who lived alone, and almost half of these people were bachelors under the age of 30 (Duben and Behar 2014, 72).

As already stated previously, the main determinant for the people while settling in a neighborhood was not the socio-economic statuses but rather the communal relations such as religious and ethnic bindings. For example according to the 1907 census, in a neighbourhood of Beşiktaş there were 206 households, nineteen shops, two primary schools, two mosques, one fountain, one vegetable garden (*bostan*), twenty one barn, five gardens, seven bachelor rooms, one bakery, and five empty lands (Duben and Behar 2014, 45). These statistics demonstrate that bachelors were part of the communal life of the city, and they were not discriminated against according to their socio-economic states from neighborhoods.

Additionally, in another study, Cem Behar examines the records of 'Kasap (Butcher) Ilyas' neighborhood by considering the issue of marriage in the second half of the nineteenth century of Ottoman Istanbul. From his study, we know that as such other neighborhoods in Istanbul, Kasap Ilyas also had a mixed structure due to social class and status. Even though "[r]esidential patterns in 19th-century Istanbul usually ran along lines of ethnicity and religion, not class or wealth" (Behar 2004,

538-9).

2.3.3 Places of Marginality and Bachelors

Where did compatriots might spend time together in neighborhoods? The study of Işıl Çokuğraş that examines the interactions between the public sphere of Istanbul and places of marginality from 1789 to 1829, gives some explanation for the question. These places of marginality were mostly male-specific environments such as taverns (*meyhane*), bachelor rooms, coffeehouses, barbers or gender mutual places such as *hamams.* As Çokuğraş states that the characteristics of criminality and marginality were attributed to taverns and bachelor rooms as well as to the people who had interactions with these places (Çokuğraş 2013*b*, 2). The Ottoman state's emphasis on controlling these places and the people who had interactions with these places did increase during the nineteenth century, particularly, controlling the bachelor rooms in Istanbul but not those in the provinces (Çokuğraş 2013*b*, 10).

During the nineteenth century, regarding the increasing number of immigrants, Istanbul became increasingly crowded. The increasing population of the city was caused an unreliability in society, due to for example a lack of acquaintedness of both residents and temporary residents. Çokuğraş uses the concept of unreliability to address the things that cannot be understood fully by the residents of the city that makes them feel disturbed, but not terrified (Çokuğraş 2013*b*, 40). One of the reason that formed this unreliability in the city was the expansion of the city's area as well as the rising population which increased the state's emphasis on controlling thieves, murderers, potential criminals, mobs, beggars, and sex workers (Çokuğraş 2013*b*, 33). In this regard, the criminals and the potential criminals were treated as similar to sustain the public order. In the neighbourhoods, the exclusion of 'others' concerning social norms and codes of morality were also used as a social controlling mechanism. On the other hand, defining unreliable behaviors, could be seen as unknown possible acts and activities of people became significant to determine the criminality. As Çokuğraş states that especially for the early modern period, the uncertainties or reconditeness were one of the main determinants for criminal activities (Çokuğraş 2013*b*, 25).

Moreover, identifying bachelor rooms with criminal activities and marginality was not something unique to the nineteenth century. As Zarinebaf states that: "These rooms were built above shops, and members of the same craft and profession tended

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to stay in the same room. ... Some janissaries owned and managed these houses and were accused of using them for organizing criminal activities such as smuggling and prostitution" (Zarinebaf 2010, 41).

During the early modern period, the authorities who were responsible for social control were the city police and janissaries. The jurisdiction of the head of janissaries was the outside of the old-city and the outskirts of the palace (Çokuğraş 2013*b*, 46). For example, the coffeehouses were used as headquarters of janissaries from the seventeenth century to until its abolition, and they were also used as a means of oral mass communication by spreading gossip or rumors (Kırlı 2006, 76). As a consequence of the abolition of the Janissary Corps, a power vacuum on social controlling mechanisms had occurred. To fulfill this power vacuum, new institutions were established such as *Zaptiye Müşiriyeti* in 1846 which transformed to the Ministry of Police (*Zaptiye Nezareti*) in 1879 (Ergut 2004, 140-1). Besides, regarding the abolition of the Janissary Corps, some socialization places were also diminished such as coffeehouses, bachelor rooms and similar places, because of that some places were owned or governed by janissaries (Çokuğraş 2013*b*, 55).

2.4 Controlling Bachelors

From an administrative aspect, the increasing population of the city created difficulties in preserving social control in Istanbul. The maintenance of social control in the capital was more important than in other cities. Concerning the status of Istanbul as the capital of the empire, any possible disorder in the city might drastically affect the rest of the empire. Also, an individual or a group without direct access to the power structures such as bachelors could be influential on the palace or the administrative structure of the empire. In addition to that, during the eighteenth century, as territorial conquests came to standstill, the focus of political legitimacy became increasingly domestic-based and relied on social stability. Consequently, emphasis on justice and order did increase. For example during the reign of Selim III, the policies of guarantee became more systematic (Başaran 2014, 4).

The controlling attempts of migration wave to the city, at the end of the eighteenth century, contributed to the institutionalization of the social controlling mechanisms of the state. There were several problems related to the increasing number of immigrants, or in some cases these problems were attributed to immigrants. These

problems were the spread of disease, shortages of some basic necessities, increasing prices, unemployment, insufficient number of housing, and increase in crimes (Başaran 2014, 36). As a result of these problems, the Ottoman state came to emphasize social control and limit the incoming immigrants to the city. Before the reign of Selim III, the inspections on marginal groups were performed every three years. However, during the reign of Selim III, these inspections came to take place every six months. He declared laws (*fermans*) to clean the city from the 'unwanted' and 'unjustifiable' elements which, in effect, was not successful (Çokuğraş 2013*b*, 55).

As Cengiz Kırlı mentions the tradesmen guarantee registers (*esnaf kefalet defterleri*) were started to be recorded in 1792 with a purpose of controlling the mobile tradesmen and individuals who stayed in bachelor rooms and inns. Tradesmen were registered in these documents with their employees in order to record social mobility. The guarantee system provided the formation of officially-acknowledged social ties, and individuals were treated not separately but as members of groups (Kırlı 2006, 186).

During the period of Selim III, as a part of *Nizam-ı Cedid* reforms, the state increased its social control and tried to legitimize the hierarchical structure of society with moral regulations. Selim III tried to make a census in Istanbul, as we know from the registers named as *Bostancıbaşı Defterleri*. In the eighteenth and the early-nineteenth centuries the Ottoman empire made attempts to take statistical records similar to the European states. These statistical registrations prepared a ground for the censuses before and after the 1839 (Kırlı 2006, 187).

As a part of state regulatory activities in regard to population movements, the term bachelor acquired a new official meaning. The word bachelor used to indicate transients or newcomers; because of afraiding that they would create disorder in the city, as a regulation policy they needed to have a *kefalet*, in order to be able to come to the city or to work. The guarantee (*kefalet*) policy was one of the social controlling mechanisms of the state. Bachelors needed to have guarantors (*kefil*) to show that they were trustworthy. As it was often the case, there were bachelors who lived above the shops that they were working at those shops, and as a usual procedure the shopkeeper or a neighboring shopkeeper were guarantors of bachelors (Başaran 2014, 135). Concerning this implementation, when a bachelor commits a crime his guarantor has to fulfill and share the burden of the compensations. In other words, according to this implementation from an individual's actions another individual was responsible. In this sense, it was a collective social control mechanism. The guarantor was responsible for that person in terms of economic and moral obliga-

tions. Moreover, the guarantee policy was a social controlling mechanism that was not only imposed to control bachelors. As a social controlling mechanism, guarantee policy also used with a purpose of regulating marriages, too. For marriages, it was used as a tool of confirmation. In his study, Cem Behar examines a period between 1864-88 which "... almost all of the statements appended to the marriage agreement consisted of oral testimonies of guarantorship (*kefalet*). ... Most often, the guarantors (*kefil*) was a third party, probably a person well known to the *muhtar* whose word could be trusted" (Behar 2004, 552). However, not only as a tool of confirmation, but also to fulfill an obligation of one of the couple, the guarantor could be involved in the marriage. For example, in Kasap Ilyas neighborhood, "[t]he first written note implying a personal involvement, a promise, and a responsibility on the part of the guarantor - that is, a *senet* - dates from 1884" (Behar 2004, 553).

In addition to the guarantee policy, there were other controlling mechanisms such as censuses, forced migration, or even destruction of living spaces of bachelors. Also, as Çokuğraş mentions, most bachelor rooms and inns were constructed and supported by *waqfs* which might indicate that the sheltering problem of bachelors directly concerned by the state, and the Ottoman state regulated these places by using *waqfs* as intermediary institutions (Çokuğraş 2013*a*, 31). Thus, for example "[t]he state constructed these rooms in the working-class neighborhoods of Galata and Kasım Paşa to house workers who could afford the low rent. In 1763 the total number of bachelors' rooms in Galata and Kasım Paşa exceeded 250 and lodged around 1,500 to 2,000 single artisans" (Zarinebaf 2010, 40).

In fact, the Ottoman empire had a long history of precautions to control the people who were considered potential threats to the social order. "Before the modern period, vagrancy was recognized as an enduring aspect of urban life, and begging was socially accepted as a legitimate means of survival, at least for women, children, the elderly, and the disabled, who had fewer prospects for employment and were bereft of other support when they were abandoned, divorced, or widowed" (Zarinebaf 2010, 45). Vagabonds and suspected persons were mostly issued in terms of being categorized as perturbators of society. One of these precautions was the passport which was used both as an internal and external controlling mechanism. This controlling mechanism was used especially in Istanbul to maintain the order specially by controlling bachelors. In terms of the political importance of the city, passports not only used to control the migration wave but also for the persistence of the political order (Yılmaz 2014, 165).

After the abolition of the Janissary Corps in 1826, to maintain the public order especially in Istanbul, an Islamic-Ottoman Office for Public Regularity (*İhtisab Nezareti*)

was founded, and in 1829 the neighbourhood units (*muhtarlık teşkilatı*) were established (Yılmaz 2014, 170). In the 1830s granting permits to pass (*mürur tezkeresi*) began to be issued which were similar to controlling mechanisms such as passports (Yılmaz 2014, 165). With the development of modern controlling mechanisms, punishments of criminal activities came to be imposed upon individuals; this development signified a trend toward the notion of individuality of criminal responsibilities (Çokuğraş 2013*b*, 33).

Bachelors were the 'others' of the city, in terms of not being residents, but still this otherization did not transform into an exclusion from society. In other words, bachelors were not eliminated from Istanbul's community regarding their heterogeneous socioeconomic statuses as well as the difficulty of determining who would be excluded. According to Çokuğraş, bachelors without guarantors were labelled as vagabonds in the late eighteenth and early nineteenth centuries (Çokuğraş 2013*b*, 66). Even though the Ottoman state "... did not pass vagrancy acts until the late nineteenth and early twentieth centuries, but it did refer to vagrants as 'idle and disorderly" (Zarinebaf 2010, 46). Thus, labelling bachelors in terms of being employed or unemployed remained after the vagrancy acts, and unemployed bachelors continued to be labelled as vagabonds. However, only some changes were made in the 'Law on Vagabonds and Suspected Person' in 1909, considering their will of being employed before they were labeled as vagabonds. In other words, a differentiation made in the Law of 1909 between unemployed bachelors who were trying to find jobs and those who were not.

The common idea about bachelors was that they were a group of people who were idle and rambling. Being a part of bachelors had little to do with actual marital status; it meant that people from all ages, having wives or families from where they immigrated, were categorically considered bachelors. As an example of continuing perception on bachelors in the 1890s, Hagop Mıntzuri refers to a memory where he was treated as a potential criminal. When he realized a man's broken watch chain and when he warned that man, the man grabbed his arm while asking him to show who stole his watch. Even though Hagop had no idea who stole his watch, he became an associate of the crime. The crowd who gathered after the man's shoutings took Hagop to the police station. Hagop says that all of his crying and his words did not make any difference. When the police asked him in the police station who was his guarantor, he pointed out the bakery across the street. After that, the police officer told the man who lost his watch that the people in the bakery were good neighbors, and ordered Hagop to get back to his job (Mintzuri 2017, 67). This example reveals the importance of the acquaintedness for Istanbul's society. At the beginnings of the events Hagop was a stranger for the man whose watch was stolen. He only judged

Hagop through his external appearance. Even though Hagop warned him about his watch, he thought that Hagop was potentially a criminal. Due to the man's attitude towards Hagop the narrator of the story became a victim of marginalization and a suspected criminal. After all, his employment was an indicator for Hagop to not be a vagabond and his employer was his guarantor for the police to defend Hagop against the crowd and to release him.

To sum up, in the late eighteenth and early nineteenth century, criminals were determined according to their socioeconomic statuses (Çokuğraş 2013*b*, 25), which originated from the need of disciplining and controlling society to avoid possible rebellions, but not originated from controlling epidemics like in Europe (Çokuğraş 2013*b*, 44). However, the approach of states while identifying vagabonds had similarities. Not only in Istanbul but also in other cities such as London and Paris, people who suffered from poverty and starvation in large numbers were treated as they tend to subvert social order, so they were treated as people who possibly were vagabonds (Zarinebaf 2010, 46). On top of that the vagrancy acts of the Ottoman Empire were 'inspired' by the regulations on vagrancy of France and England. So, by the purpose of maintaining public order, the Ottoman policies to regulate unemployed bachelors codified in a more systematic manner with the 'Regulation on Vagabonds and Suspected Persons' in 1890, and the 'Law on Vagabonds and Suspected Persons' in 1909.

3.   LEGAL CONTEXT

3.1 Certain Legal Transformations in the Nineteenth Century and Vagabonds

The legal transformations that took place through the nineteenth century are important to understand the Ottoman legislations on vagrancy which were enacted in the late nineteenth century and the early twentieth century. In this section to examine the legal developments of the nineteenth century of the Ottoman Empire, I adopt a similar approach with the study of Nader Sohrabi. In his study, Nader Sohrabi examines the Young Turk Revolution in 1908 as a part of the global revolutionary wave (Sohrabi 2002). Sohrabi starts his article by asking that "Do revolutions affect one another?" (Sohrabi 2002, 45), and I formulate this question according to the focus of this study as follows: *Do legal documents or implementations affect one another?*

Certainly, the studies focusing on the legal reforms of the Tanzimat Period show that Western legal documents had a strong influence on law making processes in the Ottoman Empire, and some of these documents were adopted to the Ottoman context. Due to the influential impact of the Western legal documents on law making processes in the Ottoman Empire, I address some legal documents that issue vagrancy. I examine the legal changes in the Ottoman Empire by addressing the impact of British and French legal documents concerning vagrancy. Further, in the following part of this thesis, I analyze the debates in the Ottoman parliament regarding vagrancy, and what is significant for this chapter from these debates is the speech of Fuat Hulusi Bey[3] in 1909. In his speech, Fuat Hulusi Bey mentions the similarity of the 'Regulation on Vagabonds and Suspected Persons' of 1890 with the

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[3]Fuat Hulusi (Demirelli) was a law graduate who was born in 1877 and died in 1955. He was Deputy of Tripolis (*Trablusşam*) between 1908-10. Fuat Hulusi Demirelli, who knew Arabic, Persian, French, German, and English, was appointed to many political and legal duties throughout his life. After the establishment of the Republic of Turkey, he was a deputy of the Democrat Party (*Türkiye Büyük Millet Meclisi* 2010).

French laws issuing vagrancy.

Furthermore, studying the Ottoman Regulation of 1890 in terms of suspected individuals without mentioning the European developments, in the same manner, would be lacking to understand the contemporary historical context. During the nineteenth century as a consequence of the Napoleonic Wars and industrial revolution, European states struggled to control the migration waves to the cities. The rising population due to migration waves in the cities increased the growing poverty, whereby unemployment and poverty became one of the biggest challenges of the European states which also became evident as juvenile delinquency in France (Berlanstein 1979).

Aside from the French context, İlkay Yılmaz suggests that in 1826 a law on vagabonds was enacted in England (Yılmaz 2014, 126). The migration of the working poor class to the cities was considered as disorderly conduct for the ruling elites. The situation of bachelors in the Ottoman Empire during the nineteenth and the beginning of the twentieth centuries, especially in Istanbul, can be examined from a similar perspective (Yılmaz 2014, 127). Even though I was not able to find a law on vagabonds in 1826 as Yılmaz refers, in the following of this chapter, I will attempt to examine the similarities of legal documents issuing vagrancy by emphasizing the Vagrancy Act of England in 1824, and the New Poor Law in 1834 as well as considering the legal developments on vagrancy in France.

3.2 Do Legal Documents or Implementations Affect One Another?

The Ottoman Penal Codes of 1840, 1851, and 1858 were enacted during the reign of Sultan Abdülmecid I, and during the Ottoman Tanzimat period. This period of Tanzimat from 1839 to 1876 was characterized by its modernizing purposes regarding the 'westernization' attempts of Ottoman society by using the legal and administrative reforms as instruments (Öner and Karadağ 2016, 302).

In his study, Said Nuri Akgündüz examines the Ottoman Penal Codes of 1840, 1851, and 1858 that were enacted during the Tanzimat period. By embracing a different approach from Senem Öner and Ayşe Banu Karadağ (2016), he examines this period as an outcome of Ottoman backwardness and an imperial attempt to catch the developed European states. Also, he refers that the Ottoman legal reforms were necessary in order to prevent any intervention of the Western states to the Ottoman

internal affairs by alleging non-Muslim communities (Akgündüz 2016, 4).

Said Nuri Akgündüz analyzes the reforming attempts of the Tanzimat Period, such as the enactment of the Ottoman Penal Codes as the Ottoman Empire's struggle to improve its deficiencies with compared to Western states (Akgündüz 2016, 1). He refers to two issues regarding his backwardness approach; firstly, the reforming attempts of the Ottoman Empire were driven by its military backwardness; secondly, these reforms and innovations were made by the Ottomans who were influenced by or known the 'West' (Akgündüz 2016, 2). Even though I find his second issue on Ottomans who were influenced by the 'West' needs to be deliberated, I consider his detailed comparison and analysis on the Ottoman Penal Codes as noteworthy.

The Penal Code of 1840 was enacted on 3rd May 1840 that consisted of 41 articles, and the Code of 1840 implied an understanding of legal egalitarianism for all Ottoman subjects (Akgündüz 2016, 6). Regarding my inquiry on vagrancy, the Penal Code of 1840 issued subverting social order. However, as Akgündüz refers, the significance of the document was its emphasis on punishments of the crimes in a detailed manner to prevent the varying interpretations of judges (Akgündüz 2016, 7). On the other hand, as Kent Schull states that the Penal Code of 1840 consisted of thirteen articles in forty-two sections with an epilogue (Schull 2016, 158). With a detailed analysis on the Penal Code of 1840, Schull mentions that the code referred to the crimes such as treason, any provocation for rebellion, and resistance to authority (Schull 2016, 158). Further in his study, he indicates the importance of the Penal Code of 1840 as its combination of executive and religious law with new implementations. As Schull states that: "... in an Islamic society wherein *hadd, qisas, diyet, ta'zir,* and *siyaset* crimes and punishments were completely intertwined and indistinguishable from each other in a common codified code legitimated by Islamic legal principles, practices, and mores. This code set the precedent for all subsequent penal codes promulgated within the empire until its demise" (Schull 2016, 159).

The Penal Code of 1851 was enacted on 14th July that consisted of 43 articles. This New Penal Code, also known as *Kanun-i Cedid* expanded the definitions of criminal activities to accomplish the demands of the Gülhane Decree, issuing the crimes such as forgery and abduction of girls (Schull 2016, 159). As Schull indicates that the purpose of the New Penal Code was to sustain the public order while preventing any corruption of Ottoman officials to protect the individual rights of people (Shull 2016, 160). Also, The 1851 Code comprised the issues of security of life, property, chastity (*irz*), and integrity (*namus*) (Akgündüz 2016, 7). The Code of 1851 included articles on criminal actions such as murder, stealing, and consisting of a treat to the social order which comprises similar criminal actions with the 'Regulation of Vagabonds

and Suspected Persons' of 1890 and the 'Law of Vagabonds and Suspected Persons' of 1909.

The Penal Code of 1858 was enacted on 9th of August which stood until the enactment of the Turkish Penal Code in 1926 (Akgündüz 2016, 9). The 1858 Code which also known as *Ceza Kanunname-i Humayunu* "... became the foundation for criminal justice transformation, including the transformation from corporeal punishment to fines and incarceration as the primary forms of criminal punishment. In addition to the penal codes of 1840 and 1851, the origins of the [1858 Code] are also closely linked to broader imperial reforms, specifically the 1856 *Islahat Fermanı*" (Schull 2016, 160). By referring to *Islahat Fermanı*, Schull indicates the attempts to form a 'modern' criminal justice system (Schull 2016, 160). The Code of 1858's importance lies in article 62 which included stipulations related to vagrancy, i.e. concerning individuals who took criminal actions of brigand (*eşkıya*) and bandit (*yol kesen*) (Akgündüz 2016, 10). According to evaluations of Akgündüz regarding the Penal Codes of 1840 and 1851, he refers to a continuing attempt to preserve social order with the earlier penal codes (Akgündüz 2016, 8). Moreover, he underlines a significant difference between these two codes and the Code of 1858 due to the categorization of crimes in 1858 as the 'crimes against individuals' and the 'crimes against public order' (Akgündüz 2016, 8).

The suggestion made by Öner and Karadağ (2016) provides a significant perspective while examining the Ottoman Penal Codes. In the article of 'Lawmaking Through Translation: Translating Crimes and Punishments', Senem Öner and Ayşe Banu Karadağ examine the role of translation in making law by comparing the Ottoman Penal Code of 1858 and the French Penal Code of 1810. In the study, they observe a non-linear relationship between the articles of the two-penal codes, and they compare both codes' content on their "general definitions of crimes and punishments, crimes against the state and their punishments, crimes against individuals and their punishments." (Öner and Karadağ 2016, 323).

Öner and Karadağ (2016) conclude their study by recommending a change in the common usage of 'legal translation' in the literature, instead of using 'legal translation' they offer the terminology of 'lawmaking through translation'. The authors suggest using the terminology of 'lawmaking through translation' in terms of the similarities and differences between the French Penal Code of 1810 and the Ottoman Penal Code of 1858 (Öner and Karadağ 2016). They argue that the French Penal Code of 1810 was used as an instrument by the Ottoman officials while writing the Ottoman Code of 1858. In other words, the Ottoman Penal Code of 1858 was not a word-to-word translation of the French Penal Code. However, at the same

time, the similarity between the two codes was much more than a simple inspira-
tion of the Ottoman Penal Code was inspired by the French Penal Code. As they
analyze both penal codes in a detailed manner in their study, the Ottoman Penal
Code was written by taking the French Penal Code as a reference, so it was a kind of
adaptation of the French Penal Code according to the Ottoman social and political
structures (Öner and Karadağ 2016, 335).

As an example of 'westernization', Öner and Karadağ refer to the first article of the
1858 Ottoman Penal Code. According to their interpretation, this article provided
an acknowledgment of individual rights by sharia law as well as having a purpose
to regulate society on a non-religious basis (Öner and Karadağ 2016, 320). On the
one hand, with detailed analysis, they argue that:

> "... with the Ottoman Code of 1858, crimes and punishments began to
> be defined and classified in a way completely different from the Islamic
> law: religion-based classification of offences such as unlawful act (*haram
> eylem*), crimes against God (*Hakk Allah'a giren suçlar*), crimes against
> fellow beings (*Hakk-I Ademiye giren suçlar*) were replaced by the tri-
> partite classification of offences as a crime (*cinayet*), delict (*cünha*) and
> contravention (*kabahat*) in accordance with the French Code. With this
> literal translation, a new secular classification of offences entered the
> Ottoman legal system for the first time."
>
> (Öner and Karadağ 2016, 325)

On the other hand, in terms of the differences between the French Penal Code and
the Ottoman Penal Code, the authors point out the insertion of flogging punishment
in the Ottoman Penal Code. They continue analyzing the differences between two
codes by referring to the changing structures of both societies and the necessity
to adapt some signified details according to these varying social structures. For
example, while the French Penal Code used the term of Frenchman, the Ottoman
Penal Code targeted the "whoever from the subjects of the Sublime State of the
Ottomans" due to its social composition of the multi-ethnic and multi-religious
structure. (Öner and Karadağ 2016, 326). Moreover, "... the Ottoman Penal
Code of 1858 consists of 264 articles while the French Penal Code of 1810 consists
of 484 articles" (Öner and Karadağ 2016, 331). To sum up, by referring to various
significant differences between the two penal codes and the importance of translation
as an instrument of lawmaking, the authors suggest the term 'lawmaking through
translation' instead of using 'legal translation' in their article. (Öner and Karadağ
2016, 335). The contribution of Öner and Karadağ is important in terms of my
inquiry on legal developments of vagrancy. Because there is a similarity between the

Vagrancy Act of 1824 in England, and the Ottoman documents of the 'Regulation on Vagabonds and Suspected Persons' in 1890 and the 'Law on Vagabonds and Suspected Persons' in 1909.

Furthermore, Schull examines these reforms and transformations as a process of standardization and rationalization but not as a secularization process. Because he says that the Islamic criminal law and its execution became uniformed under these penal codes and thus displayed continuity (Schull 2016, 161). As he criticizes the contemporary scholarship, he says that these transformations that were made with these codes were not representatives of any type of Westernization in the Ottoman law. Because he highlights that, "[w]hile it was the bureaucratic Ottoman state that codified these laws, Islamic court judges (*kadıs*) still rendered judgments and presided over all criminal proceedings" (Schull 2016, 161).

3.3 Comparing the Precautions on Vagrancy of the Ottoman, English and French States

To begin with the context of England on vagrancy, Paul Lawrence studies the long-term impact of the Vagrancy Act of 1824 by focusing on the preventive and preemptive criminal control in England in his article. The author examines the Vagrancy Act as an instrument of arresting and convicting people on a justified suspicion of intent. To understand the historical background of the Vagrancy Act, he starts with examination from the 1750s, and then expands the examination to the 1970s to understand a continuous thread of police practices, and a police culture by studying offences against the Vagrancy Act. As he states that:

> "Certainly, by the early nineteenth century, the power to arrest on suspicion was firmly embedded within both the discourse and practice of policing in London. The stage was thus set for the migration of these preemptive powers to national legislation during the 1820s via transference of key clauses into the Vagrancy Act of 1824."

> (Lawrence 2017, 516)

When we compare the English and the Ottoman legal documents on vagrancy, we encounter a similarity between the Section 4 of the Vagrancy Act of 1824 in Eng-

land, and both the vagrancy regulations that were enacted in the Ottoman Empire. In Section 4 of the Vagrancy Act, it was specified that anyone who carried tools such as using for housebreaking, or any kind of tool that could be used as a weapon were charged under the Act (Lawrence 2017, 517). Thus, when we look at the vagrancy regulations of the Ottoman Empire was enacted which were the 'Regulation of Vagabonds and Suspected Persons' in 1890, and the 'Law on Vagabonds and Suspected Persons' in 1909, there is a similar article that was specifying the criminality of carrying these tools. In the Regulation of 1890, in the tenth article carrying some tools that could be used for robbery or housebreaking was criminalized[4], and it was the twelfth article in the Law of 1909.[5]

Moreover, as another similarity between the Ottoman and the English cases, Lawrence refers to punishment in the Act that targeted people who intend to commit a felony as forcing them to hard labor for a certain period (Lawrence 2017, 517). Even that we do not come across a similar sentence in the Regulation of 1890, we see that in 1909 with the new law on vagrancy a sentence for laboring vagabonds to a suitable job was included with the fifth article.[6]

Besides, as Lawrence mentions after the enactment of the 1824 Act in England, there was a somehow expansion of policing public events that led to the foundation of the Metropolitan Police in 1829 (Lawrence 2017, 517). However, as Ergut refers in his study, a separate policing force from the military as a civil organization to sustain the public order in the Ottoman Empire was established in 1879 known as *Zaptiye Nezareti* (Ergut 2004, 141-2). Whether the police authority expansion took place or not is another inquiry to examine for the Ottoman Empire that was also done by Ferdan Ergut. However, I want to suggest another point regarding policing practices for the Ottoman context. As I discuss in the following of this study, while comparing the Regulation of 1890 and the Law of 1909, I observed an expansion of the authority of prosecutors in 1909 compared to 1890. Which I believe suggests a limitation for the executor party in lawsuits. That is why at this point I want to refer to a study of Avi Rubin where the author refers to the importance of rule of law and the constitutional commitments.

In the light of Rubin's approach to the legal developments in the Ottoman Empire, he highlights the importance of the Young Turk Revolution in 1908 as a breaking point. He refers to a law's rule period before the Constitutional Revolution of 1908 which also had no limitation on the power of the sultan, and he discusses that the ruling elite also manipulated the law according to the necessities of the political

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[4]I. Tertip Düstur, Vol. 6, (1890), 748.

[5]II. Tertip Düstur, Vol. 1, (1909), 171-2.

[6]II. Tertip Düstur, Vol. 1, (1909), 170.

conjuncture. As an example, he gives the example of the 'Yıldız Trial' as a political trial. And he says that: "While exceptional in terms of their concrete contexts, many (though not all) modern political trials draw legitimacy from the performance of legalism, which they often abuse" (Rubin 2019, 16).

As Rubin points out in his study significant to consider on the issue of vagrancy, the Ottoman official discourse was concerning the Middle Eastern and Balkan provinces mostly issued lawlessness. By lawlessness, Rubin refers to the correspondences between Istanbul and the Ottoman provinces concerning public order, to be specific on the issues of security, order, and disorder. Rubin underlies that, for example, in the 'cases of brigandage' (*eşkiyalık*) there was not a concrete differentiation between common crimes and subversive political activities (Rubin 2019, 1). Regarding this vagueness of differentiation between common crimes and subversive political activities, Rubin criticizes the characterization of the nineteenth century and, specifically, the Tanzimat period as being the cornerstone of the rule of law by the socio-legal historical analysis (Rubin 2019, 2). He questions the socio-legal historical understanding for not considering the importance of daily implementations of the legal documents such as the Tanzimat Decree, the Ottoman Penal Codes, or the Reform Decree (Rubin 2019, 2).

Further, Rubin argues that an understanding of normative law, both the sharia and dynastic law in the Ottoman Empire had a long tradition even before the nineteenth century which was not only aimed to control society, but also provide a mechanism for people to challenge the state officials such as writing petitions and complaints (Rubin 2019, 5).

> "The analytic advantage of the rule of law as an imagined, context-sensitive concept rather than an objectified one is evident when comparing judicial cultures before and after the legal reforms of the nineteenth century. ... Such a description implies that the legal system prior to the reforms was weaker or absent. One of the Tanzimat's highlights was the establishment of the Nizamiye courts in the second half of the nineteenth century. Inspired by the French court system, the Ottoman reformers who designed the Nizamiye court system endorsed the ideology of legal formalism."
>
> (Rubin 2019, 8)

What he refers to by using the notion of legal formalism is that "a ley criterion for judging the quality and fairness of legal systems" (Rubin 2019, 4). As he refers to reforming attempts of the Tanzimat Period which started around the 1840s as a 'massive project of Ottoman codification', he analyzed this project as an outpic-

ture of reformers' overall rule of law visions (Rubin 2019, 10). However, without a constitutional rule before 1908, Rubin analyzes the nineteenth-century legal developments as codification attempts which were not superior to the earlier centuries' legal developments. He says that: "In the absence of constitutional commitments prior to 1908 and particularly during the autocratic rule of Abdülhamit II, there is no point in looking for substantive versions of the law's rule" (Rubin 2019, 16). While Akgündüz examines the Ottoman Basic Law (*Kanun-ı Esasi*) was enacted in 1876 as a constitution regarding the acknowledgment of judicial independence (Akgündüz 2016, 5), Rubin criticizes to call the Ottoman Basic Law as a constitution by pointing out the unrestricted control of the sultan over the parliament. However, he sees it as an important milestone. "The Basic Law (*Kanun-I Esası*) which Abdülhamit legislated in 1876 only to abolish it in 1878 may be considered an important development in the evolution of the modern Ottoman imagination of the law's rule" (Rubin 2019, 11). Similar to Rubin, Schull also evaluates this pre-1908 period as a period of adaptation of 'modern' legal instruments while combining them with the existing traditional legal system of the Ottoman Empire (Schull 2016, 162).

Differently from Rubin, Schull elaborates his ideas on post-1908 period by saying that:

> "Most CUP penal code reforms focused on four separate, but related areas: rationalizing punishments and criminal proceedings; expanding and centralizing governmental power to determine and adjudicate criminal activity; gaining a greater monopoly over the use of force by assuming sole authority in exacting, determining, and imposing punishments; and eliminating intermediaries between state centralized power and criminals. These changes in turn enabled the CUP and the Ottoman administration to gain greater access to the populace and assume more responsibility for its welfare through the protection of individual rights and private property."
>
> (Schull 2016, 164)

To summarize what Rubin argues is that the legal reforms during the nineteenth century, especially for the Tanzimat period, refers to a transformation in various aspects. However, these transformations in terms of legal reformations do not constitute a superiority of importance on each other. As Rubin suggests we should examine the documents in terms of two periods in the legal-socio historiography. The first one is the pre-1908 period that was the law's rule period due to the highest priority of codification, standardization, and proceduralization; and the second one is the post-1908 period that is the rule of law period due to the importance

of constitutional commitments. Also, the developments that took place in the pre-1908 period characterized as the law's rule, reforms were necessities of the internal and international conjuncture. Moreover, in his article Schull supports Rubin's examination on the Ottoman legal reforms by referring that these reforms were not made to satisfy any Western demands. However, "[t]hey reflect the development of a unique Ottoman modernity that blended the practices and institutions of 'classical' Ottoman criminal justice with new methods of governance and practices to create a thoroughly modern criminal justice system still predicated and legitimized by Islamic legal practices, principles, and standards now updated to meet the strictures of the 'modern' world" (Schull 2016, 177).

Further, the Vagrancy Act of 1824 in England might have increased the authority of the police as it can be seen with the establishment of the Metropolitan Police in 1829, but for the Ottoman context the Municipality Police was established in 1879 before the regulation on vagabonds. However, regarding the rule of law and law's rule argument of Rubin, in the Regulation of 1890 references to specify the role of prosecutors were limited. The role of prosecutors became more specific and detailed in the Law of 1909 which also supports the periodization argument of Rubin that he separates the rule of law (pre-1908) and the law's rule (post-1908) periods. However, I have to highlight that regarding the limitations of this study, I do not make any emphasis referring to legal practices, but I only compare the legal documents and their contents.

Furthermore, when we think of what was common in both English and Ottoman context in terms of these states' attitudes on defining criminal action of vagrancy, they aimed to prevent criminal actions of vagabonds. In England, with the Vagrancy Act, a suspicious identity was determined with the purpose of eliminating any possible disorder in the society which created a necessity to punish a crime before it took place but not after the crime took place (Lawrence 2017, 513). Lawrence categorizes this attitude of the English state as an adaptation of a 'pre-crime approach' which was focusing ". . . on the suspicious people and the profile of these people to count as a suspicious who possibly will take a criminal action" (Lawrence 2017, 528). Again, the Ottoman state adopted a similar approach issuing vagabonds. As in the case for the English state to specify a suspicious identity to prevent any possible crime which could create a disorder in society, the Ottoman state also defined a suspicious identity by the Regulation of 1890 and the Law of 1909, and in both documents started with defining these suspicious people in their first articles.[7]

When the first articles examined, in a detailed manner, it can be seen that the Regu-

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[7]II. Tertip Düstur, Vol. 1, (1909), 169; I. Tertip Düstur, Vol. 6, (1890), 748.

lation of 1890 and the Law of 1909, aside from their common characteristic to define who counted as vagabond there is an important issue regarding the comparison between the English and the Ottoman context.

In England, after the enactment of the Vagrancy Act in 1824, a law on the poor was enacted in 1834 which was called the 'New Poor Law'. This New Poor Law also specified vagabonds by defining them "... as a destitute person who lacked both a permanent residence and a place of settlement" (Vorspan 1979, 59-60). And, I encountered a similar definition in the Regulation of 1890 which defines vagabonds in the Ottoman context as people without permanent residences.[8] However, in the Law of 1909 this definition to count as a vagabond was not used. On the other hand, as a similarity of the Law of 1909 and the New Poor Law of England, I observed that both texts tried to punish who was a vagabond by 'nature'. "Victorians simplified the matter by categorizing two types of able-bodied vagrants, the first one was the respectable working man seeking employment' and the second one was the 'habitual tramp' which had the assumption being that any casual laborer or discharged soldier who took to the road invariably joined the ranks of habitual vagrancy sooner or later" (Vorspan 1979, 60).

In both contexts of English and Ottoman, vagabonds were defined as people without employment. However, the problematic issue was not their unemployed status according to the New Poor Law and the parliament discussions in 1909 regarding this issue for the English and the Ottoman states. The problem was actually being vagabond as a choice or not. In other words, if they were people who sought employment but could not find a job yet, they were not perceived as a possible threat to the public order, because they were perceived as people with morals who were willing to contribute to society. As Vorspan states for the English context that: "In the nineteenth century vagrants – and the poor in general- were perceived as comprising two clearly distinguishable moral categories. The 'deserving' vagrant was the unemployed laborer whose nomadic existence was attributable to the inexorable workings of the economic system, the 'undeserving' vagrant was the professional or 'habitual' tramp" (Vorspan 1979, 65). For the Ottoman context, we know that in the parliament on 24th of March in 1909, helping the people who deserved to be helped was discussed as a responsibility of the state,[9] and this need of categorization was also shown as the necessity of a new law on vagabonds which was enacted on 9 May 1909, and we see some modifications to distinguish 'deserved' and 'undeserved' vagabonds. Some of these modifications were convicting the man as a vagabond if

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[8]I. Tertip Düstur, Vol. 6, (1890), 748.

[9]Meclis-i Meb'usan Zabıt Cerideleri (MMZC), İ: 45/C: 1, 24 Mar. 1909 (11 Mar. 1325), 426.

he did not work in two months, or not even seeking a job in his unemployed period.[10]

As we can interpret from the English context defining vagrancy as being unemployed suggested a style of living without employment as a crime, and the main reason for defining being unemployed as a crime was afraiding because of its possible spread like an infectious disease (Vorspan 1979, 74). This can be speculated with the same manner for the Ottoman context by thinking of the consequences of the spread of vagrancy in the territories of the Ottoman Empire in terms of its possible impact on political, economic, and social disorder.

After explaining who were categorized as vagabonds, why they categorized in this way and what were the possible reasons of the Ottoman state to avoid vagrancy; there is an important limitation which should be asked: who could not be counted as a vagabond? In both legal documents on vagrancy of the Ottoman state, there is a limitation of age to be counted as a vagabond. In the seventh article of the Regulation of 1890, it was clearly stated that vagabonds under 14 years old could not be imprisoned, but they had to be under the surveillance of the police until they turned 20.[11] While their surveillance was continuing, they had to acquire certain skills to find jobs in the future, and it was their family's responsibility to be certain of that. Further, in the sixteenth article of the Law of 1909, it was stated that children under 15 years old could not be labeled as vagabonds.[12] Again similar to the Regulation of 1890, their family was responsible for disciplining these children. Overall, what was important for the Ottoman state was the rehabilitation of these children to make them respectable members of society.

Similar with the Ottoman attitude towards young vagabonds, the study of Lenard Berlanstein reveals a parallel attitude of the French state due to young boys. Lenard Berlanstein issues juvenile delinquency in his article regarding the various problems that lead young boys to act criminally, which resulted with their labelling as vagabonds in the first half of the nineteenth century in Paris. He also mentions the attempt of the Parisian officials to rehabilitate young boys. For the French context, Berlanstein refers to the issue of economic problems in terms of finding employment, especially for the working-class families of young boys in Paris. He continues his argument by saying that these boys were more tempted to become vagabonds because of their families' situations in terms of struggling with poverty (Berlanstein 1979, 548). This argument of Berlanstein indicates a relationship between vagrancy and pauperism which is an argument also made by Vorspan (Vorspan 1979, 63).

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[10]II. Tertip Düstur, Vol. 1, (1909), 169.

[11]I. Tertip Düstur, Vol. 6, (1890), 749.

[12]II. Tertip Düstur, Vol. 1, (1909), 172.

The French government enacted a law on 5 August 1850 differentiated the penalties of youngsters and adults. Compared to the Ottoman regulations, to be counted as a youngster and the surveillance age according to the French law were different. "The Penal Code (articles 66 and 67) and administrative procedure provided that when a youngster below the age of 16 broke the law, the state had the obligation, not necessarily of punishing him, but of guaranteeing his supervision. The preference was for parental care, but in the last resort, the authorities would sentence the child to be raised in a reformatory until the age of 21" (Berlanstein 1979, 532). However, as it can be seen there was a significant similarity regarding the emphasis on families for both the Ottoman state and the French state to rehabilitate these young boys.

Rehabilitation of these young boys was important, especially in Paris. According to Berlanstein's study the reason was the high percentage of criminal offences were vagrancy for youngsters. Berlanstein's examination of the criminal records of the youngsters from 1830s to 1860s, youngsters were accused of vagrancy with an average of 42.3 percent (Berlanstein 1979, 535). In his study, the scholar gives the economic situation in Paris for that as a reason for that high percentage of criminal offences to youngsters. As he states that: "The burdens of economic change fall disproportionately on young people, and in mid-nineteenth-century Paris, they faced a labor market that was rapidly altering. Looking back on the past 30 years of Parisian industry, the Chamber of Commerce inquiry of 1860 noted substantial and accelerating technological innovations in a variety of trades. Skill-levels altered as new tools and mass production were introduced" (Berlanstein 1979, 545).

On the other hand, when the French and English contexts were compared in terms of the criminal activities of vagrancy, Berlanstein refers to the fewer numbers of criminal actions in London compared to Paris due to slower and longer development of policing practices in London (Berlanstein 1979, 543). To elaborate on this comparison, Paul Lawrence's study which compares the memoirs of French and English policemen written around the last decades of the nineteenth century is significant, in terms of investigating police perspectives of and attitudes towards the poorer classes (Lawrence 2000, 63). According to Lawrence, "... policing in France and England naturally developed a focus firmly fixed on the causal poor of the major urban areas and on a class of habitual criminals believed to be recruited from their midst" (Lawrence 2000, 64). Further, as Lawrence mentions that for both English and French policemen poverty and crime were observed as an intrinsic matter of individuals but not as a problem that sourced from society (Lawrence 2000, 666). Furthermore, Lawrence continues his examination of policemen's memoirs by referring to the attitude of policemen in terms of alcohol. As he states that: "[i]t was rather more common for police memoirs to stress the corrupting influence of vice,

particularly excessive consumption of alcohol, and its relationship to both poverty and crime" (Lawrence 2000, 69). As a similarity with the Ottoman context of vagrancy, consumption of alcohol was also perceived as a sign of demoralization of some groups in Istanbul (Çokuğraş 2013b). The following resemblance is all for the Ottoman, French and English contexts are the deterministic factors for being a vagabond. Lawrence states that both French and English policemen defined vagabonds in their memoirs as people without homes, jobs or adequate resources to survive (Lawrence 2000, 72) which also specified in the Ottoman legal documents of vagrancy to define vagabonds. The last similarity that should be mentioned is that the differentiation between the 'honest' and the 'deserving' poor (Lawrence 2000, 80). This categorization was a common problem for all states to differentiate who were 'moral' or 'honest' poor so they needed to help or who 'deserved' being poor because there was something wrong with their 'nature'.

The next two chapters will focus on and examine in detail the change in perception of vagrancy in the Ottoman Empire, by concentrating on the reign of Abdülhamid II and the Second Constitutional Period separately.

4. REGIME OF ABDULHAMID II AND REGULATION OF 1890

4.1 Political and Economic Background of the 1870s

While examining the socialist movements in the Ottoman empire, Mete Tunçay refers to modern socialism's unalterable values such as liberty, equality, and justice within a global perspective. In terms of the stratification of economic classes, the struggle of the working class targeted to improve their working and living conditions with a belief in changing the existing political, economic, and social structures. However, as a primary condition, there had to be a politically liberal environment to prevent any underground strife, and in the absence of this environment, people who embraced the socialist ideas had to struggle for a democratic society first (Tunçay 2006, 296).

Following the argument of Tunçay, there was a collaboration between various organizations consisting of members of Muslim and non-Muslim communities that also comprised the CUP and the Dashnaks before the Second Constitutional Period. Firstly, it is significant to define the differences between the First and the Second Constitutional Periods to understand the differences and similarities between the Regulation of 1890, and the Law of 1909 on vagabonds and the suspected criminals.

As Erik Zurcher indicates that the crisis between 1873 to 1878 is important to understand the first constitutional period and why it could not last for long. Regarding a combination of droughts and floods, there was a catastrophic famine in Anatolia in 1873 and 1874 (Zurcher 1998, 76). "A crash on the international stock exchanges in 1873, which marked the beginning of the 'Great Depression' in the European economy which lasted until 1896, made it impossible for dubious debtors like the Ottoman empire to raise money" (Zurcher 1998, 76). Having undertaken a more detailed study on the 'Great Depression', Şevket Pamuk argues that the "[r]ates of growth of Ottoman trade were distinctly lower during the 1880s and 1890s", and

conditions of demand were an important determinant of Ottoman exports (Pamuk 1984, 111). Considering the increase of Ottoman foreign trade in the eve of the First World War, in terms of the loss of territories and the Young Turk Revolution in 1908, Pamuk says that this trend of growth only can be extended until 1907 (Pamuk 1984, 110). As a result, the increase of Ottoman foreign trade rates got slower and trade relations of the empire got worse until the twentieth century which went hand in hand with the depression.

As Zurcher mentions, these economic problems were one of the indicators that triggered a political crisis. Increasing taxation on the Balkan provinces was one of the triggering effects that provided fertile grounds for separatist activities. Further, there was a series of rebellions in Balkan provinces among the non-muslim peasants in 1875-76 which resulted with a crushing response of the Ottoman state and the death of around 15.000 Bulgarians (Zurcher 1998, 76). As a consequence of these and as well as other developments, a group of leading Ottoman politicians (Midhat Pasha, Hüseyin Avni Pasha, Şeyhülislam Hayrullah Efendi) who envisioned comprehensive state reforms deposed Abdülaziz on 31 May 1876, and following a brief sultanate of Murad V, they enthroned Abdülhamid II on 1 September 1876. In this context the 'Ottoman Basic Law' (*Kanun-i Esasi*) was promulgated on 23 December 1876 (Zurcher 1998, 78). In March 1877, the parliament became active, but it did not last long. Abdülhamit II closed the parliament on 13 February 1878 regarding the defeat in the Russo-Ottoman War.

Territorial losses such as in the Balkans and consequences of the Russo-Ottoman War strengthened the security paranoias of the Ottoman elites (Yılmaz 2014, 59). Also, during the reign of Abdülhamid II, anarchist rebellions in Europe affected the Ottoman state's increasing security precautions such as censorship policies and passport controls, as well as controlling the immigrants and the suspected criminals became important (Yılmaz 2014, 82).

4.2 Debates on Vagrancy in the Parliament in 1877

During a rather short time of its active period, the parliament debated on the issue of vagabonds and vagrancy on 26 May 1877, i.e. around thirteen years before the 'Regulation on Vagabonds and Suspected Criminals' was issued by the Hamidian

regime. In this discussion, a member of the parliament[13] dissented to such a regulation by indicating that it was libelous to freedom.[14] Also, he mentioned that the people of the provinces were entitled to move to Istanbul to enjoy its opportunities. But, the chairman responded to this opposition by saying that the regulation was to save some people of provinces with unrealistic expectations from starvation as well as preventing them from leaving their jobs in their hometowns. After the remark of the chairman, it seems that all the members of the parliament were on the same page regarding the necessity of the regulation. But there was one critical view of Sebuh Efendi (Maksudyan) concerning the heavy sentence on the forged documents to enter the city, and he asked for commutation on that article. As opposed to Sebuh Efendi (Maksudyan), Hasan Fehmi Efendi defended the sufficiency of the punishment by arguing that such an act constitutes public mischief.[15] A significant point in terms of the difference between the later regulation of 1890 and the discussions in the parliament is the following: in the parliament, the responsible institution to implement measures against vagrancy was suggested to be the central municipality of the city. Also, the chairman of the parliament, Ahmed Vefik Pasha, referred to the greatness of the city by saying that dealing with Istanbul as one center means treating four sub-provincial administrations (*sancaklar*) as one.[16] This indicates the significance of Istanbul as a capital city attributed by the bureaucrats.

4.3 A Witness of 1870s: Basiretçi Ali Efendi

The writings of a resident in Istanbul during the 1870s can contribute to developing our understanding of the daily life in the city, perceptions on bachelors as well as on vagabonds, and why the issue of vagrancy was one of the prior topics that was discussed in the parliament. From the letters of Basiretçi Ali Efendi, who was a former state officer and later a journalist, we see him mentioning various issues in the daily life of Istanbul, mostly from rumors in the 1870s. His writings comprise rich stories in terms of the bachelors. One of the stories he tells about a bakery worker in Tophane and his action of fatal violence toward a woman. As Basiretçi Ali Efendi states, before the murder of the woman, she reported the harasser for his early abuses, and his subsequent imprisonment for five months. The man was apparently

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[13]His name was not indicated in the report, and it was written as 'a deputy' (*bir meb'us*).

[14]Meclis-i Meb'usan Zabıt Cerideleri (MMZC), İ: 37/C: 1, 26 May 1877 (14 May 1293).

[15]MMZC, İ: 37/C: 1, 26 May 1877, 296.

[16]MMZC, İ: 37/C: 1, 26 May 1877, 297.

a harasser who killed that woman for not answering back to his feelings. Whether this incident occurred or not, it reflects the perception of bachelors regarding their immoral attitude and as a social group which constituted a possible threat to society by harassing and killing women (Basiretçi 2001, 41).

Basiretçi Ali also deals with inns (*han*) and public baths (*hamams*). The writer mentions how inns were neglected by the state and were presenting a threat to society because of the lack of hygiene. He says that these places were mostly non-habitable but still, so many people were living in these places under crowded conditions. His main concerns included contagious illnesses and innkeepers' lax attitude by allowing these appalling living standards to prevail (Basiretçi 2001, 76). In terms of spreading diseases due to the crowded housing and lack of hygiene in these places, there have been several accusations made for many decades.

However, whereas the author's detection of the state negligence was accurate, an important change in the policies of the state can be denoted in the following decades. In the 1890s there were several reports on inspections to these places. For example one of the reports state the necessity of scattering bachelor rooms that some workers and cottagers were living in Beşiktaş because of the health hazard of these places.[17] Another report in 1901 refers to an enormously expanded inspection. It states that hotels, hans, coffeehouses, bakeries, bachelor rooms, hamams, docks, and public toilets were inspected regarding a health screening in the first, second, third, fourth, sixth, and seventh districts of Istanbul.[18] That is to say, the extensive area and the places in the 1901 inspection, also demonstrate the increasing emphasis on social control during the reign of Abdülhamit II.

Turning back to the 1870s, Basiretçi Ali in another writing on vagabonds says that there were unemployed people who trampled all day and spent their time in coffeehouses and meyhanes. He says that they should be employed and even if they do not want to work, the state must take action as it happens in Europe. Also, the precautions concerning vagabonds should be improved (Basiretçi 2001, 278). What he argued on employing vagabonds in the 1870s was not different from the Regulation on Vagabonds enforced in 1890. Another of his concerns was that vagabonds were not providing any benefit to society, nation, or state. They instead were spending their time in places such as coffeehouses in vain, and it was the opposite of what people in wealthy states were doing (Basiretçi 2001, 582).

Moreover, though not directly related to the issue of vagabonds, Basiretçi Ali celebrates the Darüşşafaka orphanage as an institution to win over the orphan poor

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[17]DOA, DH.MKT., 1761-114, 2 Safer 1308 (17 Sep. 1890).
[18]DOA, Y.PRK.ŞH., 11-63, 24 Rabiulahir 1319 (10 Aug. 1901).

boys to society by inculcating them good moral codes and value of commitment to their nation, which he considered a means to prevent the continuity of vagrancy in society. In terms of his comparison between the Ottoman state and the European states, he conceived the vagabonds as an obstacle to being a wealthy state (Basiretçi 2001, 624).

Nearly twenty years later, the writings of Francis Marion-Crawford presents similar ideas on labeling bachelors and vagabonds, similar to those of Basiretçi Ali Efendi. However, his ideas were more concentrated on ethno-religious identities and the gap between the districts of Istanbul. While generating his ideas violent clashes involving the Armenians in the eastern provinces of the empire, and the increasing nationalist movements might have a significant role.

4.4 The Regulation on Vagabonds And Suspected Criminals in 1890

Ottoman regulation in regard to suspected individuals cannot be fully understood isolated from contemporary European developments that I examined in a detailed manner in Chapter 2. During the nineteenth century as a consequence of the Napoleonic Wars and industrial revolution, European states struggled to control the migration waves to the cities that increased in regards to the growing poverty, whereby unemployment and poverty became one of the biggest challenges of the European states. The migration of the working poor class to the cities was considered a disorderly conduct for the ruling elites. The situation of bachelors in the Ottoman empire during the nineteenth and the beginning of the twentieth centuries, especially in Istanbul, can be examined from a similar perspective (Yılmaz 2014, 124-126).

The 'Regulation on Vagabonds and Suspected Persons', passed on 18 September 1890, consisted of fifteen articles. The articles issued on vagabonds and suspected criminals were intertwined with each other. The first article of the regulation defines vagabonds as the people without employment and temporary or permanent place of residences. The second article defines suspected criminals as the people who have been involved in one or more criminal actions such as pickpocketing, swindle, and murder.[19]

When the regulation is examined more closely, the fourth article indicates that a

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[19]I. Tertip Düstur, Vol. 6 (1890), p. 748.

person who has been denounced as a vagabond or if there was a widespread rumor on that person as being a vagabond, he had to respond to the police to enlighten his situation.[20] The tenth article specifies some tools which could be used in robbery and individuals had to prove their legitimate purposes to carry these items, and the eleventh article refers to that if any vagabond or suspected criminal possessed any unexpected goods which could not be theirs, they had to prove that they owned these commodities.[21] To elaborate the issue in terms of these articles, they hold the individuals responsible to prove their innocence which in fact was opposed to the principle of 'presumption of innocence'. Regarding this 'presumption of innocence' principle, a suspect was innocent before his guilt had been proven. Thus, as opposed to proving a person's guilt by the state, the regulation holds responsible suspects to prove their innocence. To put a finer point on it, the aim of the state was to prevent any possible action of disorder in society by acting with a 'pre-crime approach' which I referred to earlier (Lawrence 2017, 528). According to this pre-crime approach of the state, some people were labeled as suspicious to eliminate their possible criminal action before they acted in this way. Further, according to this pre-crime approach of the state, those suspicious people were equally criminals for the state compared to the people whose criminal action was proven. Besides, those suspicious people were not only assumed criminals in terms of the state's labelling; because of their identification, they also had to prove their innocence to the state. To elaborate the issue by giving a presumptive example, if some people would burglarize a home in the Beşiktaş neighborhood, a group of suspicious people had to prove their innocence with the help of a witness or any other kind of evidence to demonstrate their irrelevance with the crime.

Lastly, the sixth article of the regulation has a significant role to understand the events between 1890 to 1909, and why this article was removed in the Law of 1909. In the regulation, the sixth article bans any act of opposition or disobedience to the state from the non-residents of Istanbul. Thus, in the article it is stated that if a person who were living in Istanbul less than ten years was judged according to this article, the police could cancel their residence permits. In other words, regarding the sixth article in the regulation that had banned any opposition from non-residents of Istanbul, some collaborators of the opposition to Abdülhamit II were probably labeled as vagabonds. It might be because of this, the article was removed from the Law in 1909.

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[20] I. Tertip Düstur, Vol. 6 (1890), p. 748.

[21] I. Tertip Düstur, Vol. 6 (1890), p. 750.

4.5 A Witness of Early 1890s: Francis Marion-Crawford

The writings of Francis Marion-Crawford in the 1890s of the Ottoman Istanbul were published in 1893 and 1894 as two parts in American popular publishing of Scribner's Magazine. In his writings, Crawford depicts the 1890s of Istanbul as a city with a variety of people regarding their ethnicities and religions. He mentions the difficulty of defining Turks as a society of race or Muslims with different races. He makes a certain affirmation of Turks even his mentioning of uncertainties defining Turks. Also, he refers to some ethnicities as the 'other' of society. He says that some Rums (Ottoman Greeks), Armenians, Persians, and Africans call themselves Turks and by doing that they smear the Turkishness. Because, according to his affirmation of Turks, they were people with good characteristics and one of the sovereigns and superior races in the world (Crawford 2007, 12). After he depicts the physical characteristics of Turks with a vast generalization, he mentions the Rums and the Armenians as the exploiters and crafty people. Besides, he says that Rums and Armenians lived in every neighborhood with a huge expansion in the city, but they had no occupations. So, how were these people earning their livings if they did not exploit the Turks; how they were living, eating, or accumulating wealth? (Crawford 2007, 13). In his writings, he marginalized the Rum and Armenian people in the city. With a sweeping generalization, he labels all the Rum and the Armenian communities in Istanbul as the unemployed, functionless, people with lack of moral understanding, or in other words as vagabonds.

While depicting the domestic and street life in the city by separating both, he interprets a dualistic understanding of daily life as being at home and being outside of the home. He mentions about *'harem'* as the special living quarter inside the home, and by referring to the term 'even' for a home of a bachelor he implies that there was a *'harem'* (Crawford 2007, 46). That 'even' for bachelors to have a *harem* indicates two points; the first one is that harem was a living quarter which involved women in terms of an intimate family life within a home; the second one is that a man without a family could also have a private life.

Moreover, related to vagabonds and suspected criminals of the city, he mentions them as threats to the social order by saying that they were the people who come out from their places in the night with the darkness. He says that the graveyards in the city were not safe at night. Apart from the superstitions about graveyards, these places were perfect locations for smugglers or criminals, and they were their shelters (Crawford 2007, 68). As Çokuğraş argues in her study a way of labeling people as

marginals regarding their relations with some places such as meyhanes and bachelor rooms, Crawford's writings show a similarity for labeling people on their relationship with a new marginal place, that was the graveyards. Besides, Crawford separates the functionality of the graveyards as the daytime and the nighttime. He refers that being at a graveyard was legitimate during the daytime because people were visiting the graves. But there was not a valid explanation of being at a graveyard during the nighttime, so he accuses these people as being vagabonds or suspected criminals (Crawford 2007, 68).

In terms of the places of the city which included numerous non-Muslims such as Pera and Galata, he says that there was no need to talk about these places because they had never been part of the city. Since these places were part of the old Genoese colony, they could never be part of Muslim Istanbul. Crawford says that even in a fictional scenario, where the sultan and some statesmen were living in Pera, it was even not enough to make this area to be part of Istanbul (Crawford 2007, 70). The author depicts Pera and Galata as less Oriental and less attractive places that mostly European Christians and Jews were dwelling. Because of its less Oriental character of the area, he disparages the area while depicting daily life in Istanbul to his readers. Also, he portrays Pera with great palaces of the aristocrat Levantines, while portraying Galata with the worst kind of people in the world. His feelings on Galata originate from his perception of people who lived in Kasımpaşa and Tophane like hounds. He expresses his feelings by saying how it could be possible to contain that many evil people in one place in the world (Crawford 2007, 70). These evil people included Rums and Armenians who were living in Galata and were occupied with underground business and illegal jobs. Thus, by referring to the same group of people, he says that regarding their religions, they were under the protection of European embassies, and because of that it was almost impossible for the Ottoman state to punish them and maintain the order. Besides, he mentions about the *meyhanes* in Galata by saying that all of them had gambling dens to swindle their customers and the security guards were responsible to protect the owners, not the customers (Crawford 2007, 72).

In sum, by referring to the differentiation between Pera and Galata, Crawford indicates different social classes in the city. While making this differentiation, he praises the people of Pera, because probably they had relations with the state. But, at the same time, he disparages the people of Galata, and specifically Kasımpaşa and Tophane, because people of the lower classes were living mostly in Kasımpaşa and Tophane.

4.6 Political Economy of Migrations and the Demonstrations in the 1890s

As Florian Riedler mentions a differentiation between unfree and free migrations plays a significant role in migration studies. Regarding the labor migrants, their economic motivations might be easier to study or analyze due to the possibility to determine concrete economic conditions. However, a distinction between the individual and institutional factors leading to migrations might also be taken into consideration. In other words, a person could have migrated by his/ her choice to find employment or s/he might have been dislocated due to administrative/governmental considerations (Riedler 2011, 160).

Looking from this latter institutional perspective, the Ottoman empire used migration policies as a tool of controlling the population in terms of the quantity and the heterogeneity of society from various aspects for centuries. Replacements of some groups by the state were not only economic decisions but they were also political. The Ottoman state's trust in his subjects' loyalty changed in regard to the political conjecture of the period which made an impact upon migration policies, too (Riedler 2011, 161). In light of these, examining the Armenian labor migration to Istanbul in the late nineteenth century is a revealing example to analyze the Ottoman state's attitude regarding the rising nationalist ideas. The harsh responses of the state directly or by tolerating violent popular reactions against Armenians were examples of how a group of people could be targeted.

By these dislocating practices of the government, migrants arriving in Istanbul might be either skilled craftsmen or unskilled workers who were forced to work for long hours or with little or without payment (Riedler 2011, 161). In terms of their payments and skills, probably most of the unskilled workers were bachelors because of the poor payments and bad living conditions. Craftsmen, on the other hand, might earn more than the unskilled migrants even sufficiently enough to transfer their families to the capital.

There was a respectable amount of Armenian population in Istanbul as a consequence of the forced recruitments starting with the sixteenth century to increase the number of artisans in the capital from Van, Yerevan, and Nakhichevan. Apart from these economic purposes, there was also a military implementation that needed to the recruitment of the non-muslim subjects which was the devshirme system. Some of the vital branches of the city such as the logistics, transport, and supply business were dependent on outside labor and that is why the government did not prevent the

arrival of these large groups of unattached men or in other words bachelors or Armenian *pandukht* (Riedler 2011, 163). Some of these people became the permanent residents of the city after a time. The need for labor was satisfied from inside the inhabitants of Istanbul for a time when the old migrants but new residents blended in the community of the city; when a need for new labor force emerged new migrations took place. But as a means of maintaining control over these migrants, they were considered to be unwanted in society and, if necessity arose, were expelled from the city by the state (Riedler 2011, 163).

In his article Riedler does not refer to *hemşehrilik* as a form of a social network of the Armenian workers, but he refers to the outpourings of *hemşehrilik* as the geographical and economic relations. In the mid-nineteenth century Istanbul, the Armenian immigrants mostly lived in the same districts or neighborhoods, which was also reflective of their geographical origins and types of occupation. According to this, for example being a porter (*hamal*) was a popular occupation for the seasonal Armenian laborers and the two-third of the porters had originated from Van and its neighboring provinces (Riedler 2011, 164). So, the recruitment of the state was based on geographical replacements of its subjects but not on ethnic or religious identities (Riedler 2011, 165). These geographical recruitments were changed in regards to the increasing ethnic and religious concerns of the state as a consequence of the rising nationalist movements in the late nineteenth century.

The 1882 census reveals that there were around 12.000 Armenian workers in Istanbul which formed the 20% of the temporary workers and the 30% of the Armenian community in Istanbul who mostly lived in khans (Riedler 2011, 165). The detailed study of Kemal Karpat on the 1882 census reveals that in Istanbul there were 7.675 Armenians who lived in shops, and 3.679 Armenians who lived in khans (Karpat 2013, 241). Also, Kasımpaşa was a preferable neighborhood for the seasonal Armenian workers to live and it remained as a center in the 1890s, too. According to the Protestant American missionaries records, at the beginning of the 1890s, there were around 35.000 Armenian labor migrants (Riedler 2011, 166).

The Ottoman workers were not homogeneously categorized to have a profession in regards to their ethno-religious identities. However, varying identities started to cause problems between them, especially in the second half of the nineteenth century and in the beginning of the twentieth century. These problems were derived by the political problems in general; such as with the popular nationalist movements during the 1890s. When the 'Armenian Issue' started to become a major problem, the Muslim workers who were affected by adverse political and the social conditions attacked the Armenian workers (Yıldırım 2013, 75).

At the end of the nineteenth century, the Armenian migration to the central city became a more political issue and this issue was addressed as 'Armenian Question' (Riedler 2011, 166). According to Riedler, Armenian peasants in the eastern provinces were not only paying taxes to the central state, but also they were paying traditional taxes to the local power holders. Besides, some attacks of the nomad Kurdish tribes took place which targeted the Armenian peasants. Possibly due to the weakness of the central authority in the region, the Armenian peasants could not get any response from the state regarding the problems that they were facing (Yılmaz 2014, 64). Moreover, the evolving problems from the mid-nineteenth century as a consequence of the land reform (*Arazi Kanunnamesi*) in 1858, there was an increasing number of the massive land grabbing events of the powerful landlords and there was a pattern of Kurdish landlords to occupy and banish the Armenians from their lands (Riedler 2011, 166).

Survival problems related to the Russo-Ottoman War of 1877-8 were added to the evolving problems. In the Berlin Conference of 1878, a reform program was stipulated in favor of the Armenian community in the six east Anatolian provinces to eliminate the conflicts between the Kurdish landlords and the local Christians. Besides, a drought between 1879 and 1880 in Eastern Anatolia caused local rebellions that subverted the economic stability, and the lack of intervention of the state resulted with the increasing violence in the region (Yılmaz 2014, 64). As a consequence of these issues, the Armenians in the eastern provinces endeavored to form guerillas in 1880s and there was also an emerging Armenian revolutionary movement in 1890s (Yılmaz 2014, 65).

As a consequence of the Armenian revolutionary movement and their violent and nonviolent protests in the 1890s, the Armenian migration to Istanbul became an important political issue for the Ottoman state.

> "These started in summer 1894 when the Ottoman authorities violently quelled unrest in the Sasun region in the north of Bitlis, where Armenian peasants aided by two nationalist agitators refused to pay taxes to the central government. This local issue was pushed to a higher stage by international protests and particularly by a demonstration of the Armenian community at the Sublime Porte in Istanbul, which ended in a shoot-out between the police and Armenian revolutionary groups (the so-called *Bab-ı Ali Hadisesi*) on 30 September 1895."
>
> (Riedler 2011, 167)

The demonstrations at the Sublime Porte, which began on 30 September 1895 were

organized by the revolutionary Hunchak group. Among the participants were also people who belonged to the working-poor class. Following the two days after the demonstrations, there were random killings of Armenians, and these events turned into pogroms. There were attacks on two khans, one in Kuruçeşme and the other one in Kasımpaşa. Riedler examines these incidents as killings of Armenian workers, but there might be vagabonds among them. Because even they were unemployed people for the time being they were vagabonds for the state.

These events continued with the bombing of the Ottoman Bank in Galata by some Armenians in the 1896 summer. A group of Armenians occupied the Ottoman Bank in Galata and two other buildings on 26 August 1896 and killed some Ottoman policemen and passers-by. This event was not popular as the demonstration at the Sublime Porte but was organized by the Dashnak (the Federation of Armenian Revolutionaries) (Riedler 2011, 168). This occupation of the Ottoman Bank in 1896 constituted a turning point to banish the Armenian workers (Yıldırım 2013, 79).

Afterwards, an instruction from the grand vizier's office to the Istanbul municipality and the ministry of police ordered all Muslim porters, day-laborers and workers who lived in the khans, bachelor rooms and *hamams* to be put under the special supervision of the wardens of their lodgings (*odabaşı*) and the principals of their respective guilds (*esnaf kethüdaları*) to prevent any outrage (Riedler 2011, 169). Thus, starting from Istanbul official demands were sent to the government offices in September 1896 to record their Armenian porters, workers and janitors, with the purpose of dismissing these Armenians from employment eventually to prevent any possible problems (Yıldırım 2013, 80). Meanwhile, around 3000 to 5000 some working-poor Armenians and vagabonds left the city with fear or exiled to their hometowns (Riedler 2011, 170-1).

While most of the Armenian working poors or Armenian vagabonds left the city or were exiled, Hagop Mıntzuri was a working poor who was able to continue his life in Istanbul. Mıntzuri narrates his memories about the Demonstration in 1895 and the occupation of the Ottoman Bank in 1896 by referring to the closing down of the Armenian school of Getronagan. He says that after a while it opened again, but there were many missing people from three classes of the same term. Even the school director was missing and to fulfill his position Turkish literature teacher was appointed as the director with the votes of the school council (Mintzuri 2017, 125). Also, Mıntzuri depicts the working poor class as a group of people who wear their same worn clothes for years to not dress up, but to protect themselves while walking from the seasonal weather events. Even if the sea was not separated Kadıköy or Üsküdar, they would have to go there on foot, too (Mintzuri 2017, 229). They

were the second class passengers at ferries or trains who lived in poor neighborhoods with narrow or acclivitous streets, and without sidewalks or sewage infrastructure (Mintzuri 2017, 230). They were mostly unskilled workers with slight possibilities to find another employment because of their lack of abilities, so they had to continue work in their daily-paid jobs with low wages (Mintzuri 2017, 232-233).

On the other hand, to prevent any recurrence of these events, one of the precautions taken by the government was banishment of the Armenian vagabonds, while the remaining Armenian people were registered by the police and the municipality to establish effective administrative control. One example for this control includes the case of 120 suspicious Armenians from Anatolia who were deported to their home regions by the police authorities despite the fact that some of them had been living for many years in the city earning their livings as an inn or coffeehouse keepers, grocers or tinkers (Riedler 2011, 173).

During the reactions to the Occupation of the Ottoman Bank, hundreds of Armenian porters were killed or were deported from Istanbul, and their positions were filled by the government with reliable Muslim subjects (Yıldırım 2013, 80). Following the demonstrations, followed by the massacres and deportations, it became possible for the remaining unemployed people in the city to fill the vacant jobs. Since Armenians were now considered to be untrustworthy, their jobs were taken over by Kurds, such as the replacement of Armenian porters with Kurdish ones. Thus, these jobs were taken over by a workforce considered to be politically more loyal (Sefer 2009, 122). This replacement between ethno-religious communities presents an example of a mechanism for surveillance and order used by the Ottoman state.

> "The degree of danger and threat against the ideal society the state-elites had in their minds was not independent from the ethno-religious identity of the urban poor. The social exclusion, therefore, had also an identity dimension which imagined a secure and obedient society as belonging to certain ethno-religious and excluding the certain ones as others."

> (Sefer 2009, 151)

Regarding the other sources that Sefer used in his thesis and by his inquiry to examine the daily realities of the Ottoman subjects, the regulation, and the law on vagabonds do not support this argument. These documents do not refer to any ethno-religious distinctions. However, it is possible that in the practice they might be used due to these ethno-religious distinctions. Because how these regulations were practiced in the daily-life is another important subject to study, and the practices of these laws might be different according to the changing executives.

4.7 The 'Committee of Union and Progress' And the 'Federation of Armenian Revolutionaries'

The precursor organization to the Committee of Union and Progress (CUP) was established by four students of military medical school in 1889. Until 1895 this secret oppositional group merged with Ahmed Rıza Bey's committee in Paris and became the CUP. The CUP revealed its existence to the public as a reaction to the Armenian incidents. Regarding the demonstrations at the Sublime Porte in 1895 and the continuing bloodsheds, CUP members distributed leaflets on the inadequacy of the administration and the need for taking action by the people against the regime of Abdülhamid II. As a result of their actions, some of the members were imprisoned or exiled. After these imprisonments and exiles, other members from civil servants, military officials, and ulema became dominant in the organization. Under the leadership of Mizancı Murad Bey a failed coup attempt was made. However, the Hamidian regime undertook a mass operation on CUP members and some members of the organization were arrested. The domestic organization became paralyzed (Zurcher 1998, 91-2).

When Sultan Abdülhamid's brother-in-law Damad Mahmud Pasha fled in 1899 to Britain with his two sons, one of them, Prince Sabahaddin, declared himself a Young Turk. It was Prince Sabahaddin who organized a congress in February 1902 that was the 'First Ottoman Liberals Congress'. In this congress, Prince Sabahaddin dominated the meeting with the view on the necessity of a decentralized administration. This view was supported by non-Muslim participants, including the Armenian parties. The CUP, headed by Ahmed Rıza Bey, rejected this position in favour of centralized governance. The CUP acquired significant strength when it established connexion with the Salonica-based secret Ottoman Freedom Society (*Osmanlı Hürriyet Cemiyeti*) which maintained a clandestine network within the Second and Third Armies' officers. Under these new conditions, a Second Young Turk Congress convened in December 1907 in Paris, where the Liberals under Prince Sabahaddin and the Dashnaks also took part (Zurcher 1998, 92-5).

Especially the collaboration of the Dashnak and the CUP members before and in the early years of the second constitutional period shows that the reign of Abdülhamid II was a common national democratization problem for these groups. Besides, the parliament members from the Hunchak and Dashnak parties in the second constitutional period show that there were common struggles and collaborations (Tunçay 2006, 297).

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In 1907 to unite the opposition organizations the CUP, Prince Sabahaddin's 'League of Private Initiative and Decentralization' and the Dashnaktsutyun Committee coordinated the second congress (Hanioğlu 2001, 191). However, during the meetings of the CUP and the Dashnak leaderships, there were several discussions that occurred. The CUP had harsh rhetoric on Dasnaks such as describing them as 'traitors' and also they saw this Armenian organization as being stalemated. The CUP considered the situation of the Dashanks as they were squeezed between three governments of Russia, Iran and Ottomans and they had no alternatives but to form an alliance with the CUP (Hanioğlu 2001, 192-193). During the early negotiations between the CUP and the Dashnaks, Prince Sabahaddin's representatives played an insignificant role regarding their lack of expanded internal organization in contrast to the CUP and the Dashnaks organizations. One of the terms of the CUP to form an alliance with Dashnaks was asking a promise to not take any action similar to the demonstrations in the 1890s (Hanioğlu 2001, 196).

Also during the debates there was a disagreement on the use of revolutionary means by the CUP and the Dashnaks. In terms of the conservative ideology of the CUP revolutionary tactics were necessary as a form of activism, but for the Dashnaks that acknowledged a socialist ideology, revolutionary tactics were not only a form of activism (Hanioğlu 2001, 204). However, the congress and the tactical alliance between the CUP and the Dashnaks had almost no importance for practical purposes in the Revolution of 1908, the revolution was a result of an independent initiative of the CUP (Hanioğlu 2001, 209).

5. YOUNG TURK REGIME: DISCIPLINING VAGABONDS AND CONTROLLING WORKERS

5.1 The Second Constitutional Period and 'Infringement of Public Order'

As a result of the 'bloodshed' response of the Ottoman state to the unrest among its Armenian subjects in the 1890s, the image of Abdülhamid II became a "blood-thirsty and reactionary tyrant" for the Europeans (Zurcher 1998, 80-1). With the 'Declaration of Freedom' (*İlan-ı Hürriyet*) in 24 July 1908 the 'Red Sultan's abso-lutist monarchy ended (Karakışla 1992, 153). Following the revolution, there was a strike wave that expanded in the Ottoman territories. In two weeks, the CUP had to call for workers to return their works as well as to end the strikes. However, the strikes continued until 1909, and the CUP's emphasis on the social order did increase regarding the expansion of the strike wave. During the reign of Abdülhamid II between 1876 to 1908, a total of 50 strikes took place; but, after the 'Declaration of Freedom' to end of the year of 1908, there were at least 111 strikes (Karakışla 1992, 154). Even before the opening of the parliament, the government had to pass a 'By-Law on Strikes' on 10 October 1908. On the other hand, a study of Kadir Yıldırım on Ottoman workers reveals uncounted additional thirty strikes. According to his results a total of 143 strikes took place in the empire from June to December in 1908. Among these, 59 happened in Istanbul alone, i.e. 41% of all strikes (Yıldırım 2013, 265).

The 'Declaration of Freedom' was a result of a successful Jacobin struggle of the CUP, and dissatisfaction of people and workers during the period of Abdülhamid II played an important role. The strikes following the Young Turk Revolution re-flected a continuation of this dissatisfaction of the workers during the Abdülhamid II's period (Karakışla 1992, 156). Regarding the 'Declaration of Freedom' workers probably thought that they could express their demands, but the 'By-Law on Strikes'

to restore public order shows that CUP's agenda was different, such as prioritizing to establish political, social and economic order.

In the strikes there weren't any indication of nationalist separatist tendencies, and in most cases non-Muslim and Muslim workers acted together (Karakışla 1992, 167). However, the 1908 strikes either ended in failure or only acquired partial gains due to the lack of organization or leadership, and impacts of the strikes mostly remained at local level (Karakışla 1992, 169). Even though strikers and demonstrators had non-political demands such as improving their working conditions or increasing their wages, the Ottoman state officials considered these people as potential criminals and trouble makers and regarded their actions as an 'infringement of public order' (*İhlal-i Asayiş*) (Karakışla 1992, 170). No matter how peaceful the strikes were, strikers encountered with the government's use of violence by deploying soldiers, gendarmes and police to sustain order, as could be observed in Aydın, Zonguldak and the Tobacco Regie factories in Samsun (Karakışla 1992, 170). On the other hand, the CUP had a lack of experience to deal with the social and economic problems that they were facing in the first months of the 'Freedom' (Karakışla 1992, 171). But despite their lack of experience with their reactions to suppress these strikes, the government and the CUP clearly signalized the strikers what they meant with the notion of 'Freedom' and what was in their political agenda to regulate employer-employee relations (Karakışla 1992, 177).

5.2 The Law of Vagrancy

Possibly in connection with the abovementioned strikes and other labor movements, The Grand Vizier issued a memorandum on vagrants, criminals, ex prisoners and beggars' flooding to the capital; this memorandum pointed out the necessity of a law to control these people, as well as the Ministry of Police (*Zaptiye Nezareti*) insisted on the necessity, too. In regards to these attempts to take attention on the issue, a new law on vagabonds and the suspected persons enacted which aimed to control the urban poor (Ozbek 2009, 783).

As already mentioned in the previous section, the actions of the CUP after the strike wave revealed their political agenda in terms of regulating employee and employer relations. From another perspective, Ferdan Ergut examines these actions as the capitalist logic of the new regime which needed to reestablish the public order by

using police in regard to disciplining the reproductive activities of the poor class in general, or the workers and the 'vagabonds' specifically (Ergut 2002, 149-50). In his study, he considers the changes in the police force as an indicator of the Ottoman state's centralization and in terms of the police force. According to him, their main purpose was to maintain the public order rather than to fight against crime (Ergut 2002, 150). To increase the 'infrastructural power of the state' and the police by penetrating society, the Law on Vagabonds in 1909 played a significant role (Ergut 2002, 151). The vagabonds were increasingly defined as criminals in society and the police were differentiating the 'respectable' workers from those people without lack of discipline to work who were vagabonds. Thus, to discipline these vagabonds some new regulations were enacted in the law to treat vagrancy as a crime of violence. Also, the government's emphasis on disciplining the idle poor through putting them into productive activities were signified a shift from corporal punishment to disciplinary policies which was a consequence of the commercialization of the economy, centralization of the state apparatus, and population movements towards urban centres, or, in general, the economic and social transformations of the period (Ozbek 2009, 784).

As we know from an article which was published in the daily *Tanin*, this new approach was voted in the parliament on 28 February 1909. In the next day of voting when the article was published, the newspaper editorial stated that the issue of vagrancy had been an important topic for the public order and when its importance considered treating vagrancy as a crime of violence was accepted the most deterrent precaution.[22]

Another discussion on The 'Law on Vagabonds And the Suspected Criminals' took place in the parliament on 22 March 1909. The discussions started with criticizing the Regulation in 1890 for being insufficient and with specifying the importance of a new law regarding the problems that have been continuing after the 'Declaration of Freedom'. Regarding the continuing disorder in society, one MP, Fuat Hulusi Bey indicated that after ending despotism (*istibdat*) everybody felt like they were getting out of a prison. However, a law on vagrancy was necessary to control the people with wicked morals as well as to stop their actions of extorting other people's freedom.[23] Regarding this need of preventing the extorting actions of the vagabonds, the Police Department (*Zaptiye Nezareti*) prepared a pleading to sustain the order, such as including a punishment for not obeying the orders of the police. After a pleading

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[22] *Tanin*, 29 Feb. 1909 (16 Feb. 1324): "Serseri Nizamnamesi: Dün Meclis-i Meb'usan'da Adliye encümeni ictima' ederek Serseri Nizamnamesi'nin tedkiki ile meşgul olmuştur. Encümence bizdeki serserilerin ahvali, bunların heyet-i içtimaiyemizde işgal eylediği mevk'i nazar-ı itinataya alınarak mazeretleri tahdid edilmek üzere, müesser bir çare olmak üzere (dayak) cezası esası kabul edilmiştir. Hakikaten memleketimizin ahvaline nazıra bundan müesser bir tedbir olamaz!"

[23] Meclis-i Meb'usan Zabıt Cerideleri (MMZC), İ: 45/C: 1, 24 Mar. 1909 (11 Mar. 1325).

of the police, the Council of State (*Şurayı Devlet*) examined the document and improved it by grounding the law proposal on the Regulation of 1890. As a result of the amendments of the state council, the sixth article that banned any act of opposition from outside of Istanbul was removed.[24] Thus, according to Fuat Hulusi Bey a deficiency of the regulation on behalf of the court of justice was improved by increasing its responsibility and involving someone from the court of justice during the all processes of judgements of the criminals and vagabonds.[25]

Also, the necessity of the Law of Vagrancy was defended during the parliamentary debates by referring that being unemployed would cause idleness, and people with extreme poverty and despair might be tempted to do illegal acts. So, one of the parliament's primary responsibilities was to prevent such illegal actions as well as by helping people who deserve help. Regarding this, as an example the difference between beggars and vagabonds was shown. This discourse on comparing beggars and vagabonds had an early past. As Nadir Özbek has stated, "Despite the favourable economic conditions of the mid-1890s the catastrophic events of the previous two decades generated a concern with the 'social question' among the Ottoman elite; begging and vagrancy accordingly turned out to be one of the major issues of the public discourse" (Ozbek 2009, 786). Also, the first Ottoman institution to provide shelter to 'true beggars' was opened in 1896 (Ozbek 2009, 788). In terms of this differentiation as the 'true beggars' in 1890s, we see a continuity in the discussion at the parliament in 1909. Beggars were categorized as people who could not work and as harmless people to public order, who needed the help of the state and it was the duty of the state to help these people who were incapable of working.[26] Another group of people who needed the help of the state was considered the unemployed or bankrupt people for the time being. These people's temporary unemployment was considered an unintentional vagrancy.[27]

Apart from these two groups deserving the help of the state, there was the last group of people who were considered vagabonds by nature. These people were categorized as the main target of the law, because they were capable of work, but not employed or looking for employment, at least within a legal definition of what employment was considered by the state.[28] More specifically, during the discussions in the parliament the general term of vagabonds were categorized within three subgroups; the first subgroup referred to people who failed to contribute to the economic development

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[24]MMZC, İ: 45/C: 1, 24 Mar. 1909, 425.

[25]MMZC, İ: 45/C: 1, 24 Mar. 1909, 426.

[26]MMZC, İ: 45/C: 1, 24 Mar. 1909, 426.

[27]MMZC, İ: 45/C: 1, 24 Mar. 1909, 427.

[28]MMZC, İ: 45/C: 1, 24 Mar. 1909, 427.

of the state; the second one referred to a state of temporary unemployment; both subgroups of people needed the protection of the government. However, the last category was the most dangerous one because these people were against work in principle regarding their 'nature' (*fitraten*) (Ergut 2002, 151).

Moreover, a necessity to improve the regulation of 1890 was voiced in Fuat Hulusi Bey's speech by referring to its similarity with the French law on vagrancy. In his speech, he mentioned that in France the law was inadequate to sustain the order as well as it was the situation for the Ottoman empire. So, in order to sustain the public order, successful examples should be considered such as the practices that were used by Germany and Belgium to discipline the labor force in their colonies.[29] In terms of this, vagabonds ought to be considered within the purpose of disciplining a potential labor force that could be beneficial for the state. In fact, vagabonds' potential benefit for the state was the essential difference that was considered in the Law of 1909 for categorizing the suspected criminals and the vagabonds.

In this regard, in the proposed law on vagrancy, vagabonds were specifically referred to as a group of people who were not employed and not seeking to find employment even though they were capable of working.[30] Differently from the Regulation of 1890, the vagabonds did not have to prove their resident permits. A more specific term to define vagabonds was included by referring to a person who did not attempt to find employment in two months to be considered vagabonds.

While debating on how to define vagrancy, we can say that there was a disagreement in the parliament. The most hotly discussed point was the time period of two months of unemployment proposed to consider individuals legally as vagabonds. Even the chairman of the parliament observed that all parliament members criticized this proposal at the beginning of their speeches.[31] Another highly criticized point was the removal of the necessity of the resident permit. On the other hand, three punishments were determined as possible penalties which were prisonment, exile, and corporal punishments. The corporal punishment was included by referring the English, Japanese, and American successes at improving and sustaining the public order.[32]

Following a proposal of Fuat Hulusi Bey, the articles of the proposed law on vagabonds were decided to be discussed in the parliament one by one. However, as criticized by Agop Babikyan Efendi the proposed law that was read earlier was

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[29]MMZC, İ: 45/C: 1, 24 Mar. 1909, 427-8.

[30]MMZC, İ: 45/C: 1, 24 Mar. 1909, 429.

[31]MMZC, İ: 45/C: 1, 24 Mar. 1909, 441.

[32]MMZC, İ: 45/C: 1, 24 Mar. 1909, 433-4.

not the same bill that was shared with the members of the parliament.[33] To enact the law on vagabonds, there were appeared to be three drafts that were prepared first by the police, second by the Council of State, and the third by the parliamentary committee consisting of Yusuf Kemal Bey, Krikor Zohrab Efendi, and Fuat Hulusi Bey.[34]

The deputy of the Bagdad who was Babanzade İsmail Hakkı Bey criticized the law for proposing to define a punishment without even the existence of a criminal act. He said that there was a need for an action to punish someone. He drew attention to the fact that in this law to define a lack of activity as a crime might encourage police corruption as well as the danger of the possible distortion of the law in the hands of the police. Besides, to prevent any distortion of the law by the police, he proposed to include the implementation of guarantee to declare a suspect's innocence.[35]

Considering the debates on the Regulation of 1890 in the parliament, we see that the discussions of even only the first article of the Law of 1909 took at least two days. This fact can be considered a consequence of a new established more democratic regime following the Young Turk Revolution of 1908. However, even after all of the criticisms and the discussion in the parliament, we see that the proposed law of the committee on 17 March 1909 was enacted on 9 May 1909, following the reopening of the parliament after the counter-revolutionary attempt of 31 March was suppressed.

Regarding the earlier discussions as well as the historical, political, social and economic changes the Law on Vagabonds in 1909 enacted in very short time after the reopening of the parliament due to the counter-revolutionary attempt. The enacted law was the same as the proposed law on vagabonds by the commission. In terms of this, it can be seen that the changing political conjoncture after the counter-revolutionary attempt did not change the proposed law, but it accelerated the process of enacting the law.

5.3 Comparing the Law of 1909 and the Regulation of 1890

The 'Regulation on Vagabonds and Suspected Persons' issued in 1890 during the Hamidian period, presented a crucial development in the field of defining public

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[33]MMZC, İ: 45/C: 1, 24 Mar. 1909, 436.
[34]MMZC, İ: 45/C: 1, 24 Mar. 1909, 437.
[35]MMZC, İ: 45/C: 1, 24 Mar. 1909, 455.

order in the Ottoman empire. Soon after the 1908 Revolution of the CUP, a law was enacted on the basis of this regulation by the addition of some new articles (Ergut 2002, 154). With the additions of some new articles, a new version of the regulation enacted on 9 May 1909 as the 'Law on Vagabonds and Suspected Persons' by the CUP government.

Regarding the definitions of vagabonds and suspected persons, when the Regulation of 1890 and the Law of 1909 are compared, we observe some differences. First, differently from the regulation, there is no indication of the place of residences for vagabonds. Second, the identification of the unemployment period as a means to be considered a vagabond is more specific in the law; it stipulates that the person has to remain unemployed at least for two months to be considered a vagabond. Third, a new concept in regard to the suspected criminals, the notion of 'constant suspicion' was applied in the tenth article in 1909. Lastly, we see that a new method of penalty applied in the law that was corporal punishment, and it was a common punishment that used on both vagabonds and suspected persons, but only the whip count differed according to the criminal act and the description of suspect as vagabond or suspected person. On the other hand, as the common characteristic in both legal documents, vagabonds were defined as unemployed people and the suspected persons were defined as the people who had previous criminal records.

When the Regulation of 1890 and the Law of 1909 are compared superficially, there appear to be several differences. All in all, within the Regulation of 1890 do not stipulate a strict differentiation between vagabonds and suspected persons. There were fifteen articles that both categories were mixed, so that each article was handled with both categories together. However, we see a strict differentiation between vagabonds and suspected persons within the Law of 1909. There were twenty-two articles that only the tenth and the eleventh articles were issued suspected persons. In both legal documents there were the prison sentence and the expellee as punishments. There was no corporal punishment to prisoners in the regulation, but it became included in 1909. Also, there is another significant difference in the law compared to the regulation which involves the emphasis on prosecutors. Both legal documents end with the same article which states that the internal affairs and the administration of justice were responsible to apply these decisions. However, the regulation only mentions the municipal police in the articles and specifies its duties. But in the law, it might be said that a second party joined the process as responsible for referring the case to the court until the execution of the punishment. It can be interpreted that after apprehending the criminal or the suspected person, most of the duty of the police was done and after that, the main respondent was the prosecutor. To put a finer point on it, there was more emphasis on internal

affairs in the Regulation of 1890, and in 1909 this situation changed behalf of the administration on justice on paper.

These legal documents on vagrancy were formulated to control the poor people who might be potential criminals. As it mentioned in the previous chapter, at the parliament in 1870s, controlling the poor people was legitimized as preventing people from leaving their jobs in their hometowns and avoiding their possibility to starve. After nearly thirty years, as it mentioned in the previous section, extreme poverty was regarded as an influence to lead people in illegal actions by Fuat Hulusi Bey. As compared to the discussions on vagrancy in 1877 and in 1909, we see that the concept of vagrancy was more elaborated in the second parliamentary period. In 1909, vagabonds were differentiated as deserving and undeserving people of help from the state. These undeserving poor were defined as unproductive as well as not beneficial people in the economic activities for the state. Also, this unproductive poor who were vagabonds by nature, they became increasingly a threat to the public order and a target of the police. For the police, their most important task was to protect the community of commerce, and these vagabonds were a threat to the increasing circulation of commercial goods in and around the city (Ergut 2002, 153).

As Özbek comments, "Though these 'precautions', the law aimed at cleansing the Ottoman capital of potential criminals; those vagrants who might well commit a crime. The Istanbul Police Administration, with the participation of the prosecutors and the courts, was expected to impose moral regulation throughout the city and prevent the idle and unemployed from doing wrong and to discipline them through work" (Ozbek 2009, 795). Also, the police should try to find suitable employment for the vagabonds, but there were hardly any jobs in Istanbul (Ozbek 2009, 796).

On the other hand, even after some changes in the articles to assign new responsibilities to internal affairs and the administration of justice, Ergut states that the situation was changed on behalf of the internal affairs and the police in practice. "The consequent increase in the discretionary power of the police was the result of the fact that the law was quite vague in various terms, providing the police immense authority in enforcement" (Ergut 2002, 154). For example, according to the ninth article of the law, people who were wandering around 'suspicious' places or had 'suspicious' actions which were determined by the police, they might be imprisoned from one week to six months or might be exiled from three months to two years.[36] Besides, we may suggest that the concerns of İsmail Hakkı Bey on corruption of the police and the problematic approach in terms of punishing people not for their actions but for not having an action might have a reasonable point.

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[36] II. Tertip Düstur, Vol. 1, (1909), 171.

Ergut states that, in the Police Regulation of 1907 an important responsibility of the police was assigned as to control the bachelors who were defined as 'those who stayed at inns, hotels, apartment blocks, or at places that were rented while they travelled from one town to another in order to find jobs or to trade.' According to Ergut, this assignment of police to control bachelors with the regulation intertwined with the law on vagabonds, and the both categories were paired with to sustain the public order by the police. As Ergut comments, "the vagueness of the 1909 law not only increased the authority of the police in terms of labeling people as vagabonds, but also widened the scope of its power through the various other steps of the law-enforcement process." (Ergut 2002, 154).

Even though for the discussions of deputies in 1909 on considering 2 months of unemployment or not trying to find a job as an extravagant period showed the highly controversial nature of this proposal, it was not removed from the first article. This shows that the difficulty to find employment in the economic conditions of the empire and the temporal possibilities to find a job was considered. Also, regarding the increasing emphasis on the economic development and sustaining the order after the strike wave of 1908, regarding the discussion in the parliament, only unproductive vagabonds were aimed to be criminalized. According to the seventh article in the law, the people who were caught but if they could prove their earning of living they were released.[37] But, in the fourth article state officials were responsible to find employment for vagabonds who were caught, and as it was enacted in the eighth article if these people were abscond from their jobs, they were exiled from three months to one year.[38]

In both legal documents, suspected persons and vagabonds were addressed together. With a small difference, in both legal documents an age limit was addressed to be considered a vagabond. The sixteenth article of the law was stated that a person had to turned in 15 to be considered a vagabond,[39] and in the seventh article of the regulation the age limit was setted as 14.[40]

In the regulation, all fifteen articles took vagabonds and suspected persons without an order altogether into consideration. Differently, in the law we see an order of sentences where a distinction was made between vagabonds and suspected persons. The first nine articles concerned the sentences on vagabonds, whereas tenth and eleventh articles were related to the sentences on suspected persons. The rest of the articles, on the other hand, specified sentences common for both vagabonds

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[37] II. Tertip Düstur, Vol. 1, (1909), 170.
[38] II. Tertip Düstur, Vol. 1, (1909), 170-1.
[39] II. Tertip Düstur, Vol. 1, (1909), 172.
[40] I. Tertip Düstur, Vol. 6, (1890), 749.

and suspected persons. As an example, in regards to the twelfth article, people who carried suspicious tools such as picklock were to be sentenced with 5 to 20 floggings if they were vagabonds, and with 15 to 35 floggings if they were suspected persons. Also, the thirteenth article stipulated that people who used violence against or threatened others were to be sentenced with 10 to 30 floggings if they were vagabonds, and with 20 to 39 floggings if they were suspected persons.[41]

While suspected criminals were previously convicted of a crime this was not the case for vagabonds. Fundamentally, vagabonds were men without any employment and who needed to justify themselves to the state, because there was a question of how they were earning their living. Without employment and under conditions of limited sources of agricultural production in Istanbul, they had to prove themselves to the state. However, even if they were providing their basic needs with the help of some establishments such as soup kitchens, public baths, or mosques, they had to prove that they were not against the discipline of work by 'nature'.

Some help and support for these unemployed people might be provided by a charity organization or by the state institutions as it was discussed in the parliament in 1909, but if they were unintentionally vagabonds for a time being. On the other hand, one of the main problems was to differentiate these people from the 'intentional' vagabonds who might be exploiting the goodwill of the state and the community. In this regard, we may suggest that issuing vagabonds in the same legal documents with the suspected persons who actually committed a crime before, vagrancy was considered as much as a crime like theft or murder. Without an employment and inability to provide themselves, these 'intentional' vagabonds were labelled as people who were prone to commit a criminal act to survive or already committed a crime but had been not apprehended. As Özbek comments, "the constitutional regime took another major step, an ideological one, with regard to the social policing of the poor. In accord with the shared outlook of the Ottoman elite of the 1890s, the new regime associated idleness not with crime, but with suspected criminality" (Ozbek 2009, 798).

In other words, as Ergut refers the criminalization of the vagrancy was started during the reign of Abdülhamid II, but considering the economic condition of the state defining lower classes as criminals was clearly 'rationalized' by the CUP (Ergut 2002, 162). The purpose of the CUP was not to control the vagabonds only, but it was also to control the poor by regulating the leisure activities of lower classes within the framework of 'criminal activities' (Ergut 2002, 162).

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[41]II. Tertip Düstur, Vol. 1, (1909), 171-2.

6. CONCLUSION

This study examined the criminalization of bachelors by the state. Whether a vagabond or a member of the working poor class of society, the emphasis of controlling the bachelors remained and even expanded with the increasing centralization of the state as well as with the transformations of the institutions to control society. Meanwhile, during the century, the emphasis on maintaining the public order preserved its importance and even the necessity to sustain the public order increased. The changing context during the nineteenth century, even resulted with the criminalization of bachelors as 'vagabonds'.

Throughout the century, the Ottoman legal system became more structured as it can be seen with the Penal Codes which was also a tool for social controlling mechanism. "Each code, reflected an aspiration for coherence and legibility through logical division into chapters and sub-chapters and casuistic formulations. Unlike the *kanunnames*, each of the numbered clauses in the codes was meant to be applied in the entire Ottoman territory. The old distinctions between social categories such as the taxpayer class (*reaya*) and the class of imperial administrators (*askeri*), or Muslims and non-Muslims (*zimmi*), distinctions that meant different obligations and rights for different groups, became totally void in the new codes" (Rubin 2019, 10-1). Further, even though Rubin refers to the Basic Law of 1876 was not enough to sustain a constitutional rule in the empire (Rubin 2019, 11), a Constitutional Revolution came about in 1908 (Sohrabi 2002, 69).

During the nineteenth century, the traditional social controlling mechanisms were transformed and evolved as separate branches. Due to the paternalistic traditional social structure of the Ottoman society, neighborhoods were also a tool for public order. However, with dissolution of the traditional controlling mechanisms to sustain the public order, the demand for police forces were increased. While the emphasis on public order was increasing, the Ottoman government's notion of public 'order' became ambiguous because of the difficulty for disproving the public 'order' (Ergut 2007, 176). With related to the increasing emphasis on public order and the ambiguity of determining public 'order', the authority of the police was extended to sustain public order (Ergut 2007, 185-6).

In regard to these transformations, the emphasis on controlling vagabonds and workers were issued separately. Regarding this separation for controlling vagabonds and workers, we see that the regulation on vagabonds in 1890 had to be rearranged, or the by-law on strikes in 1908 had to be enacted. On the other hand, while these transformations were being implemented, the CUP government supported the wealthy classes against the workers (Ergut 2007, 186), and the surveillance activities of the state became transformed to protect the establishment in regard to maintaining the public order (Ergut 2007, 191). Further, as Lawrence says for the English and French states' concerns on vagrancy that "[i]ndigence was not necessarily regarded as the cause of crime, but it is certainly undeniable that poverty was seen as 'the hallmark of most criminals" (Lawrence 2000, 63), the Ottoman state adopted a similar approach regarding to the vagrancy in both pre-1908 and post-1908 periods.

In terms of being a vagabond, bachelors were labelled as 'idle', but as members of the working poor class in the city, they were needed as a labor force. However, after a strike wave in 1908 following the Young Turk Revolution, worker organizations increasingly emerged as a problem for the state. The workers also needed to be controlled. Regarding the internalization of the capitalist economic structures in the empire, preventing any action that might intervene in the production activities became important. According to these developments, we see that during the reign of Abdülhamid II, controlling bachelors were focused on both sustaining the order in society and the economic activities. Yet, after the revolution the emphasis on maintaining economic activities significantly increased. However, the vague definition of vagrancy on differentiating people by whether they were employed or not, caused a problem. Since bachelors were mostly seasonal workers or employed in temporary works, when they could not find employment they were labeled as vagabonds or in other words they were criminalized as the law required.

In this regard, I believe that the 'Regulation on Vagabonds and Suspected Persons' enacted in 1890, and the 'Law on Vagabonds and Suspected Persons' enacted in 1909 provide good examples. These legislative regulations aimed to control the unemployed bachelors who were regarded as a threat to both the economic and social order of Istanbul. On the one hand, encouraging statements on employing vagabonds in the legal documents establish a link between the vagabonds and the working poor. According to the state with the aim of sustaining social order and achieving economic progress, ensuring that vagabonds have occupations were essential steps to contribute to national progress. Otherwise, they could not be upto good since they could not have legal earnings. On the other hand, I argued that these legal documents served to control the working poor as well. Mostly, these people worked for long hours in poorly-paid jobs with lack of healthy conditions. Initially the

strikes and the presence of unions were not perceived by the new regime as potential threats to social order. They had daily occupations which were contributing to the empire's economic struggle of survival. However, this law signalized the bachelors how they would be treated by the state if they somehow lose their jobs. For example, during the '1908 Strikes' strikers were replaced with other workers and they became unemployed, so they became vagabonds. In this regard, these laws were also a controlling mechanism for bachelors who were working poor.

While concluding my study, I want to refer to the last point in terms of the increasing emphasis on the Ottoman state's internal security and order. As Başaran mentions for the eighteenth century, with the discontinuation of the Ottoman territorial conquests, the main source of the political legitimacy became more dependent on domestic and it relied on social stability which caused an increase in emphasis on justice and order (Başaran 2014, 4). Further, Deringil (1991) examines the legitimacy structures during the reign of Abdülhamid II as ideologies and propaganda issuing religion (Deringil 1991, 345), but maybe the structures of legitimacy should be extended concerning the increasing emphasis on the internal security and order. Thus, it might be extended not only for the reign of Abdülhamid II but also for the nineteenth and the early twentieth centuries. Furthermore, when the argument of Rubin was considered in terms of his periodization on pre-1908 as law's rule, and the post-1908 as the rule of law (Rubin 2019, 11), it might be interpreted that the Law of 1909 was more legitimate legislation than the Regulation of 1890. Besides, the Law of 1909 was enacted by deputies who were elected which might be considered as a reason for increasing legitimacy after 1908.

By considering the differences throughout the Ottoman history, the necessity of the imperial administration to identify those groups who had to be controlled did change according to historical conditions. In terms of these, this study examined the changing determinants of being a 'vagabond' to be criminalized and to examine how and why it did change between the 'Regulation on Vagabonds and Suspected Persons' in 1890, and the 'Law on Vagabonds and Suspected Persons' in 1909.

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