ORIGINS OF THE PRINCIPLE OF DEVOLUTION OF POWERS IN OTTOMAN ADMINISTRATION

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ABSTRACT

ORIGINS OF THE PRINCIPLE OF DEVOLUTION OF POWERS IN OTTOMAN ADMINISTRATION

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This study aims to analyzing the origins of the principle of devolution of powers in the Ottoman Administration. It is tried to explain that the reforms that started with the *Tanzimat* Edict were made due to a pressure from the people, through the rebellions, complaints and discontent against public administration in various regions. The modernization theory are criticized over the approaches in the works of various authors, with the claim of thesis that the reform process is connected with a pressure coming from below, rather than reading through individuals or bureaucrats. The reform texts related to the administration from the *Tanzimat* Edict to the Temporary Law on General Provincial Administration of 1913 are examined not only on the basis of the principle of devolution of powers, but also on the transformation in the administration in order to create a general panoramic picture. After examining the first period in which the powers of the governors were taken away with the *Muhassıllık* Institution, the 1842 Regulation, the 1846

Regulation and the 1849 Regulation, respectively, and the governors were turned into simple and unauthorized civil servants in the center. With the 1852 Regulation and the following 1858 Regulation and its drawbacks were understood and the principle of devolution of powers introduced into the Ottoman Administrative System. Furthermore, other administrative reform texts that follow are discussed in terms of reform. In addition, the transition to the provincial system in the 1860s and the development of the principle of devolution of powers through the position of the governor and the transformation of the administration are searched in this thesis. With the promulgation of the Ottoman Basic Law and other supporting administrative texts and the last province law in 1913, the transformation of the Ottoman Administrative System was completed and transferred to the Republic of Turkey.

Keywords: governor, the principle of devolution of powers, reform, *Tanzimat*, province

ÖZ

YETKİ GENİŞLİĞİ İLKESİNİN OSMANLI İDARESİNDEKİ KÖKENLERİ

ÇAVUŞOĞLU Tutku
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Bu çalışma yetki genişliği ilkesinin Osmanlı İdaresindeki kökenlerini araştırmayı amaçlamaktadır. Tanzimat Fermanı ile başlayan reformların halktan gelen bir baskı nedeniyle gerçekleştiğini; çeşitli bölgelerdeki isyanlar, karışıklıklar ve şikâyetler üzerinden açıklanmaya çalışılmaktadır. Reform sürecinin kişiler üzerinden okumak yerine, alttan gelen bir baskı ile bağlantılı olduğu iddiasıyla modernite teorisi çeşitli yazarların çalışmalarındaki yaklaşımlar üzerinden eleştirilmektedir. Tanzimat Fermanı'ndan 1913 tarihli Vilayet Genel İdaresi Geçici Kanun'a kadar olan dönemdeki idare ile ilgili reform metinleri sadece yetki genişliği ilkesin üzerinden değil genel bir panoramik tablo çıkarmak için idaredeki dönüşüm üzerinden de incelenmektedir. Valilerin yetkilerinin sırasıyla Muhassıllık Kurumu, 1842 Düzenlemesi, 1846 Düzenlenmesi ve 1849 Düzenlemesi ile ellerinden alınıp, valilerin merkezin taşradaki basit ve yetkisiz memurlar haline getirildiği ilk dönem incelendikten sonra, 1852 Düzenlemesi ve bunu takip eden 1858 Düzenlemesi ile bunun sakıncalarının anlaşılıp, yetki genişliği ilkesinin Osmanlı İdari Sistemine girişi

ve onu izleyen diğer idari reform metinleri reform açısından tartışılmaktadır. Buna ek olarak; 1860'lı yıllardaki vilayet sistemine geçiş ve valinin konumu üzerinden yetki genişliği ilkesinin gelişimi ve idarenin dönüşümü araştırılmaktadır. Kanun-ı Esasi ve diğer destekleyici idari metinlerin yürürlüğe girişi ve 1913 yılındaki son vilayet kanunu ile Osmanlı İdari Sistemi'nin dönüşümü tamamlanmış ve Türkiye Cumhuriyeti'ne aktarılmıştır.

Anahtar Kelimeler: vali, yetki genişliği ilkesi, reform, Tanzimat, vilayet

To my family

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CHAPTER 1

INTRODUCTION

In the mid-eighteenth century, the phenomena of reform and modernization began to dominate the affairs of the Ottoman Empire. The modernization process had its beginnings during the reign of Ahmed III and continued into that of Abdulhamid II when the need for reform was emphasized in various documents. These mention a variety of ideas and endeavors to do with economic and industrial development, improving the capabilities of the military, allowing printing and the expansion of publishing, and sending ambassadors to the West. This occurred at a time when the Empire was in decline and experienced a string of strategic setbacks and military defeats[1] that ultimately brought an end to the preliminary stage.[2] The *Nizam-ı Cedid* period that followed was presided over by Selim III who focused almost exclusively on achieving reforms to the military. This challenge continued into the reign of Mahmud II who finally overcame the resistance of the Janissary Corps and established a new modern army. Alongside the drive to renew and modernize the military came enhancements in other fields such as education and public

[1]Enver Ziya Karal ,Osmanlı Tarihi: Nizam-ı Cedid ve Tanzimat Devirleri, (Türk Tarih Kurumu Basımevi, 4th ed., Vol. 5,1983), 55-73. ; Sina Akşin, "Siyasal Tarih (1789-1908)", in Osmanlı Devleti:1600-1908, ed. Sina Akşin (Cem Yayınları, 4th ed., 1995), 77-83.

[2]Niyazi Berkes, Türkiye'de Çağdaşlaşma (Yapı Kredİ Yayınları, 24th ed., 2017), 45-66.

administration. We see the establishment of the headman's office[3], the census, the establishment of the postal system[4], the application of quarantine in case of an epidemic, and the introduction of passports[5]. In terms of national education, the military school (*Harbiye*) and medical school (*Tıbbiye*) were opened, which brought education with western values and students were sent to Europe to train new staff for the state. Clearly, the period of Mahmud II laid a solid foundation for the reform effort by making it more detailed and systematic.[6] From the second half of the eighteenth century to 1839 *Tanzimat* Edict, when the Ottoman state entered the process of modernization and reform, which would last until its collapse, there was a popular pressure from below that could not be reduced to the sultans and the high-level bureaucrats of the state. Rebellions and complaints against administration became very common in this period. It is necessary to see this reform process before *Tanzimat*, as a search of the different reigns of sultans for a solution to the discomfort of the people from the current situation.

There are theoretical approaches about the transformation and social structure of the reforms of the Ottoman State. These approaches can be generalized as two models, Weberian and Marxist, and it is possible to multiply them. Especially the model used by the Weberian approach to explain the Ottoman State is very important in terms of our subject. This approach, in which the general framework can be

[3]Musa Çadırcı, "Türkiye'de Muhtarlık Teşkilatının Kurulması Üzerine Bir İnceleme", Belleten(1970): 409-420.

[4]Musa Çadırcı," Posta Teşkilatı Kurulmadan Önce Osmanlı İmparatorluğu'nda Menzilhane ve Kiracı Başılık" in Türk Tarih Kurumu Bildiriler V.2,1359-1365.

[5]Musa Çadırcı, "Tanzimat Dönemi'nde Çıkarılan Men-i Mürür ve Pasaport Nizamnameleri", TTK Belgeler (1993), 169-182.

[6]Berkes, Türkiye'de Çağdaşlaşma, 169-203.

explained with concepts such as patrimonialism, sultanism and state tradition, is based on the argument that the transformation in the Ottoman Empire was purely top-down. It presents us with a society scheme that is completely reduced to individuals, bureaucrats and the state apparatus, where there is no social pressure. In order to understand the subject and to justify the discussion, it is necessary to briefly examine this approach before moving on to the following chapters; in fact, the discussion of the second chapter is directly related to this theoretical approach.

The patrimonial state sees administrative organization as its purely personal and arbitrary instrument. Sultanism of Ottoman Empire in Weberian terminology is explained with military power, arbitrariness and despotism. According to this approach, even in the eighteenth and early nineteenth centuries, when local families were most dominant in the Ottoman Empire, local authorities and the public did not play a role in the functioning and transformation of the administration. What is more, according to Weber, the Ottoman Bureaucracy was never an independent class and was an apparatus of the patrimonial structure/sultan.[7] It is emphasized that there was no demand or pressure from the below in the Ottoman State. It is one of the main theses that the people did not have a demand for the functioning of the administration and that all the transformation in the Ottoman Empire (including the *Tanzimat* Reforms) was made by the patrimonial state.[8] With the statement of Şerif Mardin, the periphery was completely neutralized by the center.[9] Moreover, it is known that since the sixteenth century, local families became stronger and became a power

[7]Halil İnalcık, The Ottoman Empire and Europe: The Ottoman Empire and Its Place in European History (Kronik, 1st ed., 2017), 63-95.

[8]Şerif Mardin, "Power, Civil Society and Culture in the Ottoman Empire", Comparative Studies in Society and History (1969): 264-265.

[9]Şerif Mardin, "Center-Periphery Relations: A Key to Turkish Politics ?", Daedolus (1973): 170-171.

center in their regions. *Tanzimat* Reforms, according to this approach, were the result of a long tradition of the state. The state tradition approach explains the *Tanzimat* Reforms as an institutionalization that ensures that there is no intermediary between the state, which is the traditional ideal of the center, and its subjects through autocratic and centralist policies. Moreover, the state tradition approach sees this institutionalization as only with the will of the center rather than the pressure from below.[10]

The important point here is that it is wrong to try to explain the Ottoman Empire with Western theories and its dynamics. All theories have valid arguments at certain points. But explaining the Ottoman Empire with theories that emerged from the development dynamics of the West will not show us the whole picture. For example, the above-mentioned approach that bureaucracy was an apparatus of the patrimonial structure is not correct. Even in the most powerful period of Ottoman Sultans they had a space of action and a say in decisions. Furthermore, in the periphery regions, there were reactions against central politics or the local families' position in administration. The approach rejects all rebellions, complaints and discontents from various regions of the Empire. The Weberian theory and its different concepts ignore the all unique dynamics of Ottoman social structure because they ignore the pressure from below and all social dynamics of the society not only in one specific period but also all periods of the Empire. This situation exists not only in the Weberian approach, but also in the Marxist approach. The effort to put the Ottoman Empire in a Marxist theory through the Asian Mode of Production or to say that the Ottoman Empire had a backward form of feudalism

[10]Metin Heper, Türkiye'de Devlet Geleneği, (DoğuBatı Yayınları, 2006), 74-79.

means to reject the social and economic development of the Ottoman Empire.[11] Trying to understand the states outside the West through the patterns of these theories will cause us to understand the history of that state as biased and incomplete. Therefore, while looking at the Ottoman History, it is necessary not to depend on the approaches that reject the social dynamics and the demands of the people.

The current study examines the period that followed Mahmud II when the Ottoman Empire would enter a new era in terms of its modernization and undergo significant transformation of its administrative system.[12] I discuss the *Tanzimat* Edict of 1839, a moment that has come to be regarded as the turning point of the modernization effort, and its impact on how the Empire was governed and administered thereafter. After introduction chapter, the study starts with a critical review of the theoretical approach seen in the works of Halil İnalcık, Enver Ziya Karal and İlber Ortaylı, pioneering authors who are among the most cited in the literature regarding the history of administration in this period. I argue that all three historians omit important evidence and historical events such as various rebellions, complaints and discontents from different regions and groups of the Empire that served to sustain pressure for the realization of reforms.

The third chapter sets out how the Edict of the *Tanzimat*, the *Muhasıllık* Institution, and the Regulations of 1842, 1846 and 1849, greatly limited the authority of state governors, who had become almost autonomous before the *Tanzimat* period. With the 1852 and 1858 Regulations, we understand that most of their powers that had been devolved to other offices within the administration before were given back.

[11] Halil İnalcık, From Empire to Republic: Essays on Ottoman and Turkish Social History, (İstanbul: Isis Press, 1st ed, 2000), 30-62.

[12] İnalcık, From Empire to Republic: Essays on Ottoman and Turkish Social History, 152-155.

In the fourth chapter I address the transition to the provincial system through the 1864 Provincial Law, 1864 Danube Provincial Law, 1867 Directive, and 1871 Provincial Law. This legislation along with, the 1861 Lebanese Regulation and the 1867 Crete Provincial Regulation are discussed in terms of the integrity of this period. The final chapter considers the impact of the 1876 Directive of Provincial Public Administration, the Ottoman Basic Law and 1913 Temporary Law on General Provincial Administration, respectively on the authority of the governor, and offers fresh conclusions regarding the emergence of the principle of the devolution of powers seen in the administrative reforms of the late Ottoman period.

CHAPTER 2

A CRITICAL DISCUSSION ABOUT THE MODERNIZATION THEORY AND HISTORICAL APPROACHES

The issue of modernization of the Ottoman Empire, which started with Ahmet III and gained serious meaning mainly with Selim III, is given great significance in Ottoman historiography. Especially the abolition of the Janissary Corps by Mahmud II and the proclamation of the *Tanzimat* Edict of 1839 became the turning point for Ottoman Modernization. In terms of administrative history, the *Tanzimat* Edict of 1839 has been examined in detail in both earlier and more recent studies.

Administrative reforms had a significant place in the Ottoman modernization or the transformation of the Ottoman Empire's institutions through reforms. It can be highlighted that the process of administrative reform started with the *Tanzimat* Edict in the nineteenth century and continued until the collapse of the Ottoman State. The regulations and reforms regarding this administrative history will be discussed in the following sections of this thesis, with special reference to the principle of devolution of powers. In this chapter, there will be a discussion about the reforms that started in the nineteenth century; in fact, this discussion will be on the differences in approach to the history of administration.

It is generally accepted that academicians and researchers, especially those who studied Ottoman Administrative History after the 1990s refer to the works of Halil İnalcık, Enver Ziya Karal and İlber Ortaylı. It is natural to refer to the articles and books written by these three pioneer and foremost historians on the nineteenth century Ottoman Administrative History. However, in this section, I will put forward the thesis that the approach used in these widely referred sources offers a mistaken and biased view of Ottoman Administration History.

The approach that I have come down to in these three historians is that the recent reforms of the Ottoman Empire were reduced to individuals and were made to save the state. The approach is directly related to a hegemonic historiography that is called modernization theory. This approach determines these three historians' look to the recent reforms of the Ottoman Empire. The theory claims that underdeveloped countries can be successfully moved from tradition to modernity without any serious breakdown in society and the Ottoman Empire is a clear example of this. This theory does not give any place to integral struggle, pressure from below and conflicts in the basis of society. When this modernization theory approaches underdeveloped countries, the claim is that there is a dichotomy between tradition and modernism. To modernize a country from its traditional ways, for instance the Ottoman Empire, the only elements were the individuals, bureaucracy and state.[13] While individuals, bureaucracy and the state under the nineteenth century circumstances played important roles, they did not do so exclusively. Examples of this approach lead to claims that without Reşit Pasha the *Tanzimat* Edict would not have been proclaimed or without Midhat Pasha the Constitution of 1876 would never have been manifested.

[13]Aykut Kansu, The Revolution of 1908 in Turkey, (Brill, 1st Ed. , 1997), 9-20 ; Dean C. Tipps, "Modernization Theory and the Comparative Study of Societies: A Critical Perspective", Comparative Studies (1972): 201-204

My counter thesis is that there was serious discontent in various provinces from Ankara to Mosul and the 1839 reforms were the result of a pressure that came from below. Contrary to the common thesis, I believe that the reforms were made independently of individuals as a result of a process and to respond to specific pressures. In the following parts of this section, I will present the arguments of the thesis that I am criticizing, and I will discuss the basis for the rebellions, reactions and discontents recorded in the Ottoman provinces.

2.1 Rejection of the Pressure Factors behind the Reform Process

Before I begin to criticize the approach emphasized above, I would like to show the approach of these three writers, İnalcık, Karal and Ortaylı, through their main works. It is obvious that the main works of the historians about this approach can be multiplied. But I will discuss these three pioneer historians because they are referred to in almost all studies in the field of administrative history and convey this approach to other historians.

The two foremost articles of Halil İnalcık, who does not study administrative history, refer to the entire nineteenth century history of the Ottoman State as 1808 *Sened-i İttifak* or the Bulgarian Issue, when discussing the reforms in this period. These are "*Sened-i İttifak ve Gülhane Hattı Hümayunu*" and "*Tanzimat'ın Uygulanması ve Sosyal Tepkiler*" which are referred to in virtually all articles and books by historians. Although İnalcık's approach in these articles analyzes the *Sened-i Ittfak* and *Tanzimat* Edict in an extraordinary way, he ignores the internal pressures and dynamics in the emergence of reforms. There is a discussion based on the ideas of Reşit Pasha who was one of the most important figures in the declaration

of the edict.[14] To give an example of this narrative, İnalcık says that Reşit Pasha believed that he would modernize the state by concentrating state authority in the hands of a bureaucracy that would implement reforms [15] Similar to this example, the author states that the *Tanzimat* reforms were shaped entirely according to the beliefs and ideals of Reşit Pasha. As mentioned before there are many statements that were made about the reforms by people from the upper class such as, pashas or grand viziers.

Especially in the first article, while he used a statement that the reformers heard and implemented the equality before the law and the secularization of state institutions as a political necessity as a result of internal and external pressures, there is a narrative of saving the state through individual figures, as emphasized above. [16] What is more, the approach of saving the state by modernizing the state and linking reforms to individuals through political struggles is dominant in the works of İnalcık. It is explained that there are two conservative and revolutionary cliques in the political struggles in the ruling class, and the continuity of the reforms is determined by the section that has control of the government.[17] All these show that the reforms we look at in the example of *Tanzimat* Edict are based on political conflicts, the ruling class and saving the state, according to the author's point of view. All these examples could be multiplied. But essentially, the arguments as emphasized before summarize İnalcık's view of Ottoman Modernization.

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[14]Halil İnalcık, "Senedi-i İttifak ve Gülhane Hatt-i Hümayunu", Belleten(1964): 616-620.; Halil İnalcık, "Tanzimat'ın Uygulanması ve Sosyal Tepkileri", Belleten (1964): 640.

[15]İnalcık, "Senedi-i İttifak ve Gülhane Hatt-i Hümayunu", 616.

[16]İnalcık, "Senedi-i İttifak ve Gülhane Hatt-i Hümayunu", 622.

[17]İnalcık, "Tanzimat'ın Uygulanması ve Sosyal Tepkileri", 634-637.

Enver Ziya Karal has a similar approach to İnalcık in his 4-volume Ottoman History, in which he mainly examines the last period of the Ottoman Empire. Similar to the articles of İnalcık in the written thesis, articles or books about the administrative history, Karal's works explain Ottoman modernization as the result of political struggles, saving the state and reducing the reforms to the work of individuals is referred to. While such a historical explanation is more superficial in İnalcık, it is much more evident in Karal.

While describing the *Nizam-ı Cedid* period and the reforms, he explains that Selim III started the reforms immediately after he came to the throne, with his father's testament.[18] In his work, there are discussions about the reforms in terms of the personality of Selim III. Additionally, Mahmud II and his period's reforms are related to individuals and cliques. The author states that Mahmud II sought not a reform team to accept the Western thought as frankly as possible for helping himself.[19] Furthermore, on the issue of the personnel who implemented the reforms Karal emphasizes the political struggle between conservatives and reformists. Although this argument appears valid, it is an incomplete historical approach to say that the reforms took place entirely through the efforts of individuals and the support of the factions that had influence at the time.

Karal's views on the proclamation of the *Tanzimat* Edict do not emphasize social pressure; instead The *Tanzimat* Edict is explained in the context of the Sultan's argument to save the state and Mustafa Reşit Pasha's abilities and worldview. The author says that in accordance with the policy of balance under the political

[18]Karal, Osmanlı Tarihi: Nizam-ı Cedid ve Tanzimat Devirleri, 60-61.

[19]Karal, Osmanlı Tarihi: Nizam-ı Cedid ve Tanzimat Devirleri, 144.

circumstances of the period, this edict was announced in order to approach England and France.[20] It is obvious that these statements only point to the influence of external pressures and individual roles. All these examples demonstrate that he scarcely touches upon the Ottoman subjects, ordinary people, whose concerns are left in the background of the reforms, in the 4th volume of his Ottoman history. This approach exists not only for the *Tanzimat* Edict, but also the preparation of the 1864 Provincial Law and the proclamation of the Ottoman Basic Law. The author explains the establishment of the provincial administrative tier due to external pressures and Fuat Pasha's ideas at the time. [21]

Ortaylı, another important author who is a historian of administration, has the same approach. His influence is discernible in virtually all administrative history texts which explain that the reforms were based on the ideas of individuals from the ruling class and their ability to impose them on the people. This approach can be seen especially in the works entitled "*İmparatorluğun En Uzun Yüzyılı*" and "*Tanzimat Devrinde Osmanlı Mahalli İdareleri*". Ortaylı emphasizes that modernization in the Ottoman country did not occur only with the force of the changing outside world.[22] However, while emphasizing the importance of Ottoman internal dynamics, he also stresses a top-down reform approach.

For Ortaylı, history prepared the necessity and conditions for Ottoman Modernization from the II. Vienna defeat to the *Tanzimat* Edict. After the Edict the

[20]Karal, Osmanlı Tarihi: Nizam-ı Cedid ve Tanzimat Devirleri, 170.

[21]Enver Ziya Karal, Osmanlı Tarihi: Islahat Fermanı Devri 1861-1876, (Türk Tarih Kurumu Basımevi, 4th ed., Vol. 7, 1983), 152-153.

[22]İlber Ortaylı, İmparatorluğun En Uzun Yüzyılı, (Kronik, 49th ed, 2019), 15.

rulers of Ottoman society shouldered modernization and dictated it to society. [23] Moreover, the author highlights that the *Tanzimat* bureaucrats were trying to respond to the conservatism of the traditional society and the compulsions of the modern world. It is clear that the internal dynamics in the issue of the reforms are emphasized by him, but the pressure from the Ottoman subject, the ordinary people, are not discussed in his works.

His approach to *Tanzimat* bureaucrats is directly related to a top-down reform understanding and the process was entirely motivated by the need to preserve the state. He explains that the aim of the *Tanzimat* bureaucrats was to create a loyal and tax-paying public subject to the state; a fact that is partially accurate and similar to other of the author's arguments which have somewhat accurate sides.[24] Such statements are similar to the histories offered by İnalcık and Karal that ignore the significance of social demand for the reforms. Despite the fact that he says that historical conditions prepared the *Tanzimat* Edict, he goes on to assert that bureaucrats dictated it to the public using an argument that excludes the pressure factor.

In my thesis social pressure is stressed as driving factor for reforms of the nineteenth century of Ottoman Empire. The provincial examples reveal the occurrence of rebellions, social problems or reactions against the functioning of the mechanisms of the state, indicating that active social pressure was the main background of the reforms.

2.2 The Social Pressure and the Reforms

[23]Ortaylı, İmparatorluğun En Uzun Yüzyılı, 30.

[24]İlber Ortaylı, Tanzimat Devrinde Osmanlı Mahalli İdareleri: 1840-1880, (Türk Tarih Kurumu,4th ed,2020), 30.

Contrary to what was emphasized in the previous section, in the nineteenth century, there appeared serious discontent, complaints and rebellions against the public administration system in the Ottoman Empire. In this section, I will argue that the reforms cannot be explained only in terms of their super structural relations and the influence of individuals. While conducting this discussion, the reactions from the subjects that caused the implementation of the Ottoman Administrative Reform will be explained through cases in various provinces. The reactions of the Ottoman subjects against the administrative order in the early nineteenth century and the thesis that reforms took place owing to the pressures of people will be discussed through three different types of examples.

First of all, there were very serious reactions against the administration in the process leading up to the *Tanzimat* Edict in Ankara and its nearby *sancaks* and *eyalets*. The reactions ranged from simple complaints to serious rebellions. Many complaints against the administration in the rural area of the Ottoman State were for reasons of corruption, unfair tax collection and drudgery. It can be seen that there were reactions to the problems at very different levels of the administration. If we look at the *Mütesellim* Institution, it is possible to see the reactions from the public directly. In one example, subjects had complained about the corruption of Mesut Agha who was a *mütesellim* in Ankara Sancak between 1803 and 1808. He was dismissed as a result of these complaints. However, he continued to forcibly collect money from the people through his brother Esat Pasha, and as a result of repeated complaints, the central government finally intervened. [25] In 1829 in Ankara the people rebelled against another *mütesellim*, Boyabadi Genç Muftafa Oğlu Mustafa

[25]Musa Çadırcı, Tanzimat Döneminde Anadolu Kentlerinin Sosyal ve Ekonomik Yapısı, (Türk Tarih Kurumu, 3th ed, 2013),26.

Bey. According to the court record, the *mütesellim* and the son he left in his place to join the war collected money from people by force. Eventually, he was killed by the people.[26] A similar discontent took place in Antep in 1830 due to the injustice in the distribution of taxes. In Diyarbakir in 1836, the *mütesellim* was dismissed owing to the fact that he unlawfully collected money from people and oppressed them. [27]

As it can be understood from these examples, before the *Tanzimat* the administrators and the people did not have calm relations; in fact, the administrators oppressed them. As a result of this, it is understood that the public frequently complained about these problems in the administration and they sometimes rebelled against them. It is possible to say that this corruption and oppression and the reaction against it were not limited to the Institution of *Mütesellim*, but extended to examples of governors and *voyvodas*. To illustrate, in most of the general edicts Mahmud II promulgated after he came to the throne, he frequently repeated that the governors and other administrators did not demand money from the people under the name of tax, using illegal methods. In another example, Galip Pasha, appointed governor of Sivas in 1815, sent an order to the Kadi of Tokat and the *Voyvoda* to prepare the necessities for his office when he stopped by Tokat. While doing this, he ordered the people not to be oppressed too much. But he did not hesitate to receive a bonus (*ikramiye)* of 12,500 *kuruş*.[28] In another example it is known from complaints lodged with the central administration that Yusuf Agha, who was a *voyvoda* between 1834 and 1835 in Karahisar-Develi, collected at least 21,500 *kurus* from the public

[26]Çadırcı, Tanzimat Döneminde Anadolu Kentlerinin Sosyal ve Ekonomik Yapısı, 27.

[27]Çadırcı, Tanzimat Döneminde Anadolu Kentlerinin Sosyal ve Ekonomik Yapısı, 28.

[28]Çadırcı, Tanzimat Döneminde Anadolu Kentlerinin Sosyal ve Ekonomik Yapısı, 19.

unjustly.[29] What is more, it is known that there were similar problems in the institution of kadi in the nineteenth century, with some involved in corruption or interfering in areas outside of their duties, causing disruption of the order and complaints from the public. The kadis were accused of exploitation by agreeing to collude with the magnates (*ayans*) of the region they served. Before the *Tanzimat* Edict, it is seen that the kadis made various provocations against the governors, *mültezim* or *voyvodas* who came to serve in their regions. In a letter written by the grand vizier to the Kadi of Ankara, the reason for an increase in disorder and discontent was related to collusion between kadis and magnates which had resulted in problems with tax collection.[30] In another example, it was recorded that the Kadi of Tokat's bodyguards forcibly exacted money from the public.[31] Such examples demonstrate illegal tax collecting and oppression were very common in the early nineteenth century at all levels of the administration. There was a disorder that permeated all levels of the administrative system that caused a reaction from the public against it. Therefore, the reactions that ranged from simple complaints to the bloody rebellions against the rural administrator were the fact before the *Tanzimat* Edict and its reforms about the administration.

Secondly, at the beginning of the nineteenth century, the country was in great disorder. Having many similarities with feudalism, it was plagued by incidents affecting internal security such as banditry and theft. Additionally, governors who were formally affiliated with the government, such as Zahir al-Omer in Arab lands,

[29]Çadırcı, Tanzimat Döneminde Anadolu Kentlerinin Sosyal ve Ekonomik Yapısı, 31.

[30]Musa Çadırcı, Tanzimat Sürecinde Türkiye: Anadolu Kentleri (İmge Kitabevi, 1st ed, 2011), 21.

[31]Çadırcı, Tanzimat Sürecinde Türkiye: Anadolu Kentleri, 86.

Cezzar Pasha in Syria, Büyük Ali Bey in Egypt, Süleyman Pasha in Iraq, and Celilzades in Mosul, acted semi-independently. Local, powerful families competed for political support for their economic power by seizing high-level state services such as the governorship and *mütesellim*.[32] Regions such as Mosul on the periphery of the Ottoman Empire also provide good examples of why the reform process was maintained by pressure from below. There, the economic and political power of the Celilzade family and the inability of the government to control it had led to unfair tax collecting and oppression, which increased significantly in the first quarter of the nineteenth century. [33] This situation led to a rebellion against the Celilzades in 1836, which succeeded in large part due to persistent dissatisfaction with the administrative system. Significantly, those who carried out this revolt were mostly tradesmen and merchants, meaning this reaction had a class origin with pressures that required a special response from government. Importantly, such events provided a roadmap for how the rebellious groups could effectively become the implementers of reform, something they would achieve after the *Tanzimat* Edict.

According to Khoury, those who led the rebellion against the Celilzades were driven to remonstrate over a form of tax farming (*iltizam*) that had arisen whereby a few powerful households had obtained the keys to the governor's office and set about using their combined influence and wealth as vehicles for personal gain. The Mosul notables (*eşraf*) and merchants were not opposed to the life time tax farm (*malikane)* system, a property right that allowed them to have control over their rural income sources. Their problem was that the same system was being abused to concentrate

[32]Çadırcı, Tanzimat Döneminde Anadolu Kentlerinin Sosyal ve Ekonomik Yapısı, 4. ; Dina Rizk Khoury, Osmanlı İmparatorluğunda Devlet ve Taşra Toplumu Musul: 1540-1834, (Türkiye İş Bankası Kültür Yayınları, 2nd ed, 2017), 203.

[33]Khoury, Osmanlı İmparatorluğunda Devlet ve Taşra Toplumu Musul: 1540-1834, 66.

wealth and political power in a handful of "political households". Clearly an important segment of Mosul provincial society mobilized to end the rule of these political households and were actively discussing the need for reform in the local government apparatus.[34] Their assertions openly expressed popular demands for implementation of reforms especially in the administration, and constitutes a clear example of popular wishes behind the reforms not only through rebellions and complaints against the local sovereignty of Celilzades but also through criticizing in detail the tax farming and the life time tax farm systems and took charge in reform process in Mosul after the reform.

Thirdly, prior to the reforms, an extraordinary situation had come about in Mardin where the tribal, community and state relations were intertwined, the circumstances experienced in Mardin were to prove very important for the administration. In the manner of the examples given before, there were serious reactions and objections to the administration in this city as well. Here though, the local dynamics were depended on the region's characteristics where the tribal structure was dominant. Thus the pressure factor was not exclusive to certain regions and social strata.

In the city of Mardin, similar to Mosul, the prominent tribes of the city were struggling with each other for influence and control of the local administration. These conflicts tended to produce significant upheavals when one or other group won control of the administration. In one example a 3-month uprising was provoked by prominent families who objected to the appointment of Behram Pasha as governor of Diyarbakir in 1819. This resulted in several hundred families being forced into exile, their properties confiscated, many were executed and one fifth of the city was

[34]Khoury, Osmanlı İmparatorluğunda Devlet ve Taşra Toplumu Musul: 1540-1834, 256.

destroyed. In Mardin, the locally dominant families basically demanded that the city continue to be administered by the *mütesellim*, meaning they wished to retain control of their vested interests and continue ruling the city.[35]

A pattern of conflict had developed between the administrators appointed by the Ottoman central government and the alliance of the clergy (*ulema)*, gentry, military, civil bureaucrat families, and the tribes around the city. In 1824, Halit Efendi was sent to Mardin as a *voyvoda,* and he succeeded in achieving a balance between the tribes and peace was strengthened. However, when he increased the tax rates and started to use unnecessary force, the people resisted.[36]

The dynamics of local power in Mardin tended to reproduce oppressive local regimes and powerful reactions and a culture of disobedience against government efforts to impose its authority. In one example from 1849, Bedirhan Bey, an important and powerful figure in the region, killed Nestorians for refusing their taxes, the last remnants of the old order in the region were abolished. It can be said that both the oppression of people by him and the tradition of disobeying the new administrative order was effective on his elimination.[37] All these events show that it was not only the governors appointed by central government but also the local powers in the city of Mardin when they took control of the administration that were oppressing people with their power. The reaction of the local people was sometimes overwhelmingly in favor of rebellion, an important example of the need for reform

[35]Şevket Beyhasoğlu, Anıları ve Kitabeleri ile Diyarbakır Tarihi: Akkoyunlularda Cumhuriyete Kadar, (Diyarbakır Büyükşehir Belediyesi Yayınları, 1st ed, Vol 2, 1996), 1996. ; Suavi Aydın, Kudret Emiroğlu, Oktay Özel and Süha Ünsal, Mardin: Aşiret-Cemaat-Devlet, (Tarih Vakfı Yurt Yayınları, 3rd ed, 2019) 290-291.

[36]Aydın, Emiroğlu, Özel and Ünsal, Mardin: Aşiret-Cemaat-Devlet, 294-295.

[37]Aydın, Emiroğlu, Özel and Ünsal, Mardin: Aşiret-Cemaat-Devlet, 301.

and the public factor behind it, in this case a situation where local magnates' had control of the administration before the reform process.

These three types of example indicate that significant sub structural factors maintained societal pressure on the Ottoman Modernization Process. Each represents different aspects of pressure from below. The administration was generating discontent at all levels from kadi to governors and the problems people complained about were not specific to particular figures or institutions. On the one hand, in some cities the demand for administrative change was directly based on the concerns of some strata and classes that show the different segments of the social dynamics. On the other hand, local dynamics such as ethnicity or tribal relations could also be used to demand change of the public administration. From Ankara to Mardin, from Tokat to Mosul the common point was that the people complained and rebelled against the administrator and the system of administration itself.

CHAPTER 3

TWO PHASES OF THE MODERNIZATION PROCESS OF OTTOMAN ADMINISTRATION

3.1 The Limitation of Governor's Power, Duty and Competence

In the beginning of the first half of the nineteenth century, the Ottoman Empire was experiencing one of the most difficult periods in its history; in fact, the system did not function in many areas, especially the administration of the empire was in crisis. Moreover, the central government had lost control of the countryside. Mostly, important families and magnates filled the power vacuum in the provinces. Beside the increasing control of the local powers, the governors of the central government acted almost like sultans in their own regions with their independent and unaccountable decisions. As emphasized in the second chapter, it is seen that the administrators, such as governor, *mütesellim* or *voyvoda*, acted unlawfully at times and oppressed the public during this period. People were trying to survive in a triangle of constriction by magnates, governor and *mütesellim*, plagued by unlawful taxes, drudgery and threats to life and property from local powers. The reactions against the injustices of the administrative system, which sometimes amounted to rebellion, increased in the lead up to the *Tanzimat* Edict. The problematic state of the

administrative system, which was mainly shaped by the independence of the governor, drew the attention of the Ottoman central government. As seen in the previous chapter, the search for solutions to the complaints reaching the central government would result in an important reform process that started with the *Tanzimat* Edict.

In this chapter's first part, the first phase of the reform in administration will be discussed. Respectively, the *Tanzimat* Edict, the *Muhassılık* Institution, the 1842 Regulation, the 1846 Regulation and the 1849 Regulation will be examined in terms of their contributions to the transformation in the administration. While going into the details of the reforms mentioned in this discussion, it will mainly be concerned with the devolution of power and the position of the governor. As emphasized above, the prominent reason for the problems in the administration was the role of the governor and their ability to officiate independently of local interests. The power and authority of the governor in the administration would change since 1839, and as will be seen in the following reforms, it would become the devolution of power in the meaning of today's administrative law.

Devolution of powers[38] became one of the most important elements in the relations of the administration with the provincial organization in the modern

[38]In this thesis, I use the term principle of "devolution of powers" as the translation of *"tevsi-i mezuniyet" / "yetki genişliği".* There are many different English translations of this principle in the literature. For instance, it was translated as decentralization in the English translation of the Ottoman Basic Law in the 1908 issue of the American Journal of International Law. "The Ottoman Constitution, Promulgated the 7th Zilhidje, 1293 (11/23 December, 1876)", American Journal of International Law (1908): 367-387. The term decentralization is a controversial issue in the history of the Ottoman and Turkish Republic and is beyond our subject. It is translated in Turkish administration literature as *adem-i merkeziyet* that has many forms from strong to weak. But regarding Ottoman administration it was mostly used as more autonomous administrative units. It is therefore not appropriate to define *"yetki genişliği"* in this thesis as decentralization because I define this principle through the claim that the governor who uses this principle is a central official rather than an autonomous administrative figure. For a more detail discussion, Cenk Reyhan, Osmanlı'da İki Tarzı İdare: Merkeziyetçilik-Adem-i Merkeziyetçilik (İmge Kitabevi Yayınları, 1st ed., 2007), 17-129.

administration system. A common drawback of centralism is that it can delays important and urgent work. Waiting for the center's decision and directives on every action in a country that is spread over a large area may delay the delivery of public services. To ameliorate this problem the center can grant the authority of decision-making and implementation to local officials at the head of a region or service.In this way, the authority of an officer who only fulfills the orders and directives of the center is expanded.[39] The authority of a governor who takes decisions without needing to refer to the central government in the public services belonging to the state and in the relations of the citizens with the state and to execute these decisions is called devolution of powers.[40] This ensures that the governor can make quick decisions in administrative affairs in the provinces, where it is not possible for the center closely see the situations. With this authority, it should not be understood that the governor acts independently as mentioned above. On the contrary, it represents the figure of a governor, who is an officer of the central government, who acts and takes decisions within the boundaries drawn by the central government. In this chapter and the following chapters, I will examine the reform of the administration and its arrangements in Ottoman modernization in terms of devolution of power and normally through the position of the governor.

"Deconcentration of powers" is also used in the literature; in fact, both are used in the literature interchangeably with some differences. I have chosen to use the term of the principle of devolution of powers which is the translation used by the Constitutional Court of the Republic of Turkey in the translation of the 1982 Constitution of Turkey. "Constitution of The Republic of Turkey", The Constitutional Court of the Republic of Turkey, https://www.anayasa.gov.tr/en/legislation/turkish-constiution/, (accessed on May 10.2022).

[39]Sıddık Sami Onar, İdare Hukunun Umumi Esasları, (İstanbul: İsmail Akgün Hak Kitabevi, Vol 1, 1960), 474.

[40]İsmail H. Göreli, İl İdaresi (Ankara: Ankara Üniversitesi Siyasal Bilgiler Fakültesi Yayınları, 1952), 44-45.

3.1.1 *Tanzimat* Edict[41]

In 1839, *Tanzimat-ı Hayriye* was proclaimed as a *Hatt-ı Hümayun*. The reform period, which started with the Ahmet III and the Abdulhamid I, continued with Selim III and the movement of *Nizam-ı Cedid* and the Mahmud II with the abolition of the Janissary Corps, reached a brand new stage with this Edict. It can be said that *Tanzimat* Edict was the first herald of a major transformation in the administrative system of the Ottoman State. Until the *Tanzimat* Prescript, the effectiveness of the state in the Ottoman Empire was based on two main institutions. The first was the army and the second was the courthouse. Starting from 1839, the state's administration began to be handled for the first time independently of these two organizations. In following this revolutionary transformation, the administration with all elements began to modernize especially after the publication of the *Tanzimat* Prescript.[42] Before mentioning this Edict prepared by the Ottoman ruling class as a result of a demand from below and to respond to those demands, and the change in administration, it can be useful to look at the contents of the Edict and what would be done as a result. The Edict can be summarized under 4 main headings that were promised.

1. Declaration of equality between non-Muslim and Muslim subjects
2. Underlining the necessity of a well functioning system for military service including Non-Muslim subjects

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41 The transcription of Tanzimat Edict in Latin Alphabet was publiched by Karal. Enver Ziya Karal, Osmanlı Tarihi: Nizam-ı Cedid ve Tanzimat Devirleri, (Türk Tarih Kurumu Basımevi, 4th ed., Vol. 5,1983), 255-258. I use this transcription.

[42] Musa Çadırcı, Tanzimat Sürecinde Türkiye Ülke Yönetimi (Ankara: İmge Kitabevi, 2nd ed., 2017), 225.

3. Guarantee of the security of life, honor and property to Ottoman subjects
4. Establishment of a regular system of taxation and abolishment of the tax-farming system[43]

These four articles were the main titles of the *Tanzimat* Edict. A very short time after the Edict regarding these articles, the movement to legislate in the field of rights began. It is expressly forbidden in the Edict to punish people before their crimes were finalized by the court. The principle of legality in punishment entered the Ottoman Legal System in its modern sense with the *Tanzimat* Edict. 6 months after the Edict, the Penal Code was prepared that was emphasized in the Edict. Later, the Commercial Code was partially translated from French. In these, the principle of equality before the law was adopted as a more important and revolutionary step; in fact, the principle of equality before the law was strongly expressed. It is understood from this not only the equality between the ruling class and the subjects, but also the equality between Muslims and non-Muslims. The dissolution of the system of compartmentalization of the subject of Ottoman Empire according to religion was realized. These mean that the *Tanzimat* Edict formed the beginning of a transformation towards the secular legal system of the West.[44] The secularization of state institutions was one of the most important reforms brought by the *Tanzimat*. What is more, recruitment was subject to rules and its duration was determined as 5 years and a lottery system was introduced. The *ocak* system, which constituted the classical Ottoman military system, was abolished and the system of electing soldiers

[43]E. Attila Aytekin, "Peasant Protest in the Late Ottoman Empire: Moral Economy, Revolt, and the Tanzimat Reforms", International Review of Social History (2012): 196-197.

[44]Karal, Osmanlı Tarihi: Nizam-ı Cedid ve Tanzimat Devirleri, 172-173. ; Aytekin, "Peasant Protest in the Late Ottoman Empire: Moral Economy, Revolt, and the Tanzimat Reforms", 196-197. ; Donald Quataert, The Ottoman Empire, 1700-1922 (Cambridge University Press, 2000),64-66.

from the public according to a certain lottery model and for a limited time was introduced. In addition, officers were prohibited from taking civil service duties. It was an important step brought by the *Tanzimat* in terms of the separation of military service and bureaucracy.[45]

More importantly, for the first time in Ottoman history, the principle that the state is for the people, not the people for the state, was accepted. The principles of protecting the people from the abuses of maladministration and ensuring the welfare of the people were also clearly stated in the Edict that the state is for the people. With this approach, in addition to all the above, the governors and other administrators in the administration, which I have emphasized before, were prevented from acting independently from the center and collecting unlawful taxes. Financial affairs, which were the authority of the governors, were taken from them and given to the treasurer. Finance officers and collectors responsible for the collection of taxes were appointed. The powers of the municipal councils, which had the authority to set and collect taxes, were expanded and provincial councils were established. Furthermore, civil servants were forbidden to work as tax farmer *(mültezim)*.[46]

As can be understood from the reforms made in financial matters, the change in the administrative organization with the *Tanzimat* was aimed at reducing the influence and authority of the governors. For this purpose, only public order affairs were left to the governors and their financial powers were taken. On the one hand,

[45]Karal, Osmanlı Tarihi: Nizam-ı Cedid ve Tanzimat Devirleri, 178-179. ; Kudret Emiroğlu, Kısa Osmanlı-Türkiye Tarihi: Padişahlık Kültürü ve Demokrasi Ülküsü, (İletişim Yayınları, 1st Ed, 2015), 80.

[46]Karal, Osmanlı Tarihi: Nizam-ı Cedid ve Tanzimat Devirleri, 178-179. ; Reşat Kaynar, Mustafa Reşit Paşa ve Tanzimat (Türk Tarih Kurumu Basımevi, 2nd ed, 1985), 224-264.

financial powers were given to highly competent chiefs, called *muhassıl*, who were appointed by the sultan. On the other hand, later on, administrative councils and provincial councils were established with the participation of the people at all levels of the administration.[47] The governors with two sides were limited unlike their position before the Edict. The relatively independent positions of the governors through the limitation of their financial authority were eliminated. Clearly, the *Tanzimat* Edict was a first phase in the transformation of the provincial administration and the governor's position. The emergence of the principle of devolution of powers signaled the abolition of the independent governors, who had tended to operate as a feudal lord (*derebeyi*), in terms of their decision making. Although radical changes took place in many areas with the *Tanzimat*, there was not much change in the appointment of governors. Since there was no institution to train qualified administrators, appointments were made from among those who had served as governors in previous periods.[48] The continuation of the duties of governors and other officials from the old tradition enabled the old habits to continue, as we witnessed in the institution of the *muhassıllık*.

3.1.2 The *Muhassıllık* Institution

Shortly after the proclamation of the *Tanzimat* Edict, the provisions of the Edict began to be implemented. In this direction, first of all, in order to regulate the tax issue, the tax farming system was abolished and instead of a tax farmer *(mültezim),* officials called *muhassıl* were appointed. In addition to their duties of tax

[47]İnalcık, "Senedi-i İttifak ve Gülhane Hatt-i Hümayunu", 625.

[48]Selda Kılıç, "Tanzimat'ın İlanında 1864 Düzenlemesinin Uygulanmasına Kadar Geçen Dönemde Valilik Kurumu", Tarih Araştırmaları Dergisi (2009): 45.

collecting, they were asked to perform a significant role in implementing the Ottoman Modernization Process. In 1840 with *Tanzimat-i Serriye*, the duties of *muhassıls* were sent to provinces. They were given the task of establishing councils called Councils of *muhassıllık* in the provinces.[49] To facilitate their duties it was decided that books of all income sources belonging to the treasury would be given to the *muhassıls*. Incomes that had no records or could not be found would be determined and recorded and reported to the treasury as soon as possible.[50]

In the institution of the *muhassıllık*, financial powers were given to *muhassıl*, and the authority for security and public order was placed the military officer. Thus a division of powers and a self-control mechanism were established between the *muhassıl* and the military officer. A clerk sent from the center was also given the responsibility of recording all the works of *muhassıls*. Councils, which were composed of appointed and elected members, became an executive organ where issues falling within the scope of the duty of *muhassıl* and military officers such as finance, administration and public order were discussed and resolved. Also, they reached the status of a court in which judicial power was exercised. It can be said that all of these organizations worked in respect to a hierarchy that was controlled by the center. The right to communicate directly with the finance minister, *serasker* and *Meclis-i Vala* was given to *muhassıls*, military Personnel and councils of *muhassıllık*.[51]

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[49]Nizam Önen& Cenk Reyhan, Mülkten Ülkeye: Türkiye'de Taşra İdaresinin Dönüşümü (1839-1929), (İstanbul: İletişim,2011), 123-124. ; Karal, Osmanlı Tarihi: Nizam-ı Cedid ve Tanzimat Devirleri, 237-243.

[50]Çadırcı, Tanzimat Döneminde Anadolu Kentlerinin Sosyal ve Ekonomik Yapısı, 208.

[51]Ayla Efe, "Taşra Yönetimine Muhassıllıktan Açılan Kapı", in 1864 Vilayet Nizamnamesi, ed. Erkan Tural & Selim Çapar (Ankara: Türkiye ve Orta Doğu Amme İdaresi Enstitüsü, 2015), 33.

According to İnalcık, before these councils, under the chairmanship of the kadi, the magnates and notables (*eşraf*) attended the councils, which were authorized to distribute and collect taxes, and to determine the expenditures and expenses of the local administration. The difference between the post-*Tanzimat* councils and these councils is that the chairmanship was taken from the kadi as the religious authority and given to the administrators who were purged of religious authority. Through the religious chefs of non-Muslims and their *Kocabaşıs*, non-Muslim people had rights in administration that differed to those of the councils of *muhassıllık* and the councils before *Tanzimat* Edict.[52]

The approaches to the establishment of these councils are differentiated. According to Ortaylı, the process of starting councils of *muhassıllık*, later continued with small and large councils of administration in provinces and *livas*. Aside from these bodies, local representatives in the murder appeal courts, agricultural commission, provincial treasury (*mal sandığı*) and municipal councils were not determined only by the will of the central bureaucrats. He says that the central government had to consider the demands and thoughts of people in the provinces. Moreover, the council of *muhassıllık* as the beginning of local government tradition in Ottoman Empire was mentioned by him.[53] Keskin says that these councils were the tools of the feudal sovereignty. Local sovereignty, which was previously distributed to individuals, such as tax-farmers, *mütesellims* or *voyvodas* with the

[52]İnalcık, "Senedi-i İttifak ve Gülhane Hatt-i Hümayunu", 613.

[53]Ortaylı, Tanzimat Devrinde Osmanlı Mahalli İdareleri:1840-1880, 18.

sultan's *berat*, was given to be used by a class of councils this time. Therefore, in the distribution of feudal income, the councils were developing as institutional tools.[54]

Despite the different approach to these councils and *muhassıllık* institution, after the implementation of *muhassıllık*, in 1840-1841 the income of the Treasury in no small measure decreased. The *muhassıls* worked independently of the central treasury in the provinces which also slowed the deposit of taxes with the center. For these reasons the institution of the *muhassıllık* was abolished in the following year. [55] There were two main reasons for the failure of this institution. Firstly, 80-90% of the collected taxes were used for the expenditures of the *muhassıls* and represented a massive loss to the Treasury. [56] Secondly, the local personnel of the Ottoman State remained in place, continuing to act with their previous habits. In addition to that the thoughts of Perot[57] demonstrate that the problems were not only with the *muhassıls* appointed, but also related to *muhassıllık* councils where the election procedure of members was arbitrary and irregular. The convening of the Council was also subject to those who have an interest in a matter. Also, it is clearly established that the powers of the Councils were ambiguous. If the members of a council were in agreement on the selection of a capable head of the Council, their council was able to function. Otherwise, notes Perot, these councils, which have come under the rule of some local notable who have agreed with the provincial officials of the center and kadi, or are divided among their members, cannot do any work and become nothing.

[54]Nuray E. Keskin, Türkiye'de Devletin Toprak Üzerinde Örgütlenmesi, (Tan Kitabevi Yayınları, 1st ed., 2009), 164-165.

[55]Çadırcı, Tanzimat Döneminde Anadolu Kentlerinin Sosyal ve Ekonomik Yapısı, 210.

[56]Efe, "Taşra Yönetimine Muhassıllıktan Açılan Kapı", 38.

[57]Selda K. Kılıç, Türkiye'de İl Yönetimi (1839-1923), (Ankara: Berikan Yayınevi, 1st ed., 2018), 51-52.

There is no election system as similar to Europe. Neither the representation of people or self-management in internal affairs can be found in these councils. Instead of these safeguards, common sense and customs are determinant factors. Authority naturally belongs to the person who has the ability. In addition to him, İnalcık emphasizes that in many places the Councils were dominated by the aghas and the magnates of the region.[58]

In my opinion, these thoughts about the *muhassıllık* institution mention important considerations and limitations. The councils of *muhassıllık* can be seen as the beginning of some form of local government and the demise of sovereignty of the local feudal cliques. However, the main failures of the institution reported by Perot and Çadırcı were in tax collection and the functionality of the councils being subject to consensus in the election of capable individuals as council leaders. The system of *muhassıllık* was not successfully established despite it have created prominent change in the administration of the Ottoman Empire. Although *muhassıllık* councils were abolished as a result of their failure in 1842, it was very important for the change in the position of the governor. It is obvious that through the institution of *muhassıllık*, the establishment of the centralist finance system was targeted. As mentioned before the financial and administrative powers of governors were separated with each other after the *Tanzimat* Edict. Especially the duty of tax collecting was taken from governors; in fact, they only had tasks which provided public order in the provinces. The task of collecting all kinds of tax revenues of the *sancaks* and *eyalets* was left to *muhassıl* appointed from the center, and it was desired to prevent the administrators from using the treasury revenues for their own

[58]Halil İnalcık, Tanzimat ve Bulgar Meselesi, (Ankara: Türk Tarih Kurumu Yayınları,1943), 76.

interests.[59] The establishment of a centralized financial administration and the establishment of a power consisting of elected and appointed members in the provinces against the governor with councils of *muhassıllık* caused the governor to become a figure who only maintained order in the provinces since all financial powers were given to the *muhassıls*. The institution was a significant first step to minimize the authority of the governor and witnessed the beginning of a practice whereby governors started reporting as an officer of the state.

3.1.3 1842 Regulation

In 1842 several changes were made to the administration of the provinces. The *eyalets* were divided into *sancaks* and *sancaks* to *kazas*. *Kaza*, which was a judicial unit in the seventeenth and eighteenth centuries and was turned into an administrative unit with this regulation.[60] Moreover, according to the 1842 Regulation, *kaza* directors would be elected by the notables of the region and would start their duty with the approval of the government. In addition, the governors and district governors were instructed not to interfere in the election of the directors.[61] With this regulation, financial and administrative duties were separated from each other. In the *eyalets*, the treasurer was appointed next to the governor, and the head of finance (mal müdürü) were appointed next to the district governor in the *sancaks*. Only administrative and financial powers were vested in the *kaza* director. However, the duty of the *kaza* director was defined as the tax collector.[62]

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[59]Çadırcı, Tanzimat Döneminde Anadolu Kentlerinin Sosyal ve Ekonomik Yapısı, 210.

[60]Musa Çadırcı, "Türkiye'de Kaza Yönetimi(1840-1876)", Belleten, (1989): 232-233.

[61]Önen& Reyhan, Mülkten Ülkeye: Türkiye'de Taşra İdaresinin Dönüşümü (1839-1929), 135.

[62]Efe, "Taşra Yönetimine Muhassıllıktan Açılan Kapı", 40.

With the abolition of the *muhassıllık* institution, the governors were given financial powers as well as public order powers. Historians are however divided on the effects of this change. Halil İnalcık emphasizes that governors had authority over the state's finances as before *Tanzimat*.[63] İlber Ortaylı says that with a similar approach to İnaılcık, the *muhassıl* who was under the control of governor was appointed for financial affairs.[64] Selda Kaya underlines that with the abolition of the *muhassıllık* institution, the governors were given financial powers as well as public order powers. However unlike them, with the Regulation of 1842 these financial authorities of the governors were taken; in fact, they were only given visitorial powers.[65] Musa Çadırcı more clearly says that the financial responsibilities of the *eyalets* were not given to the governor, and were instead given to financial treasurers.[66]

The main aims of the Regulation of 1842 were to enhance tax collection and administrative efficiency at all levels of state government. It is remarkable in terms of ensuring administrative efficiency that the *kazas* were transformed into administrative units and that there was an elected director at the head of this administrative unit. It is important that the people/local powers had a word in the administration mechanism in the administrative unit closest to the people.[67] The

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[63]İnalcık, "Tanzimat'ın Uygulanması ve Sosyal Tepkileri", 638.

[64]Ortaylı, İmparatorluğun En Uzun Yüzyılı, 137.

[65]Kılıç, Türkiye'de İl Yönetimi(1839-1923), 31-32.

[66]Musa Çadırcı, "Osmanlı İmparatorluğunda Eyalet ve Sancaklarda Meclislerin Oluşturulması(1840-1864)" in Hikmet Bayur'a Armağan (Ankara:Türk Tarih Kurumu Yayınları, 1985), 260.

[67]Önen & Reyhan, Mülkten Ülkeye: Türkiye'de Taşra İdaresinin Dönüşümü (1839-1929), 132-137.

establishment of the *kaza* can also be understood in terms of the central government wishing to collect from the smallest administrative unit or the sources of tax.

Although there are controversial discussions about these issues, the financial powers of the governors became almost non-existent with this regulation, at least compared to before the *Tanzimat*. It is not unobvious that the governor's becoming an official who carries out only taken decisions removed the possibility of rapid decision-making required by the state services at local level. Engelhard's comment is worth considering in this respect. To him the administration was so arranged that the governor could not take any decision without consulting the councils. Governor's authority and ability to act were in a control mechanism through his relationship with the military commander and the treasurer.[68] Starting with this regulation, the governors became salaried officials of the center and the executives of the decisions taken from the center in the provinces. Their decisions were determined by both central government and local councils.[69] Prior to the *Tanzimat* Edict, governors could be seen as provincial sultans because of their independent actions. Post 1842 and parallel with the *Tanzimat* Edict the power of the governors were definitely restricted.

3.1.4 1846 Regulation

With the regulation of 1846, some administrative arrangements were made within the scope of the *Tensikat-ı Mülkiye* regulations in order to clarify the responsibilities of the administrative units of the *sancaks* and the assigned managers

[68]Ed Engelhardt, Tanzimat ve Türkiye, (İstanbul: Kaknüs Yayınları, 1999), 99-100.

[69]Karal, Osmanlı Tarihi: Nizam-ı Cedid ve Tanzimat Devirleri, 135.

within each province. It can be explained that the *Tensikat-ı Mülkiye* was charged with increasing the welfare level of people and the enrichment of the state. This institution was considered to be an important part of the development process, and its administration was carefully arranged.[70] The aims of this regulation were to clarify the job descriptions of the officials assigned in the administrative units within the state and to establish the procedure for doing business according to the laws. In addition to these two aims, the Regulation of 1846 rearranged the usage by authority of administration and finance.[71]

The status of the governors, who were the highest representative of the state in the province, was clarified in terms of the scope of their authority more clearly and definitely than before. While the governor of the center was the highest official in the state, he was not the only one. In the use of financial powers, the governor had a position jointly with the head of finance and they were to supervise each other. Between councils, the head of finance and the governor were subject to a triple financial control mechanism.[72] Despite the fact that the governor's financial powers were not clear in the Regulation of 1842, in the 1846 Regulation all financial duties are stipulated and the auto control mechanism was more clearly defined than before.

What is more, the governor possessed the power to appoint the *kaza* directors. On the one hand, the governor was prohibited from engaging in any commercial activity. On the other hand, according to the *Tensikat-ı Mülkiye* Orders, he had to take the necessary measures to increase agriculture and trade. With the effective

[70]Ayla Efe, "Tanzimat'ın Eyalet Reformları 1840-1864 Silistre Örneği", Karadeniz Araştırmaları (2009): 93.

[71]Efe, "Taşra Yönetimine Muhassıllıktan Açılan Kapı", 42.

[72]Efe, "Tanzimat'ın Eyalet Reformları 1840-1864 Silistre Örneği", 96.

return of the tax farming system in 1842, he was responsible for tenders together with the councils and the head of finance. Along with these financial responsibilities, it was seen that all kinds of local affairs related to security and public order were under the responsibility of the governor such as all obligation to act in accordance with the law in the event of a crime, what conditions would allow for using weapons to maintain law and order, and a duty for safeguarding all Ottoman subjects from oppression or unequal treatment.[73]

Owing to the Regulation of 1846 both the governors and the other personnel in the administration were seen as salaried officers that were totally connected to the central government and its orders. The importance of this regulation for our discussion is that it was one of the regulations that was made to change the tendency of governors to behave independently of central government that had continued since the 1839 *Tanzimat* Edict. The governor was now an official of the state, much more clearly than seen in the 1842 Regulation. The ambiguous appearance of the governor in 1842 was removed.

3.1.5 1849 Regulation

In 1849, a new regulation was made in the Ottoman Administrative Structure. Via the 1849 Regulation, the large councils were called *eyalet* councils, and the small councils were called the *sancak* councils. It can be said that the large and small councils were repositioned instead of the councils of *muhassıllık* after their abolition. Also, a hierarchical relationship was established between eyelet councils and *sancak* councils. This hierarchical relationship was based on the fact that while *sancak* councils dealt with the simple and minor issues, the major and important issues were

[73]Efe, "Tanzimat'ın Eyalet Reformları 1840-1864 Silistre Örneği", 98.

discussed in *eyalet* councils. The most significant implementation of this regulation was that the head of council, two clerks and one member were appointed by central government. In addition to these four members who were directly appointed by the government in *eyalet* councils, there would be a governor, a treasurer, a judge, a mufti and a representative from 4 Muslim and non-Muslim peoples to be elected from the people.[74]

In addition to these changes, in case of the replacement or demission of *kaza* directors, the councils had the power to appoint deputies for them, subject to approval of the appointment by central government. We observe that the role of these councils in the provinces was also to centralize authority as the work of officials of provinces in the Ottoman State was checked by these councils with respect to this move to centralization. The governor was excluded from the process of appointing the head of the provincial councils who was appointed by the government.[75] The reforms aimed at limiting the absolute authority of the governor, which started in 1842 and continued with the 1846 regulation, resulted in the complete disabling of the governor in 1849.

According to this Regulation, many of the governor's former duties and powers were given to eyalet councils:[76]

- In the case of dismissal of the governor, the head of the councils and the treasurer or the change of their place of duty, they would be accounted for as soon as possible and the handover works would be carried out in full.

[74]Önen & Reyhan, Mülkten Ülkeye: Türkiye'de Taşra İdaresinin Dönüşümü (1839-1929), 138-140.

[75]Önen & Cenk Reyhan, Mülkten Ülkeye: Türkiye'de Taşra İdaresinin Dönüşümü (1839-1929), 140-141.

[76]Çadırcı, "Osmanlı İmparatorluğunda Eyalet ve Sancaklarda Meclislerin Oluşturulması (1840-1864)", 271-272.

- Whether the provincial officials oppressed the public or not would be investigated and necessary measures would be taken. Also, it would be investigated whether corruption was committed in tax collection and legal action would be taken against those deemed inappropriate.
- The councils were also given duties on internal security. The council was responsible for maintaining public order. The council would be responsible for treating the detainees and sentenced people according to the rules and providing their needs.
- Necessary measures would be taken to prevent shortages in the daily needs of the people.
- In terms of economy, the budget was under the management and control of the council. *İcmal* Books would be presented to the council by the treasurer. All activities in tax collection were under the control of the council.
- The lottery procedure and the lottery council for conscripts would be followed by the *eyalet* council.
- The council was responsible for the protection of the property of the orphans. No more money would be taken from the cases than determined. The taxes prohibited by Shari'a and the Law would not be collected from the people.
- The council was authorized to spend up to 2000 *kurus* for the repair of state-owned buildings. The country's public works and education were left to the councils. The councils would inspect the schools that were opened and would be opened.

- In cases of public interest such as murder, road blocking or theft, *eyalet* councils would solve the legal problems that the district governors could not solve in the *sancak* centers.

As can be seen, the task of executing and supervising almost all the services in the *eyalets* were given to *eyalet* councils. The governor was restricted not only with the appointment of the head of the council from center but also with the detailed duties and authorities to given the council. In this regulation, although the responsibilities of the provincial governor were specified under the title of duties, as stated above, he was the executor of the orders coming from the center and the decisions were taken in the council after approval by the center.

The reform phase, which started with the *Tanzimat* Edict and continued until the 1849 Regulation, changed the position of the governor. The governor, who had become a sultan in the province before 1839, was made an official of the state by respectively the *Tanzimat* Edict, the *Muhassıllık* Institution, the 1842 Regulation, the 1846 Regulation and the 1849 Regulation. I think that the regulations made in this period and the removal of the powers of the governor was a requirement before the principle of devolution of powers was included in the Ottoman Administration. Before 1839, the principle of devolution of powers could not be achieved without taking the powers of the governor who was almost independent. There was also the need to consolidate financial and administrative powers through radical change. This is because to apply the principle of devolution of powers without removing of powers of the governor would only give new legitimacy to his existing independent position. But this process both made the governor a loyal official to the center, and it was seen that there was a need for this principle with experience.

3.2 Introduction of the Principle of Devolution of Powers into the Ottoman Administration

In the process starting with the *Tanzimat* Edict to the 1849 Regulation, the powers of the governors were greatly limited. The institution of the governorship, which became the provincial official of the center, became a symbolic duty. Due to the fact that the members of the local councils who were appointed by the central government were coming from the privileged sections of the old period of before *Tanzimat,* the thought that the governors were the biggest obstacle against the centralization process was changed. Moreover, it is possible that the local sovereigns represented in local councils were starting to be seen as more dangerous obstacle than independent governors.

The limitation of the wide powers granted to the governors before the *Tanzimat* made them a simple officer who carried out decisions. However, this also removed the possibilities of rapid decision-making required to respond to local needs by state services. Owing to the fact that governors lost the rapid decision making opportunities, the complex methods that were planned to be followed to prevent corruption in the collection of taxes and the measures taken for internal security could not be implemented. It is obviously seen that although a plethora of regulations was prepared to provide for the principles of the reforms, the corruptions in tax collection and rebellions all over the state continued.[77] The governors were held responsible for the continuation of these problems; in fact, their places of duty were changed frequently. To illustrate, in 1840, Edirne, 3 governors served, in 1845, Edirne two governors served, in 1847, Hüdevendigar two governors served and in

[77]Çadırcı, Tanzimat Döneminde Anadolu Kentlerinin Sosyal ve Ekonomik Yapısı, 227.

1841, Sayda 2 governors served. The average term of office of governors in the Ottoman provinces was around 1 year because of being held responsible for failures.[78]

A common concern of the 1839 *Tanzimat-ı Hayriye*, 1840 *Muhassıllık* Institution, 1842 Regulation, 1846 Regulation and 1849 Regulation was the financial and administrative centralization of the Ottoman Empire. These five important reform moves that were successful in respect to this target aimed at limiting the powers of the governors and removing their financial powers. Extreme centralization was achieved and financial and administrative powers were separated from each other. What is more, some administrative powers of the governor were taken from the governor and given to the local councils by these regulations. However, as can be seen in the regulations related to this reform, the problems that occurred before the *Tanzimat* Period could not be solved. Problems such as preventing corruption, taking measures against banditry, ensuring public order were emphasized and repeated in all these regulations. However, with the 1849 regulation, the authorities taken from the governors actually caused severe difficulties in the functionality of provincial organization.

In this second part of this chapter, I will stress that some of the former powers of the governor in the Ottoman Administration were given back, in the Regulations of 1852 and 1858. These were very important in terms of defining the new position of the governor in the process leading up to the founding of the Republic of Turkey. While it is claimed that there was continuity in terms of the administrative phase of Ottoman modernization, it was also a breaking point. While the regulations before

[78]Kılıç, Türkiye'de İl Yönetimi (1839-1923), 35-38. ; Maurus Reinkowski, Düzenin Şeyleri, Tanzimatın Kelimeleri: 19. Yüzyıl Osmanlı Reform Politikasının Karşılaştırmalı Bir Araştırması (İstanbul: Yapı Kredi Yayınları, 2017), 304-308.

1852 made the governor an officer of the center, the later regulations would ensure that the governor was both enabled by the central power and the local one, and capable of making quick decisions using the powers given by the principle of devolution of powers. The details of these regulations are discussed below in more detail and examined in terms of what they brought to the reform process in this new phase.

3.2.1 1852 Regulation

The planned improvement in the institution of the governorship could not be achieved by the 1850s. The governors were unable to fulfill even the duties assigned to them. Moreover, the disadvantages of the centralized system were seen in the provincial organization through the regular failings in governorship. An edict was issued by the central government in 1852 to eliminate the problems that were caused by the centralization policy.

With this Regulation, the governor, who became an official subject to the Sublime Porte (*Bab-ı Ali)* and could not do anything without consulting the *eyalet* council, was given back some of his former rights and authorities. Head of finance, members of *kaza* and *nahiye* councils, and the law enforcement officer (*zaptiye)* forces were placed under the administration of the governors who oversaw their duties. The governor also had the power to dismiss officers.[79] In addition to these amendments, with the new powers given to the governors, the soldiers assigned in the face of any event would have the authority to use their weapon after giving a warning. Before this regulation, the governor had no power to direct the forces of

[79]Vecihi Tönük, Türkiye'de İdare Teşkilatı, (Ankara: İçişleri Bakanlığı Yayınları, 1945), 112.

law and order and the pursuit of criminals. As a result, security problems arose in various parts of the provinces. In Edirne, Trabzon, Izmir and the other *eyalets*, far away from the center, public order forces came to a point where they could not counter banditry.[80]

According to this regulation, the country was divided into *eyalets*, *eyalets* into *sancaks*, and *sancaks* into *kazas,* as in 1842. The administration of independent *sancaks*, which were not affiliated with any province and could communicate directly with the center, was left to the administration of the *mutasarrıf*. Also, with this new regulation, the appointments and duties of the district governors and directors were regulated. While the administration of the *sancaks*, which were directly subordinate to the provinces, was left to the district governors, directors were appointed in the administration of the *kaza*. In order to appoint a new director to the districts, the governors and *mutasarrıfs* would choose one of the notables of the district and ask the center.[81] For example, in the *eyalet* of Siliste, it is seen that new appointments were made by the governor. Previously it was done by the *eyalet* council. The promises of these appointed directors that they would not covet state property and that they would not embezzle money would be taken and they would be sworn in. Additionally, the appointment of the head of the council from the center was completely abandoned; in fact, the head of the council became the governor. In respect to 1852 Regulation the governor, who was previously under the strict control of the *eyalet* councils, has become an important approval authority. On the one hand, all matters were discussed in the council. On the other hand, only issues approved by

[80]Tönük, Türkiye'de İdare Teşkilatı, 112-113.

[81]Selda Kılıç, "Tanzimat'ın İlanında 1864 Düzenlemesinin Uygulanmasına Kadar Geçen Dönemde Valilik Kurumu", Tarih Araştırmaları Dergisi (2009): 50-51.

the governor could be discussed in the councils and even the petitions of the people could not be discussed subject to the approval of the governor.[82]

It is obvious that various authors have important thoughts on this subject. After looking at the details of this regulation, discussion on these will be useful for understanding the subject. To understand the Regulation of 1852, it is necessity to look at three significant different approaches that come from three different authors and historians as each significantly contributes to our understanding of the 1852 Regulation. First off all, Engelhard emphasizes that the purpose of this edict, which increased the powers of the governors, was to bind the local officials to the Sublime Porte especially to make the governors, who were once slaves of the greed of *mültezims*, against the royal rights, as salaried civil servants.[83] Secondly, Davidson highlights that with this edict, the wide powers granted to the governors were cause to the tradition of sending civil and military inspectors, who were equipped with extraordinary powers, to the *eyalets* to solve the problems of the state over time. He argues that the increase in the central control in the administration through the inspectors allowed the Sublime Porte to better know the conditions in the provinces and laid the groundwork for Midhat Pasha's sending to Nis and the preparation of the 1864 provincial regulations.[84] Thirdly, Olgun says the drawbacks of this strict centralization method, which was established after the *Tanzimat*, soon began to appear, and the 15 Expedition 1269 - 28 December 1852 edict was issued to eliminate them. In this edict, some civil servants were placed under the command

[82]Efe, "Tanzimat'ın Eyalet Reformları 1840-1864 Silistre Örneği", 104.

[83]Ed Engelhart, Tanzimat ve Türkiye, (İstanbul: Kaknüs Yayınları, 1999), 107.

[84]Rogeric Davidson, Osmanlı İmparatorluğu'nda Reform 1856-76 (İstanbul: Papirüs Yayınları, 1997), 122-123.

and administration of the governors, and the governors were held responsible for the actions of these officials. At the same time, the governor had acquired the authority to dismiss these officials under his administration. In this way, the governors, whose powers were expanded, were responsible for the administration of the eyalet. With these provisions, the principle of the devolution of the power had started again.[85]

It is not unseen that the three authors look at the Regulation of 1852 from different ways but in my opinion Olgun's thought about the principle of devolution of powers and 1852 Regulation is much closer to my thesis about Ottoman Administration History than the others and also is much more accurate in its approach to the 1852 Regulation. The measures regarding this new *eyalet* administration confirmed the authority of the local administration and the ties connecting the *eyalet* to the center were loosened. The dependence of the *eyalet* on the center was being reduced, in fact; with this edict, the centralism politics of the Sublime Porte that was started in 1839 was abandoned. The governors' status as civil servants attached to the center was preserved, but important powers were given to them regarding the internal affairs of the *eyalets,* especially in the field of public order. According to my approach, the fact that the governor could take decisions without asking the center means that the principle of devolutions of powers entered the Ottoman Administrative System. At this point, it can be said by some that the governors before 1839 could take decisions without asking the center. Sıddık Sami Onar states that before the 1839 *Tanzimat* edict, there was a wide range of devolution of powers in the *eyalet* administration. With the *Tanzimat*, the governors were made civil servants affiliated to the center. Moreover, he emphasizes that the absolute powers of the governors were taken from them. Afterwards, he says that this

[85]İhsan Olgun, "Yurdumuzda İl İdaresinin Geçirdiği Tekamül", İdare Dergisi (1952): 63.

centralized system created inconveniences in terms of the functioning of the administration and with the 1852 regulation, the principle of devolution of powers was returned.[86] The difference between the process that started with the 1852 regulation and before 1839 in terms of the position of the governor was that the governor was made an official attached to the center with the reforms implemented after 1842. In addition to being an official of the center, his ability to take decisions on his own about the problems in the province complies with the principle of the devolution of powers, as defined in the previous chapter.

3.2.2 The Regulation of 1858

With the Treaty of Paris signed after the Crimean War, which took place between 1853 and 1856, the Ottoman Empire reached an environment of peace for a while. With this atmosphere of peace, the arrangement of the administrative structure continued. It is not unknown that with the *Islahat* Edict of 1856, the pressures of the Western states on the Ottoman State via non-Muslim subjects were continuing. Western states interfered with the Ottoman administrative structure and wanted to disrupt that administrative structure because they claimed that the non-Muslim subjects were not treated equally, especially in election of the members of the councils. In the *Islahat* Edict which was declared because of the interfering of the Western Countries, there were provisions that would keep the Ottomans under pressure for the administration and the representation of non-Muslims. Especially with the article about the representation of non-Muslims in the councils, the Great Powers, mostly Russia, demanded reform in the administration. That's because there

[86]Sıddık Sami Onar, İdare Hukukunun Umumi Esasları, (İstanbul: İsmail Akgün Hak Kitabevi, Vol 1, 1960), 577-578.

is a claim that the reforms declared in these years were the reasons for the external pressures. The thoughts of Ahmet Mithat Efendi on this issue are relevant to understand the details. According to him, in this environment of peace that would last for 10-15 years, it was important to make administrative reforms before military reforms in terms of both the promises made to the allied states and Ottoman subjects. He adds that doing these would revitalize the country and contribute to the goodwill of the allied states and the people. It would also be a trump card that the Ottomans could use in foreign policy.[87] For these reasons, the Ottoman central government started work to put the councils in order in the *eyalets* and *livas,* especially in terms of the conduct of elections.

By 1855, Fuat Pasha had opinions that the governor's powers were insufficient. While he was serving as an inspector for extraordinary civil and military powers in Ioannina, Muslim and non-Muslim notables wanted him to remain as governor. However, he did not accept this offer. He said that the reason for this is that they must have extraordinary powers to achieve something. Otherwise, he emphasized that, as an ordinary governor, he would not be able to do anything and that the reports (*layihas)* he would give would rot in his file bags.[88]

Taking these views into consideration, the central government continued its tendency towards the principle of devolution of power and issued a Regulation in 1858 called as "*Mutasarrıf ve Kaymakamların Vazifelerine Şamil Talimat*" (The Regulation about the duties of *Mutasarrıfs* and District Governors). It can be said that this regulation made a significant effort to ensure the principle of devolution of

[87]Önen & Reyhan, Mülkten Ülkeye: Türkiye'de Taşra İdaresinin Dönüşümü (1839-1929), 144-145.

[88]Erkan Tural, "Osmanlı Taşrasında Fransa Etkisi 1864 Nizamnamesi'nin Arkasında III Napolyon mu vardı?", in 1864 Vilayet Nizamnamesi, ed. Erkan Tural & Selim Çapar (Ankara: Türkiye ve Orta Doğu Amme İdaresi Enstitüsü,2015), 89.

powers and a strong governor profile.[89] It recognized the governor as the highest-ranking official of the central administration in the provinces and continued the powers given in 1852 for the governor to be the highest-ranking officer of the provincial bureaucracy.

According to the 1858 Regulation, the governor, who was the deputy of the Sublime Porte possessed the authority to determine all kinds of issues that would arise in an *eyalet*. Also, the responsibility for security and public order in the state rested with the governor. If the security rules were not followed and warnings were ignored, law enforcement officers now had the right to use a gun. In the event of disorder, unless there were sufficient law enforcement officers or soldiers in that region, the governor could send the necessary law enforcement officers to that region. The treasurer, district governor and directors in the *eyalet* and their officers were under the hierarchy of the governor and therefore under his responsibility. Furthermore, the governor decided what to do about the civil service and finance. It was among the powers of the governor to dismiss those who acted contrary to their public and private duties among the law enforcement officers, administrative and finance officers from the civil service, to appoint deputies to their places and to ensure their trials.

The administrative structure consisted of *eyalets, livas (eliviyes)*, *kazas* and villages (*karye*). There was a governor at the head of each *eyalet*, a district governor at the head of each *sancak*, and a director at the head of each *kaza*. It was also seen that independent *sancaks* were included as administrative units. The duties of the *mutasarrıfs* in these independent *sancaks* were the same as those of the governors'.

[89]Stanford Shaw, "The Origins of Representative Government in the Ottoman Empire: An Introduction to The Provincial Councils, 1839-1876", Near Eastern Round Table (1969): 90.

The district governors, on the other hand, would notify the governor when their correspondence was required with the finance and imperial pious foundation (*evkaf-ı hümayun)* ministries. The district governors, who served in the *livas* nearer the Sublime Porte than the centre of the *eya*let, could make direct contact with central government if there was necessity in significant and urgent situations. But they also too informed the governors of their localities.[90]

The central government, which had abolished the powers of the governors at the beginning of the *Tanzimat* Period, strengthened the governors again after they had no doubts that they were officials attached to the center. All these provisions of 1858 showed that the governor was the only sovereign in the *eyalet*. The 1858 Regulation expressed the transfer of the powers that were left to the councils with the 1849 Regulation to the governor. Beyond having duties and powers over the council, governors now became in a position to supervise them. The governor was not an element of the *eyalet*, he was the extension of the center in the *eyalet*. The governor had the authority to inspect and supervise state officials, as well as the authority to correspond with all ministries. It can be said that he could appoint officers and used the police force according to the needs of the *eyalets*. His duties and responsibilities in financial affairs also increased. The powers of the governor in property affairs increased. They also had duties in public works, trade, agriculture and zoning. With the 1858 Regulation, it was seen in this regulation that the governor could take decisions on matters concerning the *eyalet* without asking the center and the councils. In the respect to principle of the devolution of powers, governors' power and decision making areas increased due to the Regulation of 1858.

[90]Tönük, Türkiye'de İdare Teşkilatı, 117-123; Enver Ziya Karal, Osmanlı Tarihi: Islahat Fermanı Devri 1856-1861, (Türk Tarih Kurumu Basımevi, 4th ed., Vol. 6, 1983), 133-134.

With the 1852 and 1858 Regulations, some of the powers taken from the governor in the 1840s were given back. This position of the governor, who was turned into a central official with the reforms made in the 1840s, was preserved, but some of powers were redefined. This is why the disadvantages of leaving the governor in a largely unauthorized and secondary position in the provincial organization were seen with the experience of the 1840s. Therefore, the principle of devolution of powers was added to the administrative system and the governor's office returned to being a serious decision-making body. As we will see in the next sections, with these two regulations, the principle of devolution of powers that entered the Ottoman Administrative System and the powers of the governor would not be taken back.

CHAPTER 4

THE ESTABLISHMENT OF PROVINCIAL ADMINISTRATION

The reforms made to regulate the civil organization and administrative system of the Ottoman Empire, which started with the *Tanzimat* Edict, could not provide exactly what was desired, as shown in the previous chapters. From the beginning of the 1860s, the tendency to organize the territorial structure in a more detailed and organized manner began. Both the internal turmoil, which was the results of ethnicity, religious and sectarian differences, and the pressures of the great powers were effective at the beginning of this process. Although administrative autonomy had been given to these regions with the 1861 Lebanese Regulation and the 1867 Crete Regulation as a result of direct external pressures, the current changes in Ottoman Empire and its efforts to redefine their political existence in these regions were effective.[91] The great powers were constantly warning the Ottoman state that non-Muslim subjects were being oppressed, and they were interfering in the internal affairs of Ottoman state.

The tensions between the provincial rulers and the center may be seen as the internal dynamics of the process. The approach of Yerasimos to this subject reveals

[91]Elektra Kostopoulou, "Armed Negotiations of the Late Ottoman Loyaltiy", Comparative Studies of South Asia, Africa and the Middle East (2013): 297-301.

the different effects on the emergence of provincial regulations. According to him, just as the Land Code of 1858[92] reflects the economic contrasts between big land owners and bureaucracy, the laws pertaining to the reorganization of the provinces were the result of the political struggle between these poles. However, for some time these reforms ceased to be the internal affairs of the Empire. The aim was to reorganize the provinces according to the wishes of the western great powers, to appease them by giving certain privileges to the minorities in the empire and to prevent the disintegration of the Empire. The problem for the Muslim landlords and notables was to control the administration of the provinces and to resist the wishes of the palace as well as the governors. As with all other issues, the palace wanted to please everyone and develop its own financial resources.[93] While the Ottoman Central Government wanted to strengthen the central structure though, it was conversely being drawn into a decentralized structure with the pressures from Europe and the provincial rulers.[94]

In such an environment, with Fuat Pasha's becoming the grand vizier and the initiation of the inspection movement which had significant effects at the beginning

[92]There is a controversy about the Land Code of 1858. Some of authors explain the land code as re-establishing state control over agricultural lands that were increasingly being controlled by local notables and magnates. According to this view, the state aimed to ensure partial land ownership against large land ownership with this code. The other view seeks the reason for the law in the socioeconomic and geographical conditions of each region, in the background of agricultural relations and changing relations of productions. As the Land Code is not directly related to my topic, I prefer not to mention it in the text in detail. For a detailed analysis, see in Attila Aytekin, Üretim Düzenleme İsyan: Osmanlı İmparatorluğu'nda Toprak Meselesi, Arazi Hukuku ve Köylülük (Dipnot Yayınları, 1st ed., 2022), 145-152.

[93]Önen& Reyhan, Mülkten Ülkeye: Türkiye'de Taşra İdaresinin Dönüşümü (1839-1929), 157; Stefinos Yerasimos, Az Gelimişlik Sürecinde Türkiye, Tanzimattan 1.Dünya Savaşına (İstanbul: Belge Yayıncılık, 2001), 119.

[94]Erkan Tural, "Habsburg ve Osmanlı İmparatorluğunun En Uzun Asrı ve 1864 Tuna Vilayet Nizamnamesi", Çağdaş Yerek Yönetimler (2004): 95.

of the provincial law period in Anatolia, the provincial administrative order was established. Fuat Pasha had for a while developed important views on administrative reform. He intended to organize the provinces, and to select experienced, powerful and qualified officials as governors by enlarging the *eyalets* and *sancaks*. By expanding the powers of these governors, he would ensure that they only consulted Istanbul on important matters, and in this way, the center would be freed from dealing with ordinary affairs and would only deal with the significant issues. Ahmet Cevdet Pasha, who also participated in the inspection movement during this period, was against this approach of Fuat Pasha. He believed that many of the Ottoman *eyalet*s were not similar to each other geographically and in terms of the people living in those provinces. Therefore, reforms should take into account the historical process of each *eyalet*. In order to achieve this, huge amounts of knowledge, time and skill were needed.[95] However, the state did not have time to wait due to the above-mentioned tense environment and external pressures. Considering all these reasons, the establishment of the provincial organization was started due to the urgent need. Çadırcı defines the 1864 reform as a unique synthesis that emerged from the Ottoman administrators putting into practice what they had seen and experienced in Western Countries.[96] Fuat Pasha's background as a governor and the Western experiences of many Ottoman bureaucrats confirmed this approach in the creation of the provincial system.

In this chapter, I will examine the process that started with the Danube Provincial Regulation experiment through the 1864 Provincial Law, the 1867

[95]Karal, Osmanlı Tarihi: Islahat Fermanı Devri 1861-1876, 155.

[96]Musa Çadırcı, "Osmanlı Döneminde Yerel Meclisler", Çağdaş Yerel Yönetimler(1993): 8.

Directive and the 1871 Provincial Law, and the alteration these regulations made in administration. After that, I will examine the changes made in the administrative structure in these regions by the 1861 Lebanese Regulation and the 1867 Crete Regulation. These 6 province regulations brought important administrative changes in themselves, even if they are specific to only one of them. By mentioning all of them, I will try to reveal both the change in the administration and the change in the position of the governor.

4.1 The 1864 Provincial Law[97]

According to the Provincial Law announced in 1864[98], the names of the *eyalets* were changed to provinces; and the administrative structure was rearranged and given a hierarchical structure as province, *liva*, *kaza* and village. Although the *nahiye* administration was mentioned, no regulation was made about it.

In the provincial administration, there would be governor, head of provincial treasury (*defterdar*), chief secretary of the province (*mektubçu*), and officials of the foreign ministry, the ministry of public works, the ministry of agriculture and the ministry of trade. While the treasurer could directly contact the Ministry of Finance in account affairs, it was stated that he was responsible for the account and financial affairs of the province (7th article). The issue between these centrally appointed

[97]The reason why I translated this text into English as a law instead of a regulation was the change it made in the Ottoman administrative structure compared to the texts I examined in the previous chapters, and its implementation as law. In the English literature, researchers refer to this text both as a regulation and as a law. I chose to use the word law because it presents a more radical change compared to the texts in the previous regulations and largely covers them.

98The transcription in Latin alphabet of 1864 Provincial Law was published by Erkan Tural. Erkan Tural, "1861 Hersek İsyasnı, 1863 Eyalet Teftişleri ve 1864 Vilayet Nizamnamesi", Çağdaş Yerel Yönetimler (2004): 608-624. I use this transcription. For the original text, Düstur, 1st Tertib, 1st V, 608-624.

officials and the position of the governor was not fully clarified. In the footnote of the regulation, it was stated that the deputy governorship was abolished. There would be *mutasarrıfs* at the head of the *liva* administration. The financial and accounting affairs of the *liva* were to be carried out by the accountant attached to the provincial treasurer (30th article). In addition, it was stated in the Law that the *liva* in the center of the province would be governed by the *mutasarrıfs* like other districts. It can be inferred that these *mutasarrıfs* would also fulfill the duties of the abolished deputy governors as their duties in the centre were mostly transferred to the *mutasarrıfs*. For instance, they would be the head of council in the absence of the governor. Before this law, the deputy governor was responsible for this duty. It was also envisaged that there would be an administrative council, an appeals council, a law council and a trade council in the *livas*. In the administration of the *kazas*, the district governor was the highest administrative authority. It can be seen that in the administration of the *kazas*, there was no longer an elected director, but an appointed district governor (*kaymakam*). The reason for this is that the center would like to keep even the lowest administrative units under control. The village, where there would be two headmen elected by the people, was the lowest level of the administrative structure (55th article).

According to the 1864 Provincial Law, there were councils at these four levels that included both the appointed and the elected members. The council system consisted of a provincial council (*meclis-i umum-i vilayet*) established in the provinces and a council of administration (*meclis-i idare*) established at each administrative level. The provincial council consisted of fully elected members that represented *livas*. 2 Muslim and 2 non-Muslim members were elected from each *liva*.

The chairman of the council would be the governor and the second chairman would be a person appointed by the governor from among the civil servants (25th article). Furthermore, the procedure for electing members to these councils was quite complex and contradictory. To illustrate, while 2 Muslim and 2 non-Muslim representatives were mentioned in Article 25, 3 representatives were emphasized in Article 78; in fact, in the same article, no distinction was made between Muslims and non-Muslims. The provincial council would convene once a year, not exceeding 40 days. Their duties were the repair and arrangement of roads, the public housing of the municipality, the development of agricultural and commercial affairs, and the discussion of the issues regarding the changes in *liva*, *kaza* and villages' taxes (27th article). It was obligatory to discuss the issues that the governor wanted to be discussed in the councils. The issues that the governor declared not to be discussed could not be discussed in the councils (28th article). These mean that the governor had absolute control over the councils. The authority of the provincial council was such that it did not exceed an advisory council. To put it more clearly, the decisions to be made by the provincial council were nothing more than a proposal. However, a communication network was established between these institutions, the local government and the center.

The council of administration was at all administrative levels in the province. Under the chairmanship of the governor, the provincial administrative council consisted of civil servants such as inspector of shari'a judges (*müfettiş-i hükkam-ı şeriye*), head of provincial treasury, chief secretary of the province, foreign affairs officer, and 2 Muslims and 2 non-Muslims elected from among the people. The administrative council was responsible for civil, judicial, foreign, public works, trade

and civil affairs. Apart from these, it would not interfere in legal affairs. Moreover, provincial administrative councils took the place of large councils. Under the chairmanship of the *mutasarrıf*, the *liva* administrative council would consist of the *liva* judge, the mufti and the religious leaders of the non-Muslim people, the accountant, the head of the land registry, and 4 members, two of whom were Muslims and two of whom were non-Muslims. Their duties were similar to those in the province. The *liva* administrative council took the place of the small councils (34th article). The district governor was the head of the *kaza* administration council that consisted of the judge of *kaza*, mufti, the religious leaders of the non-Muslim, clerk of *kaza*, and three elected people from Muslims and non-Muslims. It was seen in the Provincial Law that legal affairs were completely removed from the field of duty of the administrators at the administrative levels. It was envisaged that legal affairs would be carried out entirely by law councils.[99]

The first 28 articles of the provincial regulations were directly reserved for the organization and general administration of the provinces and the appointment, duties and powers of the governor. The governor was the most significant civil servant in charge of fulfilling the necessary provisions in the internal affairs of the province. All the civil servants in the province were under the command of the governor, including military commander and treasurer. The governor had the power to supervise and investigate these officials and, if necessary, to dismiss them. The governor inspected all the administrative officers of the province and their work at

[99]It was a significant step to achieve the separation of duties in provincial administration. With the 1864 Provincial Law, the separation of administrative and judicial units and the independence of the courts began. However, I do not mention the details of the law councils due to the scope of my work. The reason for emphasizing it here is only to show the whole structure of the 1864 Provincial Law. For more details, the 1864 Provincial Law articles from 16th to 28th are directly linked to the law and the law councils.

least once a year, including tax collection. It can be said that the governor was authorized to take decisions without asking the center in cases involving the usual issues in the province. Fuat Pasha's idea that the center should not deal with ordinary affairs in the provinces was directly reflected in the Provincial Laws of 1864.The central government was no longer interested in the ordinary affairs in provinces, and the governor, as the highest official in the province, would fulfill this duty. In addition to these authorities of the governor in the administration of the province, in events that would disturb the public order, if the police officers were insufficient, the governor would request necessary military assistance from the nearest military commander without asking the center. These mean the governor alone was authorized to take decisions in the inner affairs of the province, both in matters of urgency and only in matters concerning the province. The incorporation of the principle of devolution of powers into the administrative system, which started with the 1852 Regulation, continued with the 1864 Provincial Law.

4.2 Danube Provincial Law[100]

The Danube Province was established by combining the *eyalets* of Nis and Vidin, the *sancaks* of Tulcu, Varna, Ruscuk, and Tırnav, the *eyalets* of Silistra, and the *eyalets* of Skopje with the Prizlen *Liva*, as a pilot scheme to avoid the drawbacks of applying the 1864 Provincial Law across the entire Empire. It is seen that the Danube Province covered a much wider area than the provinces formed by the dissemination of the 1864 Provincial Law throughout the country. Following the establishment of

100 The transcription of the Danube Provincial Law in Latin alphabet was published by Mehmet Seyitdanlıoğlu. Mehmet Seyitdanlıoğlu, "Yerel Yönetim Metinleri 3: Tuna Vilayet Nizamnamesi", Çağdaş Yerel Yönetimler (1993): 67-81. I use this transciption. For the original text, Düstur, 1. Tertib, 1st V., 517-536.

the Danube Province, the Danube Provincial Law was declared in 1864. The Danube province would be divided into 7 *livas* and each of them would be divided into *kazas*. The administrative unit under the *kazas* would be the village. Though *nahiyes* were mentioned, no detailed arrangement was made. The Danube Provincial Law and the 1864 Provincial Law had the same content to a large extent. But there were some differences that may be divided into five headings.[101]

- The titles of certain officials

  While the civil servant responsible for the financial affairs of the province was the provincial head of provincial treasury in the 1864 Provincial Law, it was the provincial accountant in the Danube Provincial Law. The Danube Provincial Law gave the duty of the directorate of public affairs to the deputy governor. However, in the 1864 Provincial Law, in the footnote, the abolishment of the deputy governor was declared.

- The matter of who would be the head of the *livas* and *kazas*

  While in the Danube Provincial Law, the administrative chief of the *liva* was the district governor, it was a *mutasarrıf* in the 1864 Provincial Law. In the Danube Provincial Law, the administrative chief of the *kaza* was the *kaza* director, while in the 1864 Provincial Law, it was the district governor.

- The matter of elected members in councils

  In the Provincial Law of 1864, 4 elected members, 2 Muslims and 2 non-Muslims, were to be in the provincial and *liva* administrative councils. In the Provincial Law of Danube, a total of 6 members, 3 Muslims and 3 non-Muslims,

[101]Önen & Reyhan, Mülkten Ülkeye: Türkiye'de Taşra İdaresinin Dönüşümü (1839-1929), 177-179. ; Keskin, Türkiye'de Devletin Toprak Üzerinde Örgütlenmesi, 187.

were mentioned. As for the *kaza* councils, the 1864 Law was mentioned 3 elected members, while the Danube Law referred to 4 elected members.

- The status of the felony council

The Danube Provincial Law regulated these councils in much more detail. The Provincial Law of 1864 had stated that a council of felony would be established only to deal with these matters. In the Danube Law, contrary to the 1864 Law, it was resolved that a council of felony would be established in the provinces and seen as a 2nd degree court. Appeals could be made to the *Liva* Heavy Penal Courts. Furthermore, election procedures for this council were also determined. Accordingly, it would consist of 3 Muslim and 3 non-Muslim members.

- The number of members who would come by election to case councils

While this number was 4 in total, 2 of whom were Muslims and 2 of whom were non-Muslims, in the Danube Provincial Law, the total number was determined as 4 in the 1864 Provincial Law.

There are 2 important points in these five differences. Firstly, the presence of the *kaza* director in the Danube shows that there was a more democratic environment as 1864 Provincial Law targeted to exert more control over the lowest administration unit through the appointed officials. Secondly, by ensuring an equal number of Muslim and non-Muslim elected members in the councils, the Danube Provincial Law created more egalitarian councils in both case councils and *kaza* councils. In addition to these, the aims of the 1864 Provincial Law of Danube were noteworthy. One of it aims was the establishment of a well-functioning pluralistic local government with enhanced powers. Its other aims were the separation of legal and

administrative structures from each other, the establishment of a western-style system in which non-Muslims could take part in the trial process, and the elimination of the system in which each religious structure applies its own civil law. Last but not least, its ultimate aim was prosperity and peace for all people without religious discrimination, and as a result, to make non-Muslims stay in the Ottoman Empire of their own accord.[102]

Mithat Pasha's governorship of Danube was the most obvious example of the principle of the devolution of the powers. With his initiative and the powers given to him by the law, he took decisions without asking the center in the daily affairs of the Danube province. Mithat Pasha, who also participated in the preparation of the Provincial Law of 1864, was the most prominent and first example of the governor portrait drawn by Fuat Pasha. Improving the public works, agriculture and trade of the Danube region was stated as the duty of the governor and the provincial council that was implemented by Mithat Pasha without asking the central government. For instance, provincial funds (*memleket sandıkları*) were directly linked to this process and to decision making without asking the centre. In addition to these, the dialogue aimed at suppressing the internal conflicts in the region and their elimination by using force when necessary hinted at the strong governor figure of the new period in the province. Regulations were made on many issues such as rural development, demographic studies, and standardization of measurement units, opening workshops in prisons, expanding the police services, and paying agricultural taxes in installments. Mithat Pasha showed how successful the provincial system was with the information he gave in the opening speech of the provincial general council.

[102]Bekir Koç, Osmanlı Modernleşmesi ve Mithat Paşa, (İstanbul: Türkiye İş Bankası Kültür Yayınları, 2021), 2.

According to him, Muslim and Christian councils of elders were formed, regents and *kadis* were paid wages, directors were divided into five categories, and unpaid taxes were regulated. In addition to these,12% interest and public benefit funds were created in the cities, crime rates were reduced by half by paying additional fees to police officers, a printing house was established in the province, roads and bridges were built and the villages were connected to the nearest *kazas*.[103]

4.3 1867 Directive[104]

After seeing that piloted system in the Danube Province was successful with the great influence of Mithat Pasha, it was decided to implement it in the entire Ottoman geography in 1867.With the declaration published in the official gazette of Ottoman Empire (*Takvim-i Vakayi*) on March 17, 1867, success was declared.

> "One of the most important tasks to be proud of is order in the province, as it requires new laws to complete the progress of the *Tanzimat-ı Hayriye*, which oversees the general happiness of the country, and the improvement of public works. As the benefits of the system became obvious in the Danube Province Administration, which was created as a place of experience and testing at the time of its establishment, it would be appropriate to slowly include other civil administrations in this system of procedure and order. It has been decided that the provisions of provincial statutes will be transferred to the province

[103]Koç, Osmanlı Modernleşmesi ve Mithat Paşa, 258-265. ; Önen & Reyhan, Mülkten Ülkeye: Türkiye'de Taşra İdaresinin Dönüşümü (1839-1929), 180-181.

104 The transcription of 1867 Directive in Latin alphabet was published by Vahide Feyza Urhan. Vahide Feyza Urhan, "1867 Vilayet Nizamnamesi'', in 1864 Vilayet Nizamnamesi, ed. Erkan Tural & Selim Çapar (Ankara: Türkiye ve Orta Doğu Amme İdaresi Enstitüsü, 2015), 394-400. I use this transcription.

completely, in all of the provinces except for the currently shaped chambers, and in a manner that will not be a burden to the treasury at this time."[105]

After the declaration, the expected benefits from the new order were listed in 3 items:

1-"Consolidating and expanding the executive power of the government by centralizing the work of a department

2-Further securing the general law by regulating the status of the courts

3-With the regular establishment of country councils, their members will be chosen by the people in accordance with the established order. In order for the head of the council to make decisions on matters pertaining to the administration of the country, other councils will be opened. In view of the details of these three principles, including certain principles about zoning and reforming, it was decided to carry out reforms in wealth accumulation and civil service. Also, members from attached *livas* would gather once a year with the decision of the general council in the center of each province, and this is one of their duties in force."[106]

It is clear from this declaration that the provincial order would be expanded. It was emphasized that the results obtained were satisfactory, and it was a reference to European States that it would be implemented throughout the country. As mentioned before, restraining the reform demands of the Western States in the 1860s was a trigger for the establishment of the provincial system; in fact, one of the

[105]The transcription of this declaration in Latin alphabet was published by Tural. Erkan Tural, "Habsburg ve Osmanlı İmparatorluğunun En Uzun Asrı ve 1864 Tuna Vilayet Nizamnamesi", Çağdaş Yerel Yönetimler (2004): 109. I used this transcription.

[106]Tural, "Habsburg ve Osmanlı İmparatorluğunun En Uzun Asrı ve 1864 Tuna Vilayet Nizamnamesi", 109.

reasons for the dissemination of the provincial system was the desire to restrain these demands. Since such an experience was successful with respect to the internal dynamics of the country and its results would benefit the welfare and order of the country, it was spread throughout the Ottoman Empire with a directive on 12 June 1867. The reason why I prefer to call this text a directive rather than a provincial law is that there is confusion in the literature. The text promulgated in 1867 was a directive that targeted to extend the 1864 Provincial Law throughout the country. As can be seen when examining its content, the administrative structure was not explained in detail as in the directive. This is because the basic articles on the administration were the articles of the 1864 Provincial Law. Although there were some new additions in the directive promulgated in 1867, the articles explaining the functioning of the administration depended on the 1864 Law. The 1867 Directive is also mixed in the literature, especially in older written texts. Vecihi Tönük and Talat Mümtaz Yaman examined the articles of the 1864 Provincial Law regarding administrative division and organization with the title 1867 Directive in their respective books. This caused confusion until recently as these two books are pioneering sources.[107]

According to the 1867 Directive, the provinces would consist of *livas*, they would be separated into *kazas*, which would be divided into *nahiyes* and villages. The governor in the province, the *mutasarrıf* in the *liva*, the district governor in the *kaza*, the director in the *nahiye* and the headman in the village would serve (1st article). The 1867 Directive was closer to the 1864 Provincial Law than to the Danube Provincial Law. It is obvious that the name of the head of *kaza*, the *kaza*

[107]Kılıç, Türkiye'de İl Yönetimi (1839-1923), 104-105.

director, as was the case in 1864, was changed. In addition to this, in 1867 the district governors were given the title of *mutasarrıf*, the accountants in the city center were given the title of treasurer, the head of finance in the *mutasarrıflık* were given the title of accountant and the title of the head of finance in the district governorships. These all demonstrate that during the dissemination of the provincial system, the 1864 Provincial Law was considered rather than the Danube Provincial Law. It can be said that all units of the province at the end were responsible to the governor. The head of provincial treasury in the province, the accountant in the *liva*, and the head of finance in the *kaza* were responsible for the financial affairs of the province. Fiscal issues would be resolved between the provincial treasurer and the central government in the provinces. Resolution of fiscal problems would be between governors and accountants in *livas*, and between district governors and heads of finance in *kazas* (2nd article). According to the Directive, in the provinces, it was determined that the first mission to be completed was the creation of the *kaza* and *nahiye* and the formation of the country councils (3rd article). However, not different from the previous provincial law, the *nahiye* organization whose name and meaning was emphasized was not explained in detail. Places that were not in the form of *kazas* and towns would be called *nahiye*. What is more, *kazas* would be divided into 3 classes. Those who were important in terms of trade, civilization and life would be called first class (*sınıf-ı evvel)*. Those who were lower than them would be second class (*sınıf-ı-sani)* and third class (*sınıf-i salis)* (3rd article). In the Directive, the legal affairs were divided into 4 degrees by referring to the 1864 Provincial Law. These were divided into respectively elder councils in the villages, case councils in *kazas,* appeal councils in *livas* and appeal councils in provinces (5th article). The responsibilities of the administrative units in the province were taxes, title deeds and

land works, management of the law enforcement powers soldiers and municipal services for the public benefit such as zoning and roads (12th article). The responsibility for schools was given to the inspector of judges (*müfettiş-i hükkam*), as stated in article 17. This provision was not found in either the Danube Province Law or the 1864 Provincial Law. In addition, a desire was emphasized to establish public funds that would lend money to the public and municipal councils (19th and 20th articles). In the 1867 Directive, unlike the 1864 and the Danube, there was no provision about the governors and their position in the administration. The governor maintained his position in other provincial laws.

4.4 1871 Provincial Law[108]

In 1871, the Ottoman state decided to issue a new reform text for the administration. In order to complete the reform carried out in 1864, a new provincial regulation called the Provincial Public Law of Administration (*İdare-i Umumiye Vilayet Nizamnamesi*) was promulgated on January 22, 1871. Provinces with autonomous status, which included Lebanon, Egypt, Crete, Bosnia, Hejaz and Yemen, were excluded from this provincial law.[109] In the introduction section, it was stated that as the basic organization of the provinces was determined in the 1864 Provincial Law and a separate regulation was promulgated for the *nizamiye* courts, there was no new addition to these issues. Not only with these, but also with other points that were not explained in the 1871 Law, it could be seen that the provisions

108 The transcription of the 1871 Provincial Law in Latin alphabet was published by Mehmet Seyitdanlıoğlu. Mehmet Seyitdanlıoğlu "Yerel Yönetim Metinleri 4: 1871 Vilayet Nizamnamesi, ve Getirdikleri", Çağdaş Yerel Yönetimler(1996): 89-103. I use this transcription. For the original text, Düstur, 1. Tertib, 1st V., 625-651.

[109]Keskin, Türkiye'de Devletin Toprak Üzerinde Örgütlenmesi, 205.

of the 1864 Law were still in effect. These show that the 1864 and 1871 Provincial Laws should be analyzed together.

One of the most important differences of the 1871 Law from previous reform texts was that the *nahiye* was clearly defined as an administrative level. The provinces would be divided into *livas*, which would be separated into *kazas*, and further divided into *nahiyes* and then to villages. It can be seen that a hierarchical administrative structure was planned. There was a hierarchical chain of responsibilities leading up to the governor at the top (1st and 2nd articles). The other officials of the province included deputy governor, head of financial treasury, chief secretary of the province, director of foreign affairs (*umur-ı ecnebiye müdürü*), road supervisor (*tarik emins),* director of education (*maarif müdürü*), director of agriculture (*ziraat müdürü*), director of land registry office (*defter-i hakkani)*, head of office of pious foundation (*evkaf idaresinin reisi*), head of registry office (*nüfus idaresinin reisi*), head of property administration (*emlak idaresinin reisi*) and head of gendarmerie (*alay beyi*). *Mutasarrıf*, district governor, director and headman were respectively the head of the administrations of the *liva, kaza, nahiye* and village (3rd article). In addition to these, the deputy governor institution was highlighted and its duties were listed. Deputy governors in the provinces assisted the governors and they did what the governors assigned them. In the governor's paper work and correspondence, deputy governor helped him according to the 1871 Provincial Law. Also, the governor could give this title, deputy governor, to another official in the province (17th article). The duties of head of financial treasury (18th article), chief secretary of the province (19-21 articles), director of foreign affairs (22nd article), directors of education and agriculture (23rd and 24th articles), road supervisors (27th

and 28th article), director of land registry office (29th and 30th articles), the official of property administration and registry office and the head of office of pious foundation (32nd and 33rd articles) were explained in detail in 1871.

The 1871 Provincial Law also explained the duties of the governors under five headings.

1. Duties of governors in civil affairs (5-7th articles)
    - To ensure that the established order and laws are observed
    - To implement matters determined by law or by order of the central government
    - To check in first degree *mutasarrıfs* and provincial center officials and in second degree all the officials of the administrative branches through them and to dismiss the defective ones.
    - If the reason for dismissal of officer was based on murder or crime, to order the officer to be tried in accordance with the law.
    - If an error or omission during the inspection did not require dismissal, to refer it to the *mutasarrıf* to be arranged in the external and internal administration.
    - To appoint those civil servants whose election and appointment belongs to the province in accordance with the regulations.
    - To determine meeting times for *nahiye* councils and to act in accordance with the general regulations on the issues notified to him by the *liva mutasarrıf* about the decisions of the *nahiye* councils, and

to obtain permission from the Sublime Porte, allowing those with executive power of the provinces.

- To submit his opinions including the reasons for and ways of execution for matters, which of implementations are depended on the order of Sublime Porte, occurring outside of his designated duties and the ordinary decisions of the civil administration he can directly execute without asking the center (6th article).
- To inspect the provincial office once or twice a year, not exceeding 3 months. If there was necessity for more inspection, they would inspect the offices after informing the Sublime Porte. This extraordinary inspection was exempted from the 3-month rule.

2. Duties of governors in financial issues (8-15th articles)
    - To inspect the collection of tax and revenues of the province
    - To inspect the administration of the products
    - To inspect all conflicts that happen due to them
    - To inspect all attitudes of tax officials
    - To change the tax rate without changing the general rate of tax after the vote in the provincial council and the administrative council for resolution of disputes
3. Duties of governors in education and public works
    - Ensuring the enhancement of general education and training, trade, industry and agriculture in the province

- Construction and repairing of public roads
- Construction and arrangement of ports and docks in coastal areas
- Opening of water channels
- Cleaning of rivers and lakes
- Analyzing and inspecting the situation in the country with statistical methods
- Opening of hospitals, factories and businesses
- The enlargement and protection of mining areas and forests

4. Duties of governors in police work (12-14th articles)
    - Employment and administration of the police force according to the regulations
    - Protection of roads and gates
    - Protection of the peace of people
    - Capture of those who act against the country and people in line with the laws and regulations
    - Execution of all kinds of inspections and investigations for municipal security
    - In case of small or large-scale acts that might harm the law, the security and interests of the people, the source and size of the case would immediately be reported to the center by the governor. The governors under their own responsibilities were authorized to pay immediately the costs incurred in taking and implementing temporary

measures. If there was a bigger case than the police forces could suppress, the governor could request support by sending a letter to the highest officer of the regular soldiers (14th article).

5. Duties of governors in the execution of criminal and legal affairs

    - When a verdict was rendered by a court about persons disrupting general and private security, it was appropriate for governors to execute it in cases where it was inconvenient to obtain permission from the center due to a situation arising from civil and private inconveniences. This decision would be reported to the center immediately (15th article).
    - Among the penalties given by the provincial center courts in criminal and civil matters, those who did not need to apply to Istanbul according to the rules determined by the procedure were carried out by the governor (16th article).

It is obvious that the governors were given much extended authority in the 1871 Provincial Law. The governors were responsible for significant issues in the province, ranging from public order to financial issues and to municipal duties. In fact, it can be argued that they were responsible for all issues in their province. But the 6th article particularly shows us that the principle of devolution of powers was determined to the institution of governorship. The governor was the only authority to make decisions in the ordinary issues of the province without asking the Center. In addition to this article, the 14th and 15th articles supported the idea that the principle of devolution of powers was used in provincial administration. The governor in

following with the previous regulations and laws could make a decision in the provincial unit without asking Istanbul.

What is more, this law gave a special place to the administration unit of *nahiye*. Twenty-two articles were directly related to the *nahiyes*. The *nahiye*, which was not included in the administrative structure with a detailed regulation before, was included in the administrative structure with the pressure of the European states.[110] The villages and farms under the administration of each *kaza* would be divided into one or more units according to their relatives and relations, and these units would be called *nahiyes*. Furthermore, as a population requirement, at least 500 men had to reside in these. The head of *nahiye* would be the director who was determined by the district governor. The *nahiye*s would carry out civil, law enforcement and financial affairs. The director was in charge of announcing laws and regulations, orders and edicts to the people of the region. In addition, he would report complaints in the region to the district governor. Also, similar to all administrative units, an administration council would be established in this unit too.

Although it was mentioned in the provincial council and administrative council in 1871, as in the previous regulations, it did not contain a regulation regarding administrative councils. Therefore, though the number of civil servants whose duties were specified was higher than the previous ones in the 1871 Provincial Law, it was not clear which of them would take place in the administrative council. In addition to this, the duties of provincial council were extended (62nd article). But as in 1864, it had no legal personality or private financial resources, and its

[110]Erkan Tural, "Osmanlı Taşrasında Fransa Etkisi-1864 Vilayet Nizamnamesinin Arkasında III Napolyon mu Vardı?", 69-97. ; Önen&Reyhan, Mülkten Ülkeye: Türkiye'de Taşra İdaresinin Dönüşümü (1839-1929), 205-211.

presidency was carried out by the governor as the highest administrative officer of the province (69th article). According to the 1871 Provincial Law, the establishment of a municipality council was demanded in cities and towns (111th article). The heads of these councils, whose members would be selected by election, would be determined with the approval of the governor and *mutasarrıf* (120th article). Ortaylı states that the 1871 law increased the division of labor as well as the control of the center. Problems such as tax release and dispute resolution were ultimately issued by the administrative council as a final unit. A body with a majority of appointed officials was being made the final decision body.[111] The governors' responsibilities for almost all the affairs of the provinces and the design of the provincial council and the municipal council as advisory bodies showed a centralist tendency. The governor, who was the head of the provincial council and the approver of the chairman of the municipal council, was the sole determinant of the affairs in the province. 1871 Provincial Law detailed the administration system of the Ottoman Empire and provided a more efficient system for centralization through the governor's position and the other centralist bodies in the province as it detailed the duties of nearly all civil servants in the provincial unit including *nahiye* administration and deputy governor, which were not mentioned in detail before. For the continuity of the centralist system of provincial administration, the 1871 Law as compared to the other provincial laws and regulations provided a more clear division of labor and task description.

4.5 Special Regulations in Ottoman Provinces

[111]Ortaylı, Tanzimat Devrinde Osmanlı Mahalli İdareleri: 1840-1880, 65.

The 1860s were the years when a new system became prevalent in the Ottoman administration. But in these years, in the great change in the Ottoman Administration, special regulations were made due to the special conditions of certain provinces. One of them served as a laboratory, while the other entered into force in a period when the provincial laws were applied directly. Although these regulations are not directly related to my subject, they are important to see the integrity in the change of administration.

4.5.1 1861 Lebanon Regulation[112]

In 1861, a regulation in Lebanon was promulgated with both the pressure of European States and the efforts of the Central Government of Ottoman Empire to maintain again the sovereignty in the region. Behind the Lebanon Regulations were internal dynamics as the central government tried to keep this region by giving concessions. In order to prevent the Druze and Maronite conflict, the Administrative System of Lebanon was to be arranged according to a different structure from the general administrative structure of the Ottoman state.[113]In this way, the Muslims and the central officials would serve in the Administration of Lebanon and the centre had some voice in administration rather than full autonomy. This administrative structure was prepared by a commission consisting directly of Europeans and was signed by the 5 major European states and the Ottoman Empire.[114]

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112 Erkan Tural published the transcription of this regulation in Latin alphabet. Erkan Tural, "Minyatür Bir Tanzimat Ülkesi Lübnan ve 1861 Lübnan Vilayet Nizamnamesi", Çağdaş Yerel Yönetimler (2005): 65-91. I used this transcription. For the original text, Düstur, 1st Tertib, 4th V. , 695-701.

[113]Kostopoulou, "The Institutionalization of the Late Ottoman Locality", 295-305.

[114]Önen & Reyhan, Mülkten Ülkeye: Türkiye'de Taşra İdaresinin Dönüşümü (1839-1929), 150.

According to this Regulation, Lebanon would be left to the administration of a Christian *mutasarrıf* (1st article). Each of the ethnic and religious communities would have a deputy next to this *mutasarrıf.* Furthermore*, Cebel-i* Lebanon consisted of 7 *kazas* and each of them would have a director who would then form their own councils (3rd article). It was stated that the sub-unit of the *kaza* administration was *nahiyes*, and the sub-unit in the *nahiye* was villages (4th and 8th articles). On the one hand, a provincial central council would be established. This council would consist of 2 Maronites, 2 Druze, 2 Greek Catholics, 2 Orthodox Greeks, 2 Lebanese Shiites and 2 Muslims (2nd article). It is possible to characterize these councils which were based on ethnic and religious differences, similar to the provincial general council that would be established with the provincial laws later on. On the other hand, administrative councils were mentioned without going into detail (10th article). It can be stated that the councils to be established in the *kazas* were administrative councils.

With this Regulation, Lebanon became a semi-autonomous *sancak* based on the representation principle. This administrative structure was important in terms of having its own unique characteristics in Ottoman Administration History. However, it was effective in the Ottoman administration in terms of being a source of inspiration for the provincial laws, which was examined in the above sections. It represented a preparatory stage for the reforms to come in the issues of the provincial council, administrative council and administrative divisions. The Lebanese Regulation of 1861 was amended in 1864 and the position of the governor was strengthened while the authority of the councils was reduced. This change is compatible with provincial regulations.

4.5.2 Crete Regulation[115]

In Crete, similar to Lebanon, turmoil started from the beginning of the nineteenth century. With the rebellion of the Greek population in 1866, the European states intervened once again by interfering in the internal affairs of the Ottoman Empire. In order to not only subsidize these impositions but also solve the problems on the island, a regulation to go into effect in 1868 was prepared on September 30, 1867. Echoing the Lebanon Regulation, the Crete Regulation was not only a product of the intervention of the foreign countries, but also a tool to bring a dual structure and Ottoman order to the administration of the island. Once again, there was a preference against full autonomy.

According to this regulation, a governor responsible for the administrative functioning of the province and a commander responsible for military affairs would be appointed by the center. At the discretion of the state, the governor and the commander could be the same person. There would be 2 deputies besides the governor, one of them would be Muslim and the other one would be Christian. They were to be chosen from among civil servants. The province of Crete was to be divided into 5 *livas* and 20 *kazas*. Half of the *mutasarrıfs* would be Muslims and half would be Christians, while their deputies would be from the other religion. The district governor would be the head of the *kaza* and the rules for the *livas* would be applied in the *kaza* as well. In addition to these, the financial matters in the province were under the control of the head of financial treasury, in *liva* the accountant and in *kaza* the head of finance.

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115 Tural published the transcription of this regulation in Latin alphabet. Erkan Tural, "Bir Akdeniz Adasının Serencamı ve 1868 Girit Vilayet Nizamnamesi", Çağdaş Yerel Yönetimler (2005): 67-98. I used this transcription. For the original text, Düstur, 1st Tertib, 1st V., 652-687.

It was envisaged that an administrative council would be established at all administrative levels. The governor was to head the provincial administrative council. There would be 2 deputies, inspector of judges, metropolitan, head of financial treasury and 6 elected members, 3 of whom were Muslims and 3 of whom were non-Muslims. There was a similar organization in *livas* and *kazas*. It would consist of a deputy, bishop, accountant/head of finance, Christian correspondence clerk (*Hıristiyan tahrirat katibi*), and all Christian elected members, under the presidency of the *mutasarrıf* and district governor in *livas* and *kazas*, if the population was all Christian. What is more, the provincial council would consist of 2 members elected from each *kaza* and would convene once a year under the chairmanship of the governor. The governor, district governor and *mutasarrıf* would ask the administrative councils about their affairs and would not put them into execution without approval. In the Cretan Regulations, it is seen that the administrators of the province were somewhat secondary to the councils, but the general structure was designed in accordance with the provincial laws. The clear difference was based on the religious difference of Crete.

Owing to the external pressure from the Great Powers and the internal dynamics that were related to providing more efficient and centralist order all over the State, the provincial order was integrated into the Ottoman Empire. With the provincial order, the Ottoman Administrative System was undergoing a great change. However, as emphasized in the previous sections, there was no change in the position of the governor. The primary position of the governor in the provinces brought by again the 1852 and 1858 Regulations, and this situation was preserved in the provincial order. Unlike the previous reform texts about administration, changes

were made to the administrative division and the determination of the duties of provincial officials. As a result of the experiments such as the 1861 Lebanese Regulation and especially the success of the 1864 Danube Provincial Law, this system was integrated into the administration with the 1864 Provincial Law, the 1867 Directive and the 1871 Provincial Law, respectively. When it came to the Law in 1871, the system was put into practice in all regions, except for semi-autonomous provinces such as Crete, Bosnia and Lebanon. In addition to all these, the governor in 1871 had the supreme position in provincial administration thanks to his higher position than the councils and the principle of devolution of powers.

CHAPTER 5

THE IMPLEMENTATION OF THE CONSTITUTION AND THE AUXILIARY REGULATIONS AND LAWS FOR THE PROVINCIAL SYSTEM

After the expansion of the implementation of the provincial system in the Ottoman administrative system, important texts in terms of administrative history were published in the process leading up to the collapse of the Ottoman Empire. In its final 45-50 years, the Ottoman Central Government's approach to administration did not change. As examined in the previous chapters, the development of the principle of devolution of powers and the position of the governor in last period, which I say there was a continuity from 1852 to the collapse of Ottoman State, were not different from its implementation in the provincial system. It can be said that there was no going back to before 1852 and no revocation of the governors' authorities. However, three of the many important laws and regulations stood out. The first was the Directive of Provincial Public Administration (*İdare-i Umumiye-i Vilayet Hakkında Talimat)* promulgated on February 21, 1876. The second is *Kanun-ı Esasi (the Ottoman Basic Law)*, the first constitution of the Ottoman state, which was proclaimed on December 23, 1876 and third is the Temporary Law on General Provincial Administration (*İdare-i Umumiye-i Vilayet Kanun-ı Muvakkatı).* These

three texts clarified important aspects of provincial administration. I will discuss these texts in the final chapter, since the first was a directive recognizing the duties of the governor, the second set out important aspects of the administration in terms of a new constitutional article, and the third finalized outstanding issues in the field of provincial organization.

5.1 Directive of Provincial Public Administration[116]

The Directive of Provincial Public Administration promulgated on February 21, 1876, had the force of law in terms of implementation. With this directive, no change was made in the administrative division. The text was mainly prepared to specify the duties of governors. According to the Directive, the administration of each province belonged to the governor. (1st article) It was the duty of the governors to protect the rights of their subjects and to prevent their oppression. (2nd article) While the governors were responsible for their own duties, on the other hand, they were directly responsible to the state through duties of the officers who were subordinate to them. (3rd article) The duties of the governors were divided into two as a duty of implementation (*vazife-i islahiye)* and a duty of preservation (*vazife-i daimiye).* (4th article)The duty of implementation was to carry out those things that were to be actually performed. The duty of preservation meant the preservation of what was done. (5th article)

The duty of implementation of the governors were: (1) to administer the organization and elections of courts and councils, (2) to deal with the selection of the

116 The transciription of Instruction of Provincial Public Administration in latin alphabet was published by Vecihi Tönük. Vecihi Tönük, Türkiye'de İdare Teşkilatı, (Ankara: İçişleri Bakanlığı Yayınları, 1945), 212-219. I use this transcription. For original text, Düstur Tertib-i Evvel V. 3, 24.

classes of law enforcement officer power, collector, janitor and guard, (3) to organize prisons, (4) to obey the law of land through putting in order the real estate savings bond (*emlak tassarruf senedi*), (5) to take care of people's health on construction work, etc., (6) to deal with the demobilization of soldiers, (7) to process and improve the capital of provincial funds (*menafi sandıkları*) for agricultural works and (8) to prevent civil servants from oppressing the public and causing them drudgery. (7th article) In addition to these governors had responsible for the attitudes of the officials who were under their orders. (9th article)

The duty of preservation of the governors reflected the continuity and protection of the duty of implementation. (15th article) The governors would supervise the actions of the officials under their orders. If they detected a wrong and unlawful act, they would be dismissed and they would report the officers to be dismissed to the Sublime Porte. If unlawful and wrongful officials were tolerated, the governor would be held directly responsible. (16th article) Moreover, the governors were to provide the peace and were responsible for all operations. (17th article) The conditions of prisons and prisoners were to be inspected at all times by governors. If the prisoners' court decisions were not finalized but the trial of the prisoners who were in detention was prolonged, the governor would provide the necessary provisions. (21st article) The governors were not authorized to impose a new tax on the people. Their authority and duties in the field of finance were to comply with the rule of saving principles, to protect the treasury and to protect the state from waste. They were tasked with ensuring fairness in tax collection and inspecting the proper functioning of the taxpayers. (28th article) All civil servants, including the *mutasarrıf*

and the district governor, had to obey the governor's orders in the province. (31st article)

As can be understood from Article 31, the *mutasarrıf* and district governors were also briefly mentioned in this directive. *Mutasarrıf* in *liva* was the deputy of the governor. (32nd article) The *mutasarrıfs* were authorized to give orders to the district governors in the *kazas* of the *livas* they were in and to demand the execution of a job. (34th article) The *mutasarrıf* was authorized to apply directly to the Sublime Porte when necessary and to correspond with the Ministry of Justice, although he received instructions from the governor in matters important for public order. (35th article) The district governor was the deputy of the *mutasarrıf* in the *kaza* they were in and responsible for the safety of the *kaza* and the execution of financial, civil and legal affairs. (36th article) Although the duties of the courts and councils were emphasized as an article, no serious information was given. No emphasis was made other than that the courts were subordinate to the ministry of justice and that the members of the court could vote freely without any pressure. (37th article) What is more, administrative councils were under the chairmanship of governors in the province, *mutasarrıfs* in the *liva,* and district governors in *kaza*. Their job was to vote on the jobs that came to them in the field of administration. (38th article)

All these articles show that the governors were given broad powers to provide authority over the civil servants. In order not to damage the independence of the courts, it was left to the governor to notify the heads of the courts and to apply to the ministry of justice for the effect of the cases. It was emphasized that the head of treasure was not alone in financial affairs. The governor exercised strict control over the head of treasure. Financial affairs, especially through the protection of the state

treasury, the implementation of austerity measures and the control of tax collection, were under the strict supervision of the governor. With this directive, it was desired to clarify the duties of the governor shortly before the promulgation of the Constitution of the Ottoman Empire under the provincial system which extended to the whole country.

5.2 *Kanun-ı Esasi*[117]

Berkes defines the years between 1871 and 1876 as years of depression. He underlines that the *Tanzimat* Era, which started in 1839, ended with the death of Ali Pasha in 1871; in fact, not only his death but also some developments in Europe had enabled the Ottoman Basic Law in these years. First of all, it was the war defeat of France, which took on the task of ensuring the security of the empire and supporting the *Tanzimat* Regime after Britain. Secondly, the focus of Russia's expansionist plans was the Ottoman Empire and its pressure and involvement in the internal affairs of Ottoman Empire. Thirdly, was the situation in which European financial power and its bankers entered and forced their influence on the Ottoman Empire. With the effect of the depression created by the economic and political conditions, the necessary political support environment was provided for the proclamation of the Constitution.[118] On October 12, 1876, Saffet Pasha sent a circular to the ambassadors of the European States. In the circular, it was stated that the provincial organization, which was put into practice about 10 years ago, brought the principle of participation

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117 The transcription of constitution in Latin alphabet was published by Gözübüyük and Kili. A. Şeref Gözübüyük& Suna Kili, Türk Anayasa Metinleri, (Ankara Üniversitesi Siyasal Bilgiler Fakültesi Yayınları, 2nd ed, 1982), 27-42. I use this transcription. For original text, Düstur, 1st tertib, V.4, 4-20.

[118] Berkes, Türkiye'de Çağdaşlaşma, 309-313 ; Akşin, "Siyasal Tarih (1789-1908)", 148-151.

of all Ottoman citizens in administrative affairs, but could not achieve the desired results. He said that there was indecision in public services and disorder in all provinces due to the special situation of the central government. For this reason, he explained that in the provinces and the capital, a general assembly consisting of members elected by the people would meet in Istanbul every year to discuss the laws, taxes and budget of the state.[119]

On December 23, 1876, the first constitution of the Ottoman state, the Ottoman Basic Law was proclaimed and the new era of the Ottoman state, namely the constitutional monarchy, began. In the Basic Law, it was possible to see all the principles within the scope of reform movements that were implemented in Ottoman Empire. The first article of the Basic Law directly emphasized the empire's independence and territorial integrity. It was stated that the Ottoman Empire consisted of countries that could never be divided, including privileged provinces. (1st article) Ottoman subjects were defined as Ottomans regardless of their religion or sect. (2nd article) In addition to these, individual freedom and its protection were underlined. (9th and 10th article) Under the title of the general law of the subjects of the Ottoman State (*Teba-i Devleti Osmaniyenin Hukuk-ı Umumiyesi)* it was underlined that the rights of the people would be protected according to the principles of law and that the Ottoman state was a state of law.(8-26 article)

The Constitution had detailed articles about the new assembly (*Meclis-i Mebusan*) to be established. A dual parliamentary system was envisaged with the names of the Chamber of Magnates (*Heyet-i Ayan*) and the Chamber of Deputies (*Heyet-i Mebusan*). (42nd article) The members of the first were appointed by the

[119]Keskin, Türkiye'de Devletin Toprak Üzerinde Örgütlenmesi, 209-210.

sultan (60th article), while the members of the second were elected in the provinces (65th article).In addition to these, in the articles about the courts, the independence of the courts and the rule of law were emphasized again. (81-91 articles) The principle that judges cannot be dismissed (81st article), the principle of publicity (82nd article), the freedom to seek justice (83rd article), the principle that the courts cannot avoid hearing a case if it falls within their jurisdiction (84th article), and legal judicial process (85th article) and independence of courts (87th article) were listed in the constitution's court title. It is obvious that the importance of the rule of law principle was dominant in this Constitution. What is more, the regulations about finance and taxation were made according to the law. (96-100th articles) Despite the principles of the rule of law and the state of law which were emphasized in almost every part of the Constitution, the entire democratic structure of the Constitution was abolished with 1 article and one historical fact. The first one was that the sultan was authorized to exile those whom he doubted. (113th article) Namık Kemal, in his warnings after this article was included in the Constitution, said that this authority was sufficient to overthrow not only the Constitution but even the *Tanzimat* Reforms.[120] Moreover, with the authority of this article, Midhat Pasha who was the first grand vizier after the proclamation of the Basic Law and the pioneer on both provincial and constitutional reforms was exiled by the sultan. The situation demonstrated the accurate thoughts of Namık Kemal and the clear backdoor of Sultan Hamid, who without this article did not except the proclamation of the Basic Law, from the Constitution. The second was that despite the rule of law the sultan in 1878

[120]Berkes, Türkiye'de Çağdaşlaşma, 331.

suspended the assembly and the Constitution owing to war.[121] For more than 30 years, the absolutist regime of Hamid continued until the 1908 Revolution that shows us the effect of the Article 113th and the suspension of the Constitution. Hamid used the proclamation of Basic Law to become the sultan and the exit from the depression period of the Empire which was mentioned by Berkes and Akşin.

In addition, it is seen that the final state of the administrative structure, which was shaped in various stages after 1839, was emphasized as a constitutional article in the Ottoman Constitution. 5 articles of the Ottoman Basic Law under the title of province (*vilayat*) were directly related to administration. The administration of the provinces was based on the principles of devolution of powers (*tevsi-i mezuniyet*) and segregation of duties (*tefrik-i vezaif*). (108th article) The administrative divisions of the Ottoman state were listed as province, *liva*, and *kaza*, and it was stated that there were administrative councils and provincial general councils whose members were determined by election in these units. (109th article) The duties of the general councils were explained as holding talks on public works, industry, education, trade and financial matters and reporting their views to the relevant authorities. It was emphasized that the conditions for being elected to the general councils and the duties to be given to these councils would be regulated by special laws. (110th article) Furthermore, it regulated the community councils (*cemaat meclisleri*) and their authorities of religious communities. In all *kazas*, each religious community (*millet*) would have a community council, and these councils would consist of members elected from among the relevant religious community. The duties of the councils were the regulation of foundation properties, orphan properties or testaments. (111th

[121]Enver Ziya Karal, Birinci Meşrutiyet ve İstibdat Devirleri 1876-1907, (Türk Tarih Kurumu Basımevi ,4th ed., Vol. 8, 1983), 155. ; Akşin, Siyasal Tarih (1789-1908), 160-161.

article) it was decreed that the municipal affairs would be carried out by municipal councils to be formed by election and that the election procedure and duties of the municipalities would be determined by a special law. (112th article)

We can see the section of the Constitution about administration as the last point of the transformation of the administration through the articles of reform mentioned in the previous 4 chapters, being made constitutional. It cannot be said that any of these articles emerged with the new constitution. However, in terms of our subject, we see that the principle of devolution of powers, which was included in the Ottoman Administrative System and Administrative Law for the first time in 1852, became deeply rooted and became a constitutional article 24 years later. It was guaranteed by Article 108 that the position of the governor would not return to before 1852, and the principle of devolution of powers was internalized in the Ottoman Administration. In my opinion, it was the most significant aspect of the Basic Law to the History of Ottoman Administration. In addition to this the other significant point was that the position of the councils was not changed. The provincial general council still did not possess any sanction power, remaining in its place as an advisory one. I think the Constitution and the previous reform texts should be read together. By only looking at the Constitution, especially the governor's position and the principle of devolution of powers cannot be understood. Without the at looking Directive of Provincial Public Administration, the governor's position can appear meaningless because there was no mention about the governor or other provincial officials.

5.3 Temporary Law on General Provincial Administration[122]

As the Ottoman state entered the final years of its existence, the debates on its administration continued. Shortly after the declaration of the 2nd Constitutional Monarchy, new regulations were being made in the provincial administration in line with the demands of the current government of the Union and Progress Party and the demands of the people. On the one hand, Christian Communities, especially the Fener Greek Patriarchate, demanded to increase their representation and authority in the councils of province, *liva* and *kaza*. On the other hand, debates on decentralization (*adem-i merkeziyet*) and centralism, which would continue throughout the constitutional monarchy, increased. The debate led to discussions between Hüseyin Cahid Yalcın and Prince Sabahattin. The centralist provincial administration became priority of the Union and Progress Government as more provincial autonomy was sought by the Prince Sabahattin clique, leading to significant discussions in parliament.

Considering all the conditions, the Sublime Porte wanted to start the preparations for the law by forming a special commission under the chairmanship of the councils of state president. Evaluating the previous regulations, draft laws and opinions from the provinces, the commission presented its draft to the parliament on 6 December 1910. The parliamentary committee, which examined this draft, divided the administration of the provinces into two parts, namely the general provincial administration (*idare-i umumiye-i vilayet*) and the special provincial administration (*idare-i hususiye-i vilaye*t), within the framework of the principles of devolution of

122 The transcription of Temporary Law on General Provincial Administration in Latin alphabet was published by Cenk Reyhan. Cenk Reyhan "Bir Belge: 1913 Tarihli Vilayat Genel İdaresi GeçiciKanunu", Çağdaş Yerel Yönetimler (2000): 131-154. I use this transcription. For original text, Düstur, Tertib-i Sani V.5, 187-216.

powers and separation of duties. However, the legalization process of the law draft, which was sent to the general assembly of the parliament, was interrupted due to the Balkan War. According to article 36 of the Constitution, when the general assembly could not convene, the decisions of the *Heyet-i Vukela* were considered to have temporarily the force of law. For this reason, the second part of the draft was promulgated on April 6, 1912 in the form of a provisional law in addition to the 1871 General Administration Provincial Law. Then, with the government decision of 13 March 1913, the temporary law came into force as a whole.[123]

In the introductory part of the law, it was stated that the administration of the provinces was in accordance with the principle of devolution of powers and separation of duties in Article 108 of the Constitution. It would not be wrong to say that the law was shaped by the administrative articles of the constitution. We have mentioned that the law consisted of two separate sections, so in order to understand the last Ottoman Provincial Law, it will be important for our subject to examine the two sections separately.

5.3.1 The General Provincial Administration

This section of the Law consisted of three parts. The administrative division explained in the first part is as follows: provinces were divided into *livas, livas* into *kazas, kazas* into *nahiyes* and *nahiyes* into villages. (1st article) This means that the administrative division was similar to the 1871 General Administration Provincial Law. In addition to this the governor would be at the head of the provincial administration, the *mutasarrıf* would be at the head of *liva* administration, and the

[123]Keskin, Türkiye'de Devletin Toprak Üzerinde Örgütlenmesi, 224-225.

district governor would be the head of the *kaza* administration. Also, in the centre of provinces central *kazas* would be organized. The independent *livas* was seen as the provinces (2nd article) According to the article about the officials of the provinces there would be a deputy (*naib*), head of provincial treasury, chef secretary of the province, commander of gendermarie, director of education, public works, agriculture, land registry, police, pious foundation, registry office and health in the province. If there was necessity, the governor deputy, director of foreign office or translator of the province would serve. (5th article) In the centre of the *liva*, a deputy, accountant, correspondence officer, gendarmerie battalion commander, engineer of public works, official of agriculture, pious foundation, land registry and registry office and police commissioner would serve. Moreover, in the centre of the *kaza,* there were a deputy, director of property, correspondence officer, gendermarie commander, officials of pious foundation, land registry, registry office and police commissioner. (5th article) A director, clerk of *nahiye*, law enforcement official and if there was necessity, director of property and land registry would serve in *nahiye* administration.(6tharticle) The deputy governor, chef secretary of the province, commander of gendarmerie, director of police, registry office, foreign office and translator of province and *liva* correspondence officer were appointed after taking the opinion of the governor. (9th article) This article shows that governors were authorized to appoint high civil servants in the province. This means that the governor could vote to select who worked under him.

Looking at the second part, it was directly related to the duties of high-level bureaucrats, especially the governor, *mutasarrıf* and district governor in the provinces. The articles from 20 to 36 were directly related to the duties of the

governor. The governor was the highest officer of the executive power in the province and was the deputy or representative of each ministry in the province and was responsible for the general administration of the province. (20th article) According to article 22, the duties of governor were (1) ensuring safety and security in the province; (2) ensuring and protecting the principles of freedom, equality and justice between individuals and communities; (3) ensuring the inviolability of the law and the safety of the individual; (4) implementation of an environment that would serve the economic and social development of people from all classes; (5) helping justice be done as quickly as possible while adhering to the independence of the court; (6) providing note and publication that would ensure the intellectual and moral progress, welfare and happiness of every class of people; (7) development of trade and industry and agriculture and industry of agriculture; (8) protecting general health and seeking remedies for the spread of diseases such as syphilis, tuberculosis and malaria and (9) amplification and strengthening of agriculture. What is more, it is seen that the governor was responsible for ensuring security in the province. The governor had extraordinary powers to maintain public order. If there were emergencies in the public order of the province, he could make decisions without asking the center. It should be noted that this situation had continued since 1852, when the position of the governor in the administration began to strengthen. For instance, if a military intervention was required in a part of the province and the province's containment power was not sufficient, the governor may request the dispatch of the necessary soldiers to the relevant region from the military commander of the province. (27th article) The other example was that in a situation that would require a declaration of martial law, if no response was received from the center within 24 hours, the governor could declare martial law. (28th article) It is seen that

the governor could take initiative seriously, especially in matters related to public order. This situation can be read as the direct implementation of the principle of devolution of power. Furthermore, as parallel to the governor, the duties of *mutasarrıf* and district governor were specifically explained in the Law. But it will not be explained in detail here, as it is not directly related to our subject and has significant similarities with the duties of the governor.

In the 3rd part of the general provincial administration, a special place was reserved for the administrative council. Administrative councils met under the chairmanship of the governor or deputy governor, deputy (*naib*), head of provincial treasury, chef secretary of the province, director of education, chief engineer of public works, director of agriculture, spiritual leaders of non-Muslim communities (*ruesa-yı ruhaniye*) and elected members. (62nd article) The number of elected members and the distinction between Muslim and non-Muslim was not mentioned in related articles. The judging of civil servants, carrying out all kinds of discussions about the government according to the law, the auction and bidding of the tithe (*öşür*) and official revenues and the administration of the entrusted ones were among the duties of the administrative council. In addition, it was in charge of the auction of the timber cutting forest in demeanes (*miri arazi*) the administration and maintenance of all movable property and real estate belonging to the government, the determination of cemetery neighborhoods and the construction of canals deemed necessary by the local administration. (66th article) It can say that council of administration did not interfere with the duties of the provincial council and committee. It is possible to say that there was a hierarchical order in the province between the administrative councils. The administration council of *livas* and bounded

kazas' decisions was analyzed by the provincial administration council whose decisions were in turn analyzed by the council of state. (67th article) Members of council of administration were responsible for their decisions. (72nd article) The organization of the council of administration in both *liva* and *kaza* was similar with the provincial one.

5.3.2 Special Provincial Administration

The second section of the Law consisted of three parts. According to first article of this section, the province was a legal entity that owned movable and immovable properties and was responsible for the limited duties listed in this law. (75th article) In this article, we are faced with a new situation that was not present in the laws and regulations made until this Law. The legal entity was recognized for the first time in the history of the Ottoman Administration for the administrative organs of the province, which fell into a secondary position and even the position of an advisory body, especially after the governor's position was strengthened again. This would be the highest point of the provincial administrative organization. Administrative organs that conducted the works of the province were defined as the governor, the provincial council and the provincial committee (*vilayet-i encümen*). (76th article) The executive power in provincial works was left to the governor. (77th article)

The second title of the second part of the Law was reserved for the provincial council. Each province had a provincial council which of members was elected from *kazas*. (103rd article) The prominent point was that the principle of separation of powers was implemented. To article 106 those who performed their military service, notables and deputies, all judges, state and provincial officials, tax farmers,

contractual members of province and contractor could not be members of the provincial council. The term of office of the members of the provincial council was 4 years and they had the right to be re-elected. (108th article) In addition to these, it used to meet once a year for 40 days, but the governor could extend this period. (111-113 article) The governor was the head of provincial councils. However, a vice president and two clerks were elected by the members of councils. (118th article) Considering the issues to be discussed in the council, the authority to determine the issues belonged to the governor. The members could make proposals with the acceptance of the absolute majority of the council members. (123th article) The governor could postpone the meeting for one week by notifying the interior ministry. If the governor deemed the dissolution of the council necessary, he would notify the ministry of interior with the reason and act according to the decision of the *Meclis-i Vukela*. (125th article) As can be understood from these articles, in the provincial council, which gained legal personality under article 75, the governor's broad powers over the council continued. Although it was transformed from an advisory body to an executive body to some extent with its legal personality, it continued as before the Law, since it was under the control of the governor. It can be said that the provisions of the Temporary Law on General Provincial Administration about provincial council were actually left to apply until the 2000s. This means that this law gave its final shape to the provincial council, which continues to exist in the Republic. The given authorities and the organizations of the provincial councils through this Law were mostly taken as reminiscent in the Republic. The legal personality was the highest point of the given authorities to the provincial councils. As mentioned above the position of the provincial council was secondary due to the highest position of

governor in province that situation was not changed in the Republic; in fact, the 1913 Law remained in force until 2005 which was the year of promulgation of new law.

Under the third title, the provincial committee (*vilayet encümeni*) was explained in detail. This body, which was not found in the laws and regulations we examined before, was a novelty of the 2nd Constitutional Monarchy. The provincial committee would consist of 4 members elected from among the members of the provincial council. If the provincial council consisted of less than 8 members, the provincial committee could also consist of 2 members. (136th article) Their term of office was 1 year, but this period could be extended if necessary. Moreover, there was no obstacle for re-election of members of provincial committee. (139th article) According to Article 144, the duties of the provincial committee were as follows: (1) declaration of the examination and opinion of the provincial budget given by the governor; (2) examination of the budgetary compliance of the expenditure tables (*sarfiyat cetveli*) to be submitted by the governor at the end of each month and approval of the aforementioned tables (*mezkür cetveli*), if appropriate; (3) voting on the projects to be submitted to the provincial council regarding local services; (4) taking the decisions that could be taken by the provincial general council to be presented in the first session of the council; (5) giving an opinion on the administration of the province and the decisions taken at the opening of each year of the general provincial council; (6) voting on any special duty assigned to the province by the governor according to this law; (7) carrying out the transportation of the items related to the budget. The provincial council could never discuss an issue that was not specified in this Law. When we look at the details of this Law, especially by giving legal personality to the general provincial council and

positioning the provincial committee as a new body in the province, it largely ended the provincial organization of the Ottoman State as the last provincial regulation.

The 3 important texts that I have examined in this chapter are noteworthy in terms of administrative history. Rather than seeing these texts as a breaking point in the historical process, it is more accurate to see them as a result of what has been achieved since the Ottoman State entered the reform process. Many significant reform decisions becoming constitutional articles with the transition to the constitutional order in 1876 and giving legal personality to the provincial council in 1913 are very important in terms of administrative history. As mentioned above, the text promulgated in 1876, and the Directive of Provincial Public Administration provided clarification of the governor's position in terms of our subject. What is more, the Ottoman Basic Law, besides making the reforms related to the administration a constitutional article, also secured the principle of devolution of powers as a constitutional article. With the last provincial law in 1913, the Temporary Law on General Provincial Administration, the reform process in the Ottoman administration was completed and as a heritage to the Republic of Turkey.

CHAPTER 6

CONCLUSION

Ottoman administrative system before and after the *Tanzimat* Edict of 1839, has undergone a great change in many respects. In this study, I have tried to examine the reform period after 1839, in 5 chapters, with the change experienced especially through the position of the governor in the administration. While doing this, I have researched the origins of devolution of powers in the Ottoman Empire through administrative reforms, which is a very important and fundamental principle in terms of administrative law. While doing this, I have emphasized the general change in the administration, rather than just looking at the governor and the principle of devolution of powers. I have tried to discuss almost all aspects of administrative change, from the emergence of councils to the change in administrative division.

It is possible to divide the historical process that I have examined into two. The first is the period from the *Tanzimat* Edict to the 1852 Regulation, in which the powers of the governor, who had acted like a sultan, were limited in the provinces after the *Tanzimat* Edict. While emphasizing this, I have underlined the pressure from below in the background of these administrative reforms, in the second chapter,

through the works of various historians, and through various provincial examples. In this first period, the financial powers of the governor were taken and even administratively, it was reduced to the secondary position after the councils through the *Muhassıllık* Institution, 1842, followed by the 1846 and1849 Regulations. I think that this period is very important for our subject. During this period, the governor was made an official of the state. This was one of the most important conditions for the devolution of powers to dominate the administration because otherwise it would only strengthen and legitimize the semi-independent position of the governor before 1839. The second was the period when it was understood that the problems caused by the governors being in such an incompetent and subordinate position caused problems in the conduct of the affairs of the provincial administration. Furthermore, it was understood that some of the powers should be returned to the governors. Hence, the principle of devolution of powers entered the administrative system. From then onwards the governors would be able to take decisions on their own initiative, especially in matters related to public order, and in local affairs concerning the province. The 1852 Regulation, therefore, introduced the principle of devolution of powers to the system of Ottoman Administration. In this process, the Ottoman State made the governors, who acted almost like sultans in their own regions before 1839, first a state-affiliated official with the influence of the pressure from the people, and then made them the most important and authorized official of the center in the provinces with the principle of devolution of powers. The pressure and demand of the people was aimed at solving the problems in the administration. However, the reforms that responded to the pressure here did not turn into decentralization; in fact, a more centralized structure was formed. The position of the governor in the provincial administration did not change in the following reform texts and continued

to be the primary one. It can be seen that 1858 Regulation that strengthened the position of governor covered the 1852 Regulation. With the 1864 Provincial Law and the other provincial laws, directives and regulations, important changes were made in the administrative division by switching to the provincial system. The *eyalet* system was abolished and the highest administrative unit was named the province instead. In this period, as stated above, the position of the governor and the extent of the principle of devolution of powers were preserved and improved in all of the relevant texts. The scope of duty of governors was clarified with 1876 Directive of Provincial Public Administration and the principle of devolution of powers was constitutionally guaranteed with the Ottoman Basic Law. What is more, in 1913, the last provincial law of the Ottoman State was promulgated. With this, the provincial council, which has been in a secondary position after the governor and in the position of an advisory body, was given legal personality. As an important step, this was the final stage in the transformation of the provincial council and the provincial administration. This system was bequeathed to the Republic of Turkey; in fact, this administrative reform process, with the experience in the Ottoman Empire, made the governor a central official, and highest and most influential figure in the province, while subject to the principle of devolution of powers prior to the collapse of Ottoman Empire.

GLOSSARY[124]

1846 Regulation: Tenkisat-ı Mülkiye

1849 Regulation: Talimat-ı Seriye

1858 Land Code: 1858 Arazi Kanunnamesi

1858 Regulation/Regulation about the Duties of Mutasarrıfs and District Governors: Mutasarrıf ve Kaymakamların Vazifelerine Şamil Talimat

1861 Lebanese Regulation: 1861 Lübnan Nizamnamesi

1864 Danube Provincial Regulation: 1864 Tuna Vilayeti Nizamnamesi

1864 Provincial Law: 1864 Vilayet Nizamnamesi

1867 Crete Regulation: Girit Vilayet Nizamnamesi

1867 Directive: 1867 Vilayet Nizamnamesi

1871 Provincial Law: 1871 Vilayet Nizamnamesi/ 1871 İdare-i Umumiye-i Vilayat Nizamnamesi

accountant: muhasebeci

agricultural commission: ziraat komisyonu

appeal court: temyiz-i hukuk meclisi/ temyiz-i hukuk divanı

case council: dava meclisi

Chamber of Deputies: Heyet-i Mebusan

Chamber of Magnates: Heyet-i Ayan

[124]The aim of this section is to indicate the English equivalents of the terms used in this study and to present some of the concepts in Turkish or Ottoman Turkish.you may encounter while reading English texts on Ottoman history

chef secretary of the province: mektupçu

chief engineer of public works: nafia başmühendisi

Christian correspondence clerk: Hıristiyan tahrirat katibi

clergy: ulema

community councils: cemaat meclisleri

correspondence officer: tahrirat katibi

council of administration: meclis-i idare

council of elders: ihtiyar meclisi

council of felony: meclis-i cinayet

Council of State: Şuray-ı Devlet

decentralization: adem-i merkeziyet

demeanes: miri arazi

deputy governor: vali yardımcısı

deputy: naib

Directive of Provincial Public Administration: İdare-i Umumiye-i Vilayet Hakkında Talimat

directive: talimatname

director of agriculture: ziraat müdürü

director of education: maarif müdürü

director of foreign affairs: umur-ı ecnebiye müdürü

director of foreign office: umur-ı ecnebiye müdürü

director of land registry office: defter-i hakkani müdürü

director of public works: nafia müdürü

district governor: kaymakam

duty of implementation: vazife-i islahiye

duty of preservation: vazife-i daimiye

expenditure table: vasiyat cetveli

feudal lord: derebeyi

first class: sınıf-ı evvel

General Law of the Subjects of the Ottoman State: Teba-i Devlet-i Osmaniyenin Hukuk-ı Umumiyesi

general provincial administration: idare-i umumiye-i vilayet

gilded cage system: kafes sistemi

governor: vali

guild system: lonca sistemi

head of finance: mal müdürü

head of financial treasury: defterdar

head of gendermarie: alay beyi

head of office of pious foundation: evkaf idaresinin reisi

head of property administration: emlak idaresi reisi

head of provincial treasury: defterdar

head of registry office: nüfus idaresinin reisi

headman: muhtar

heavy penal court: Meclis-i Kebir-i Cinayet

household: hane

imperial council: divan

Imperial Pious Foundation Ministry: Evkaf-ı Hümayun Nazırlığı

inspector of judges: müfettiş-i hükkam

inspector of shari'a judges: müfettiş-i hükkam-ı şeriye

large council: büyük meclis/ eyalet meclisi

law enforcement officer: zaptiye

life time tax farm system: malikane sistemi

magnate: ayan

martial law: sıkıyönetim/ sıkıyönetim kanunu

municipal council: belediye meclisi

murder appeal court: vilayet temyiz divanı

notable: eşraf

official register: defter

Ottoman Assembly: Meclis-i Mebusan

Ottoman Basic Law: Kanun-ı Esasi

Ottoman Public Debt Administration: Duyun-ı Umumiye İdaresi

parliamentary council: meclis encümeni

principle of devolution of powers: tevsi-i mezuniyet/yetki genişliği ilkesi

provincial committee: vilayet encümeni

provincial council: meclis-i umum-i vilayet

provincial funds: memleket sandıkları/ menafi sandıkları

Provincial Public Law of Administration: İdare-i Umumiye Vilayet Nizamnamesi

provincial treasury: mal sandığı

real estate saving bond: emlak tasarruf seneti

regulation: kanunname

religious community: millet

report: lahiya

road supervisor: tarik emini

Rose Garden Decree: Hatt-ı Şerif-i Gülhane

second class: sınıf-ı sani

segregation of duties: tefrik-i vezaif

shari'a: Islamic Law

small council: küçük meclis/sancak meclisi

special provincial administration: idare-i hususiye-i vilayet

spiritual leaders of non-muslim communities: ruesa-yı ruhaniye

Sublime Porte: Bab-ı Ali

survey register: defter-i mufassal

Tanzimat Edict: Tanzimat Fermanı

tax farmer: mültezim

tax farming : iltizam

Temporary Law on General Provincial Administration: İdare-i Umumiye-i Vilayet Kanun-ı Muvakkatı

third class: sınıf-ı salis

tithe: öşür

trade council: meclis-i ticaret

translation bureau: tercüme odası

translator of province: vilayet tercümanı

village: karye

year book: salname

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APPENDICES

A. TURKISH SUMMARY / TÜRKÇE ÖZET

19. Yüzyıl'a gelindiğinde Osmanlı İmparatorluğu büyük bir değişim sürecinin eşiğindeydi. 18. Yüzyıl'ın ikinci yarısında başlayan reform hareketleri birçok alanda yapılmasına rağmen sistematik olamamış ve büyük oranda başarısız olmuştu. Tanzimat Fermanı'nın ilanına giden süreçte Osmanlı'nın topraklarının hemen her yerinde yönetime karşı şikayetler, isyanlar ve huzursuzluklar baş gösteriyordu. Bu idareye karşı olan halktan gelen baskı sadece bir bölgeye, bir eyalete, bir sınıfa ya da bir etnik gruba özgü değildi. Farklı sosyo-ekonomik kökenlerden, farklı etnik ve dinsel gruplardan Osmanlı Devleti'nin her yerinden idarenin işleyişine karşı tepkiler yükseliyordu. Osmanlı'da reformlar sistematik olarak bu baskının sonucunda başladı. Fakat Osmanlı İdare Tarihi ile ilgili hemen hemen bütün metinlerde atıf yapılan üç önemli tarihçi halktan gelen bu tepkiyi görmezden gelerek bir tarih yazımına başvurmuşlardır. Bu tarihçiler Halil İnalcık, Enver Ziya Karal ve İlber Ortaylı'dır. Üçü de çeşitli boyutlarda 19. Yüzyıl reformlarını kişilere ve bürokratlara indirgemektedirler ve toplumsal baskı faktörünü reddetmektedirler. Tarihteki belli kişiler ya da siyasi kliklerin başarısı olmasaydı reformların olmayacağı düşüncesindedirler. Bu isimler çoğaltılabilir. Fakat idare tarihi ile ilgili çalışmalarda çok fazla atıf yapıldığı için bu üç isim seçilmiştir.

Bu üç yazarda Osmanlı Tarihi açısından çok önemli metinler yazmışlardır. Tarihe katkıları reddedilemez ve tarihte kişilerin rolü de her zaman önemlidir, inkar edilemez. Fakat Modernite Kuramının izlerini taşıyan bu düşünce Osmanlı Tarihini doğru okumak için eksiktir. Genelde Osmanlı tarihini Batı'lı teoriler üzerinden okumak gibi bir alışkanlık vardır. Weberyan ya da Marksist Yaklaşımlar şeklinde genelleştirebileceğimiz bu yaklaşımlar Osmanlı Devleti'nin toplumsal dinamiklerini görmezden gelerek, onu kendi belirledikleri toplumsal kalıplara oturtup, yorumlamaya çalışır. Özellikle Weberyan Yaklaşımda gördüğümüz Osmanlı tarihini sultanizm, patrimonyalizm ve devlet geleneği ile açıklama düşüncesi birçok gerçeği görmemizi engellemektedir. Modernite Kuramında esin kaynağı olan bu yaklaşım Osmanlı'da halktan gelen bir talep ya da baskı olabileceği olgusunu tamamen reddetmektedir. Dahası Tanzimat Reformlarının da tamamen devlet geleneğinin halka rağmen ya da halkı nötralize ederek yaptığı reformlar olduğu açıklanmaktadır. Keza asya tipi üretim tarzı üzerinden Osmanlıyı Marksist terminolojiye oturtmaya çalışmakta yerel dinamikleri reddetmektedir. Bütün teoriler belirli noktalarda doğru bilgiler içerebilir. Ama tamamen Batı'nın terminolojisi üzerinden Osmanlı Devleti'ni okumak bütünü görmemizi engelleyecektir. Yukarıda andığımız üç tarihçinin yaklaşımı da bunun bir sonucudur. Yazarlar reformları bir siyasi kliğin iktidarı ele geçirmesiyle, reformcu bir devlet adamının sadrazam olmasıyla ya da bir padişahın reform yapmayı istemesiyle açıklamaktadırlar. Tezin girişten sonra gelen ikinci bölümünde bu indirgemeci ve sosyal dinamikleri görmezden gelen yaklaşım eleştirilmektedir. Üç yazarın belli başlı yapıtlarındaki bu yönelim ortaya koyulmakta ve sonrasında çeşitli eyaletlerden gelen tepkiler örneklendirilerek bunun yanlış olduğu vurgulanmaktadır. Örneğin; Mardin'de Kürt Aşiretlerinin mevcut düzenin işleyişine, Musul'da tüccarların malikane sistemine karşı, Ankara ve Tokat'ta halkın

valilerin haksız vergi toplamasına ve zulmüne karşı şikayetlerden kanlı isyanlara kadar varan büyük tepkileri vardır. On yıllara kadar çıkartabileceğimiz bu halktan gelen baskılar reformların başlamasında etkili olmuştur. Burada önemli olan nokta idari sisteme karşı olan tepkilerin sadece belirli bir sınıfa ya da etnik kökene dayanmayıp, Osmanlı'nın farklı bölgelerinde çeşitlenebildiğidir.

Bütün bu tepkilerin sonucunda Osmanlı Merkezi Hükümeti bu sorunlara bir çözüm bulabilmek için büyük bir reform sürecine girmiştir. 1839 Tanzimat Fermanı ile başlatacağımız bu süreç imparatorluğun yıkılışına kadar devam edecektir. Burada bizim dikkate alacağımız nokta idarede yaşanan dönüşüm ve yetki genişliği ilkesinin Osmanlı İdaresi'ndeki kökenleridir. Yetki genişliği ilkesi Türkiye Cumhuriyeti'nin idare hukukunda ve idaresindeki en temel ilkelerden biridir ve tarihsel kökenini aramak bugünü anlamak açısından çok önemlidir. Yetki genişliği ilkesi; valilerin görevli olduğu yerde ve yeri ilgilendiren konularda merkeze sormandan karar alabilme yetkisidir. Merkezi hükümetin yereli ilgilendiren basit konularla uğraşmaması hedeflenmektedir bu ilkeye göre. Bu çalışmanın asıl amacı da bu ilkenin gelişimini idarede ki reform metinleri üzerinden ve idarenin reformları açısından incelemektir. Tanzimat Reformlarına giden süreçte valiler bulundukları bölgelerde neredeyse bir sultan gibi davranmakta ve merkezden bağımsız hareket etmektedirler. Yerel aileler taşradaki yönetimleri kendi kontrolleri altına almış ve merkezin emirlerini dinlemeyerek kendi çıkarları doğrultusunda hareket ederek halka zulüm etmektedirler. Yukarıda da vurgulandığı gibi halkın idarenin işleyişine olan tepkisi reformları doğurmuştur.

Reformlar iki döneme ayrılabilir. Tezin üçüncü bölümünde; bu iki dönemin 1839 Tanzimat Fermanı'ndan itibaren başlayan ve valinin yetki genişliği ilkesinin kökenlerini anlamamızı sağlayacak reformların ilk dönemi ve ikinci döneminin ilk

yarısı anlatılacaktır. Birinci dönem Tanzimat Fermanı ile başlayan ve 1852 Düzenlemesine kadar olan süreçtir. Bu dönemde sultan gibi bağımsız hareket eden ve halka zulmeden valiler Osmanlı Merkezi Hükümeti tarafından en önemli sorun olarak algılanmıştır. Bu nedenle; Tanzimat Fermanı, Muhassıllık Kurumu, 1842 Düzenlemesi, 1846 Düzenlemesi ve 1849 Düzenlemesi doğrudan valilerin yetkilerinin elinden alınmasını ve valinin merkeze bağlı bir memur haline getirilmesini amaçlamaktadır. Bu düzenlemelere kısaca bakmakta fayda vardır. Tanzimat Fermanı esas olarak reform sürecinin genel manifestosu niteliğindedir. Gayri Müslim ve Müslüman tebaa arasında eşitliğin sağlanacağı, iyi işleyen bir asker toplama sisteminin kurulacağı, Osmanlı tebaasının hayat, şeref ve mülkiyet hakkının güvence altına alınacağı ve düzenli bir vergi sistemi kurulup, iltizam sisteminin ilga edileceği ilan ediliyordu.

Bu eksende konumuz açısından da çok önemli olan muhassıllık kurumu ve muhassıllık meclisleri kuruldu. Tanzimat Fermanı öncesinde valilerin geniş oranda vergi toplamak ile ilgili yetkileri vardı. Muhassıl denilen görevliye bütün bu yetkiler verilerek, valinin vergi ve ekonomi ile ilgili yetkilerinin hepsi elinden alındı. Bu valilerin taşrada yetkisiz kılınması için ilk adımdı. Fakat 1842 yılında toplanılan vergilerin %80-90 oranında muhassıllık kurumunun kendi harcamalarına gitmesi ve merkezin gelirlerindeki düşüş ve yerel idari personelin Tanzimat öncesindeki gibi davranmaya devam edip, yeni sisteme adapte olamamasından dolayı muhassıllık kaldırılmıştır. Bunu takip eden süreçte 1842 Düzenlemesi idari bir reform olarak yapıldı. Bu düzenlemeye göre idareye yeni bir kademe olan kaza idaresi dahil edildi. Ve kaza müdürünün kazanın eşrafı tarafından seçileceği ilan edildi. Sonuç olarak idari taksimat eyalet, sancak ve kaza şeklinde hiyerarşik olarak belirlendi. Valiler bu düzenlemeyle birlikte merkezin maaşlı bir memuru durumuna getirildi. Defterdar,

askeri kumandan ve vali arasında üçlü bir kontrol mekanizması kurularak valinin yetkileri büyük oranda sınırlandırıldı. 1842 Düzenlemesi birçok tartışmalı konuyu da meydana getirmektedir. Valinin ne oranda finansal yetkisi olduğu net olarak bu düzenlemede belirtilmemiştir. Fakat bütün tartışmaların ötesinde artık valinin 1839 öncesindeki gibi bir konumu olmadığı aşikardır. 1846 Düzenlemesi, bazı belirsizlikleri gidermek ve valilerin görev tanımını daha iyi yapmak için idare sistemde yerini almıştır. Valinin merkezin eyaletteki en yüksek memuru olduğu vurgulanmaktadır. 1842 Düzenlemesi'ndeki valinin vergi konusundaki yetkileri netleştirilmektedir. Fakat onun tek başına bir otorite olmadığı, meclisler, defterdar ve valinin özellikle vergi konularında üçlü bir kontrol yapısı içinde olduğu belirtilmektedir. Bu düzenlemenin önemi valinin merkeze bağlı bir memur olduğunun altının çizilmesidir. 1849 Düzenlemesi idaredeki reformların ilk döneminin son reform metnidir. Bu düzenlemeye göre vali 1842 ve 1846 Düzenlemeleri'ndekinden çok daha ikincil konuma gelmiştir. Neredeyse bütün yetkileri elinden alınıp eyalet meclisine verilmiştir. Asayiş konusundaki valilerin temel yetkileri dahi artık eyalet meclisine devredilmiştir. Vali merkezden gelen emirlerin ve meclislerde alınan kararların basit bir yürütücüsü konumunda ikincil ve yetkileri olmayan bir memurdur bu düzenlemeye göre.

Bu Tanzimat Fermanı ile başlayan ve 1849 Düzenlemesi ile sona eren dönem valinin bütün yetkilerinin elinden alındığı dönem olarak değerlendirilmelidir. Ve konumuz açısından çok önemlidir. Çünkü yetki genişliği ilkesinin kökenlerini aradığımız bu çalışmada valinin eskiden kendi bölgelerinde neredeyse tamamen bağımsız bir sultan gibi hareket ettiğini yukarıda vurgulamıştık. Yetki genişliği ilkesinin idareye entegre edilmesi için valinin tamamen merkeze bağlı ve onun emirlerini kayıtsız şartsız yerine getiren bir memur olması gerekmektedir. Yukarıda

bahsettiğimiz idari reform metinleri valiyi nihayetinde yetkisi olmayan bir memur haline getirse de, onu merkeze bağlı bir memur durumuna getirmesi açısından yetki genişliği ilkesinin idari sisteme girmesi için bir ön şarttır. Şunu rahatlıkla söyleyebiliriz ki; bu düzenlemeler idarede beklenen etkiyi yaratmamıştır. Vergi gelirleri düşmüş, idaredeki sorunlar ve halkın tepkileri tamamen bitmemiştir. Valinin tamamen yetkisiz kılınmasının idaredeki birçok şeyin işlememesine sebep olduğu anlaşılmıştır. Hatta bu süreçte idaredeki işleyişin problemlerinden valiler sorumlu tutulmuş ve bazı bölgelerde valiler bir sene bile görevlerinde kalamayıp, görevlerinden alınmıştır. Dahası meclislerde yerel egemenlerin kontrolü ele geçirmesi merkezi hükümet için çok daha tehlikeli bir engel olarak görülmeye başlanmıştır. Valinin yerine artık tehdit unsuru olarak meclislerdeki yerel egemenler algılanmaya başlanmıştır. Esas olarak bahsettiğimiz ilk dönemde hedeflenen yapılmış ve valilerin bağımsız bir idari figür oluşu artık söz konusu değildir. Dolayısıyla idarenin daha etkin ve etkili işleyebilmesi için valilere bazı yetkilerinin geri verilmesi kararlaştırılmış ve çeşitli düzenlemeler yapılmıştır.

Konumuz açısından reform sürecinin ikinci dönemi diyebileceğimiz bu dönem 1852 Düzenlemesi ile başlamakta ve takiben 1858 Düzenlemesi ile devam etmektedir. Bu dönemde kendi içinde ayrılmaktadır. 1860'lara giden süreç ve o dönemden sonra yapılan idari reformları anlayabilmek için öncelikle valinin yetkilerinin bir kısmının geri verildiği 1852 Düzenlemesine bakmak gerekmektedir. Bu düzenleme ile birlikte aşırı merkeziyetçi yaklaşımdan vazgeçilerek, valinin taşradaki en yüksek pozisyona sahip ve doğrudan merkezin taşradaki temsilcisi olduğu yaklaşımı benimsendi. Vali kendi bölgesindeki idari personelin amiri konumuna getirildi ve gerektiğinde onları azletme yetkisi de ona verildi. İdari taksimatta 1842 yılındaki durum korunurken, özellikle taşradaki güvenlik sorunu

üzerinden valilere başka yetkilerde tanındı. Eyalet meclisleri valinin yanında ikincil konuma ve danışma organı durumuna getirildi. Hatta eyalet meclisinin başkanı vali olarak belirlendi. Meclislerde görüşülecek konular doğrudan valinin onayına tabiydi. Eğer vali onaylamazsa herhangi bir konu mecliste görüşülemezdi. Bunun dışında valinin eyaleti ilgilendiren konularda merkeze sormadan karar alması prensibi benimsendi. Yani yetki genişliği ilkesi ilk defa Osmanlı Devleti'nin idari sistemine dâhil edildi. Özellikle asayişi ilgilendiren konularda vali tek başına karar alabilme imkânına erişti. 1858 Düzenlemesi, 1852 Düzenlemesi ile idari sisteme giren yetki genişliği ilkesini pekiştirdi. Valilerin birincil konumu korunurken, merkeze sormadan karar alma yetkisi de korundu. Asayiş konusundaki yetkileri arttırıldı. Hatta valiye bağlı asayiş görevlilerinin gerektiğinde uyarıya cevap vermeyen ve suç işlemiş olan kişilere karşı silah kullanması düzenlemenin maddeleri arasında yer aldı. Bir karışıklık olması durumda bölgedeki zaptiye güçleri yeterli gelmezse en yakın askeri kumandandan asker sevk etmesini vali isteyebilmekteydi. Asayiş yetkilerinin yanında ekonomi, madencilik, tapu işleri gibi konularda yetkileri arttırıldı. Kamu yönetimi ve ekonomi gibi meselelerde valinin söz hakkı eyalette en fazlaydı ve memurların hepsi, defterdar da dahil, onun hiyerarşisi altında idi. Bu iki önemli düzenleme ile birlikte önce yetki genişliği ilkesi Osmanlı İdari Sistemine katıldı, daha sonrasında valinin 1852 öncesindeki ikincil konumu tamamen terk edilerek, merkeze bağlı bir memur olmasının yanında kendisinin de karar alabilmesi sağlandı.

1839 Tanzimat Fermanı ile başlayan reform sürecinde beklenen başarı her şeye rağmen sağlanamamıştı. 1860'lı yıllara gelindiğinde konumuz açısından önemli olan yetki genişliği ilkesi idari sistemde kalıcılaşsa da, reform ihtiyacı devam etmekte ve sürekli vurgulanmaktaydı. Fuat Paşa'ya göre İstanbul'daki merkezi hükümet taşradaki idareyle ilgili gündelik konularla uğraşmamalıydı. Valinin

taşradaki gündelik idari meselelerde yetkili olması gerektiği ve bir eyalet sistemi kurulması gerektiği konusunda ciddi görüşleri bulunmaktaydı. Bu dönemdeki bürokratların Batı'da edindikleri tecrübeler ve idaredeki reformlardan edinilen tecrübeler ile birlikte bir sentez oluştuğu ve Fuat Paşa'nın bu konudaki düşüncelerinin bunu desteklemesiyle 1864 yılında vilayet sistemine geçiş gerçekleşti.

Tezin dördüncü kısmında vilayet sistemi onun getirdikleri incelenecektir. Burada önemli olan nokta bu sistemin idari taksimatta önemli değişikler yarattığı ama konumuz açısından önemli olan yetki genişliğinin idaredeki konumunun değişmediğidir. 1864 Vilayet Nizamnamesi ile birlikte idari taksimat hiyerarşik olarak vilayet, liva, kaza, nahiye ve karye olarak belirlenmiştir. Buna ek olarak meclis sistemi de değiştirildi ve merkezde bulunan meclis-i umum-i vilayet ve her idari kademede bulunan meclis-i idare kuruldu. Vilayet meclisinin de bir danışma organı olmaktan ileriye gidemediğini söylemekte fayda vardır. Vali bu meclislerin yine başkanıdır ve valinin sözünün yanında meclislerin çok önemli bir karşılığı yoktur. Nizamnamenin maddelerine ayrıntılı bakıldığında valinin konumu değişmemiştir ve vilayetin gündelik işleri ile ilgili kararları tek başına alabilmektedir. 1864 Vilayet Nizamnamesi'nin 1867 yılında tüm Osmanlı vilayetlerinde uygulanmaya başlanması öncesinde uygulanan bir pilot proje ile başarının görülmesiyle mümkün olmuştur. 1864 Tuna Vilayet Nizamnamesi ile Tuna Vilayeti kurulmuş ve ilk uygulama orada test edilmiştir. Esas olarak 1864 Vilayet Nizamnamesi'nin çok büyük oranda benzeri olan bu nizamnamede belirli farklılıklarda vardır. Bazı idari görevlilerin isimlerinde farklılıklar, liva ve kazalar da kimin idarenin başında olacağı, meclislerdeki seçilmiş üyelerin sayısı ve kökeni hakkındaki farklılıklar ve cinayet meclisinin durumu olarak iki metin arasındaki farklılıklar özetlenebilir. Burada ayrıntıya girmeye gerek olmayan nokta, bu

farklılıkların esas olarak Tuna Vilayet Nizamnamesi'nin daha eşitlikçi ve temsile dayalı olmasından kaynaklanmaktadır. Burada kaza müdürünün Tuna'da seçilmiş olması ama 1864 Vilayet Nizamnamesi'nde atanmış olması ön plana çıkmaktadır. Ayrıca meclislerdeki seçilmiş üyelerin sayısı ve kökenleri Tuna'da daha eşitlikçi bir yapı olarak karşımıza çıkmaktadır. Bütün bunlara ek olarak Mithat Paşa'nın Tuna valiliği, yetki genişliği ilkesinin çok açık bir örneğidir. Orada merkeze danışmadan aldığı kararlar ve uygulamaları ile yetki genişliği ilkesinin idari sistemde aktif bir biçimde uygulandığı görülmektedir. Mithat Paşa daha sonrasında hem vilayet nizamnamelerinin hazırlanmasında hem de Kanun-i Esasi'nin hazırlanmasında ve uygulanmasında yer alacaktır.

Sonuç olarak; Tuna'daki başarının ardından 1867 Talimatı ile vilayet sistemi tüm Osmanlı topraklarında uygulanmaya başlamıştır. 1867 Talimatı'nda Tuna Nizamnamesi değil, 1864 Vilayet Nizamnamesi esas alınmıştır. 1871 yılında yeni bir reform metni yayınlanmış ve idarede bazı düzenlemelere daha gidilmiştir. 1864 Vilayet Nizamnamesi'nin ve 1867 Talimatı'nın bir tamamlayıcısı olarak bu nizamnameyi değerlendirmek gerekir. Fakat 1871 Vilayet Nizamnamesi'nde daha önceki nizamnamelerde açıklanmayan ve sadece ismi geçen nahiye idari birimi ayrıntılı olarak açıklanmıştır. Ayrıca valinin yetkileri ve görevleri de ayrıntılı olarak açıklanmıştır. Ekonomi, kamu düzeni, sivil işler, asayiş ve hukuki meselelerin yürütülmesi gibi konularda geniş yetkiler verilmiştir. Bu görev ve yetkilere bakıldığında yetki genişliği ilkesinin valiye tanımlandığı net olarak görülmektedir. 6. Madde'de açıkça gündelik meselelerde merkeze sormadan karar alabileceği belirtilmektedir. Ayrıca valinin birincil konumu tekrar vurgulanmaktadır. Vilayet nizamnamelerine meclisler açısından baktığımızda yukarıda da vurgulandığı gibi

meclislerin valinin yanında ikincil konumu devam etmektedir. Esas olarak meclislerin tüzel kişiliği yoktur ve danışma organı durumundadırlar.

Bu dönemde yetki genişliği ilkesinin kökenlerini aradığımız bu çalışma ile doğrudan ilgileri olmasa da dönemin bütünlüğünü anlamak açısından çok önemli iki metin daha yürürlüğe girmiştir. Bunlardan birincisi 1861 Lübnan Nizamnamesi'dir. Doğrudan Osmanlı Merkezi Hükümeti'nin bölgede yaşanan Dürzü-Marunî çatışmasına bir çözüm bulmak için yürürlüğe koyduğu bir düzenlemedir. Aynı zamanda vilayet nizamnamelerin hazırlanmasında bir pilot uygulama olarakta görmek mümkündür. Batılı devletlerden gelen baskıları ve onların Osmanlı'nın iç işlerine karışmasını önlemek için yapıldığı söylemek mümkün olsa da, Lübnan'ın tamamen özerk bir bölge haline gelmesinin önlenmesi içinde yapılmış olan bir düzenlemedir. Tamamen dış baskılar sonucunda yapıldığını söylemek tarihsel gerçekler ile uyuşmamaktadır. Yani Lübnan'ın Osmanlı İdari Sistemi'ne entegre edilmesini ifade etmektedir. Kurulan yeni idari sistem bölgesel etnik şartlara göredir. Fakat bütüne baktığımızda ve 1864 Vilayet Nizamnamesi uygulandıktan sonrasına baktığımızda Osmanlı İdari Sistemi'nin bütünü ile uyumluluk göstermektedir. Hatta 1864 Vilayet Nizamnamesinin bütün ülkede uygulanmaya başlamasından sonra Lübnan'da da meclislerin yetkileri azaltılmış ve valinin yetkileri arttırılmıştır. Yani sistem yerel dinamikleri içermekle birlikte bütünden tamamen kopuk değildir. Lübnan'a ek olarak 1867 Girit Vilayet Nizamnamesi benzer bir nitelik taşımaktadır. Girit'deki iç karışıklıklarına Batılı devletlerin karışması ve Osmanlı Devleti'nin Girit'in tamamen özerk olmasına karşı uyguladığı yerel dinamikleri de dikkate alan bir idari sistemi ifade etmektedir. Yine Lübnan'da ki gibi tamamen dış dinamiklerle açıklamak tarihsel gerçekliğe aykırıdır. İkisinin de meclisler sistemine baktığımızda etnik ve dinsel yapıdaki farklılık üzerinden kurulduğu görülmektedir.

Tezin son bölümünde vilayet sisteminden sonra idari sistem hakkında yapılan son üç metin incelenecektir. Bakıldığında bu üç metinde yetki genişliği ilkesinde 1852 öncesine dönüşü ifade edebilecek bir madde bulunmamaktadır. Bu üç metinden ilki doğrudan valilerin görevleri ile ilgili olan İdare-i Umumiye Vilayet Hakkında Talimat'dır. Bu talimatta valilerin görevleri sıralanmıştır. Bu talimatın yürürlüğe konulmasındaki amaç 1876 Kanun-i Esasi'den önce idaredeki valinin görevlerinin netleştirilmesidir. Dolayısıyla Kanun-i Esasi ve daha sonraki idari metinleri birlikte analiz etmekte fayda vardır. Valinin vilayetteki birçok konuda yetkili olduğu görülmekle birlikte daha öncede vurguladığımız gibi yeni vergi çıkarmak gibi vergi ile ilgili yetkileri yoktur. İsrafın önlenmesi, vergi toplamada adaletin sağlanması, vilayetteki vergi toplayanların işlerini doğru yapıp yapmadıkların teftişi gibi meselelerde vilayetin en üst amir olarak yetkilidir. Hem kazalardaki kaymakam hem de livalardaki mutasarrıf valinin emirlerine uymak zorundadır. Kanun-i Esasi'nin ilanını ekonomik ve politik krizde aramak mümkündür. Dış ilişkilerdeki sorunlar ve dışarıdan gelen Osmanlı Devleti'nin iç siyasetine olan müdahaleler anayasanın ilanında etkili olmuştur. Aynı zamanda yabancı bankerlerinde ekonomik olarak Osmanlı Devleti'ni zorlaması krizi büyütmüştür. Bütün bunlara cevap vermek için ve yıllardır süren reformlara atıf yapılarak yeni anayasa ilan edilmiştir. Kanun-i Esasi ise birçok önemli reformun anayasal madde haline getirilmesidir. Kanuni devlet ilkesi benimsenmiş ve hemen hemen bütün reformlar anayasaya eklenmiştir. İdare açısından ve bizim konumuz açısından önemi ise hem daha önce incelediğimiz idari reformların toplu olarak anayasaya madde olarak eklenmesi hem de yetki genişliği ilkesinin 108. Madde'de geçerek anayasayla güvence altına alınmasıdır. 1852 yılında idari sisteme giren bu madde artık geri dönülmez bir biçimde idari sistemde yerini almıştır. Bunun dışında görevler ayrılığı ilkesi, idari taksimatın nasıl olduğu, meclis-i

umuminin ve idare meclisinin üyelerinin seçimle belirleneceği, meclis-i umuminin görevlerinin ne olduğu, cemaat meclislerinin görevleri ve belediye işlerinin seçilmiş belediye meclisi tarafından görüleceği ve özel bir kanun çıkarılacağı anayasal madde olarak vurgulanmıştır. Burada önemli olan 3. reform metni ise 1913 İdare-i Umumiye-i Vilayet Kanunu Muvakkatı'dır. Bu metin idare ile ilgili son reform metnidir. Osmanlı Devleti'nin idari sistemi, bu metinle birlikte Türkiye Cumhuriyeti'ne miras kalmıştır. Bu kanunda önemli özellikler vardır. Bu son vilayet kanunda idari taksimat değiştirilmemiş ve vilayet, liva, kaza, nahiye ve karye olarak korunmuştur. Ayrıca vilayetlerdeki idari görevliler açık olarak belirlenmiş ve görevleri tek tek sıralanmıştır. Konumuz açısından da önemli olan valinin görevleri de ayrıntılı olarak açıklanmaktadır. Vali'ye tanımlı olan yetki genişliği ilkesinin sıralanan bu görevler içerisinde net olarak görüldüğü söylemek mümkündür. Özellikle vilayetteki asayişi ilgilendiren konularda merkeze sormadan karar alabildiğini görmekteyiz. Son vilayet kanunu olan 1913 İdare-i Umumiye-i Vilayet Kanunu'nda valinin konumu ve idari sistemdeki yetki genişliği ilkesinin pozisyonu aynen korunmuştur. Dahası idare meclisinden meclis-i umumiye kadar hemen hemen idare ile ilgili her alana değinilmiştir. Burada önemli ve Osmanlı İdari Sistemine yeni olarak giren ise idari organlara tüzel kişilik tanınmasıdır. Öncesinde bir danışma organı durumunda olan meclislere 75. Madde ile tüzel kişilik tanınmıştır. Bu meclislere tanınmış en büyük yetkidir. Fakat yinede valinin geniş yetkileri ve yetki genişliği ilkesinin devam etmesinden kaynaklı olarak meclisler uygulamada ikincil konumunu sürdürmüşlerdir. Alınan kararların yürütücüsünün vali olduğunun altı kanun maddesi olarak çizilmiştir. Ayrıca valinin gerektiğinde meclisi feshetme yetkisi gibi geniş yetkileri de sürmektedir. Yeni bir organ olan vilayet encümeni ayrıntılı olarak tanımlanmıştır. Bu üç reform metni Osmanlı Devleti'ndeki reform

sürecinin hepsinin bir sonucu ve son halidir. Bir kırılma noktası olarak görmek yerine 1839 Tanzimat Fermanı'ndan beri devam eden reform sürecinin kazanımlarının toplamı ve sonucudur. Burada vurgulanan son şekli idaredeki reformunda son şekli olacaktır ve Türkiye Cumhuriyeti'ne idari sistem olarak miras bırakılmıştır.

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