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## Prisons in the Late Ottoman Empire

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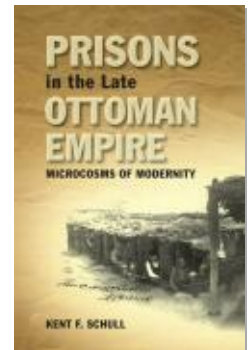
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## Creating Juvenile Delinquents: Redefining Childhood in the Late Ottoman Empire

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According to the results of the 1912 Ottoman prison survey, Beni Saab's prison in Beirut province contained 447 prisoners – two females and 445 males. The local *nizamiye* court convicted 373 prisoners of less serious offences (*cünha ve kabahat*), and the other seventy-four individuals were awaiting trial. Among the 373 sentenced inmates, three males were convicted of deviant sexual behaviour (*fi'il-i seni*).<sup>1</sup> In modern Turkish this term refers almost exclusively to sodomy, but in late Ottoman times it also included any action considered to be 'deviant' sexual behaviour not allowed under Islamic law, including prostitution.<sup>2</sup> It also implies consensual participation by all involved. Violent, deviant sexual behaviour (*cebren fi'il-i seni*) had its own category in the prison questionnaire and was considered a serious offence (*cinayet*), carrying with it a more severe punishment.<sup>3</sup>

In the case of these three male prisoners incarcerated for 'deviant sexual behaviour' at the Beni Saab prison, all were sentenced to incarceration from three to six months. It is very likely that they committed their crimes together based upon several interrelated pieces of information gleaned from the administrative organisation of Beni Saab, geography, and the prison survey. Beni Saab was located on the eastern-Mediterranean coast between the port towns of Yafa (Jaffa) to the south and Hayfa (Haifa) to the north on the Plain of Sharon. As a district (*kaza*) it possessed a minimum security prison for criminals convicted of minor and lesser crimes from the local area. In 1850, Beni Saab consisted of twenty-seven villages (*köyler*).<sup>4</sup> According to population records in 1914, the sub-district's total population was 35,951: breaking down into 35,929 Muslims, eighteen Ecumenical Patriarchate (*Rum*) Christians, and four Samaritans.<sup>5</sup> The town of Tulkarem was the largest urban area in Beni Saab having a population estimated at 5,000 in 1916.<sup>6</sup> The bulk of the district's population consisted of farmers who lived in small villages. In fact, 204 of the 447 prisoners were listed as farmers on the prison survey with another 114 listed as land owners.<sup>7</sup> More concretely, the prison survey

indicates that all three of the aforementioned prisoners were artisans (*esnaf*) and Muslim. One was between twenty and thirty years old and the other two were under the age of fourteen.<sup>8</sup> It is not, therefore, unreasonable to speculate that the two minors were working under the supervision of the adult prisoner. The two children and the man with whom they most likely perpetrated their crime were incarcerated together. They all shared a common religion, social class, profession, regional identity, and criminal conviction for which they would spend the next three to six months incarcerated together in a dormitory-style prison with the adult having full access to both minors.

Circumstances permitting, Ottoman prison authorities at the time separated inmates according to the gravity of their crimes, whether they were convicted or accused, and by gender. Juvenile prisoners, however, were not separated from adults. In the case of Beni Saab, there were no serious offenders incarcerated in its prison. The less serious offenders found in this prison, however, would not have been separated according to their particular crimes. During the day prisoners milled around together with little supervision, and at night they all slept together in open wards. Prisoners were not separated according to differences in age, and, therefore, all prisoners, whether they would be considered children or not by twenty-first-century standards, were incarcerated together, slept together, and had complete access to one another at all times.

It does not take a vivid imagination to picture the treatment these boys may have experienced. Circumstances similar to those at Beni Saab helped motivate Ottoman officials to reform prison conditions and introduce laws regarding children convicted of criminal offences. In fact, the CUP-led government implemented numerous reforms to the empire's criminal justice system regarding the status and treatment of children. These reforms included altering the legal definition of childhood, promulgating new laws establishing the age of criminal culpability, and consolidating the state's authority over Islamic criminal law in relation to minors. Additionally, these reforms created a graduated system of punishments for individuals aged from fourteen to nineteen, separated children from adult inmates, expanded the purpose of 'reformatories' (*islahhaneler*) to accommodate juvenile delinquents, and established the practice of early release for minors who met particular specifications.

The interest in incarcerated children and corresponding actions taken by the CUP provide important insights into Ottoman views concerning the nature and definition of childhood. They also demonstrate the importance of children and childhood in Ottoman society's imagination about its own national future. These concerns and reforms, however, do not constitute

a case of rupture whereby Ottoman views simply conformed to those of the West. Instead, they represent a process of continuity and change over the course of the nineteenth century whereby the state gradually assumed more responsibility for the welfare of the empire's children. CUP reforms regarding juvenile delinquents, when viewed in the context of the development of state-mandated child reformatories, public primary education, health and hygiene regulations, and the establishment of scouting and other youth organisations, demonstrate the state's increasing intervention into the lives of its citizens. Children became associated with the future prosperity, pride, and protection of the Ottoman 'nation'. The health and welfare of children and their legal status moved from the private sphere of the family to the public sphere as determined and controlled by the state. The Ottoman administration thus assumed the position of chief power-broker, at least in large urban areas, regarding a child's legal status and welfare.

### ***Children and Childhood in the Middle East***

There is no universal definition of childhood. Class differences, socio-economic status, levels of education, religion, and cultural norms and mores all influence opinions regarding the purpose and definition of childhood. The Middle East is no exception in this respect. The vast number of religious, linguistic, ethnic, and socio-economic communities in this region makes it particularly difficult to distil a commonly held notion of childhood. There are, however, some ideal commonalities that help to illustrate generally held societal views of childhood in the Middle East prior to the sweeping changes brought about by modernity, particularly among the majority Muslim population.

According to Elizabeth Warnock Fernea, the 'cultural ideal' of childhood in the Middle East prior to the onset of modernity consisted of several elements, such as the importance of sons, and values associated with honour, religion, morality, hospitality, and respect for elders. Social practices such as religious traditions, discipline, education, and division of labour helped to impose notions of 'proper' masculinity and 'proper' femininity and the superiority and dominance of men over women. Social norms and mores emphatically stressed loyalty to family and family honour, and viewed the family as society's most fundamental unit, as well as the main source of protection, support, instruction, control, and social standing.<sup>9</sup> This 'ideal' view of children and childhood in the pre- and early modern Middle East closely parallels the view in Europe. According to Ariès, in medieval Europe childhood was a fairly short period that ended

‘as soon as the child could live without the constant solicitude of his mother, his nanny or his cradle-rocker’.<sup>10</sup> Of course, historical, cultural, and social specificities augment this ‘ideal’ view depending on context and circumstances. It is, however, useful for analysing the changes that took place in the Ottoman Empire over the long nineteenth century (especially during the Second Constitutional Period) in terms of the state’s newly assumed role regarding child welfare.

Present-day assumptions characterising children as innocent, malleable, dependent, and vulnerable have relatively recent origins. They are the result of the dislocation and breakdown of the ‘traditional’ rural family structure over the course of the late eighteenth and nineteenth centuries. In Western Europe, phenomena such as the Industrial Revolution, the development and spread of capitalist market relations, urbanisation, imperialism, and the inception and spread of modern methods of governance caused greater centralisation of state power and authority concerning the welfare of its population. Child labour, the awful living conditions in tenements, the spread of communicable diseases, the promotion of education, the development of national identities, and the population becoming the state’s object of rule all led to a heightened interest in the welfare of the nation’s future, namely children.<sup>11</sup>

One of these crucial changes in perceptions and treatment of children concerned their discipline and punishment in penal institutions. David Garland argues that, beginning in the mid-nineteenth century, ‘our modern conceptions of youth and childhood began to restructure the laws and practices of punishment in . . . ways we now take for granted’.<sup>12</sup> Prior to this transformation in Western Europe and North America it was common for children under the age of fourteen who were guilty of serious crimes to receive the same corporal punishment as adults, including execution.<sup>13</sup> Over the course of the nineteenth century, the harsh penal practices that state authorities carried out against children began to offend contemporary cultural perceptions of childhood. They functioned as the impetus for extensive reform campaigns aimed at creating new legislation that established ‘special reformatories, juvenile courts, and a more welfare-orientated approach to young offenders’.<sup>14</sup>

Many of these sensitivities regarding children, however, were not new to the Ottoman Empire. For example, the mandate to care for the poor, the needy, and especially the orphan and the widow are long-standing requirements of Islam. Child welfare, particularly caring for the poor and the orphaned, has been a part of Islamic law and society dating back to the earliest community. Ottoman commitments to Islamic norms and mores, such as child welfare, were foundational to the dynasty’s ruling legitimacy.

During the nineteenth century Ottoman officials placed greater emphasis on protecting and providing for those who were in dire need. While widespread industrialisation may not have occurred in the Ottoman Empire, as it did in Western Europe, the forced migrations and ethnic cleansings of millions of Muslims by Czarist Russia and several Balkan states caused massive dislocation and upheaval to Middle Eastern families during the second half of the nineteenth century.<sup>15</sup> Nazan Maksudyan argues that the presence of overwhelming numbers of orphaned refugee children on the streets of Istanbul and other Ottoman cities compelled officials to formulate and implement numerous reforms aimed at bettering the welfare of these children. The establishment of poor houses, vocational orphanages, and public education were among the attempted solutions to reduce the suffering of these children, secure the safety of urban areas, and fashion children into productive citizens.<sup>16</sup>

Changing Western concepts of childhood and the state's relationship to its youngest citizens did affect Ottoman perceptions, but to cast Ottoman reforms as Western-driven is a gross overstatement. Ottoman actions are much better described as responses to a combination of internal crises and European encroachment. These responses adapted some Western practices to long-standing Ottoman institutions and policies, thus creating new hybrids distinct to Ottoman modernity. Ottoman penal reforms regarding children were not any different, although they did lag behind other Ottoman reforms affecting children, such as the creation of 'reformatories' and attempts at expanding public education.

Two of the earliest attempts by Ottoman officials to improve the conditions of incarcerated children are Article 90 of the 1880 Prison Regulation and the empire's participation in and ratification of the proceedings of the 1890 International Prison Congress in St Petersburg, Russia. Article 90 states that 'incarcerated children under the age of nineteen shall be kept separate from other prisoners both night and day in a place specially designated for them'.<sup>17</sup> Prison officials in the Hamidian era did not fully implement Article 90. Similarly, the motions ratified at the 1890 International Prison Congress were also set aside, even though they included detailed regulations regarding the treatment of incarcerated minors with a focus on their rehabilitation through work and education.<sup>18</sup> Widespread attempts at implementation of these provisions did not occur until the Second Constitutional Period. In this period prison administrators and Ottoman lawmakers implemented many of these laws and viewed it to be within the state's mandate to care for and rehabilitate juvenile delinquents, as well as the orphaned and the indigent. One of the first areas in which the CUP affected change concerned a child's legal status.

### *Shari'a, Childhood and the Age of Accountability*

Since the mid-eighteenth century, penal studies have extensively debated the legal status of children in terms of criminal culpability and incarceration.<sup>19</sup> In the Ottoman Empire, the issue of incarcerated minors was no different, but very few tangible reforms were carried out. Reasons for this lack of action are twofold: first, the Ottoman Government's lack of a centralised prison administrative apparatus prior to 1911 and, second, the power and autonomy held by Islamic legal institutions to determine the age of accountability for one's actions and to adjudicate in criminal matters. The issues surrounding the concept of childhood in the Ottoman Empire and its change during the Second Constitutional Period are intimately connected with Islamic law.

According to Islamic law, criminal culpability for one's actions begins with the onset of puberty.<sup>20</sup> Therefore, prior to the physical manifestation of puberty (that is, nocturnal semen discharge for males and the commencement of menses for females), perpetrators of criminal offences cannot be held accountable for their actions as long as they have not completed their fourteenth year. In other words, prior to the onset of puberty, offenders are 'presumed not to be aware of the unlawfulness of their actions and lack criminal intent'.<sup>21</sup> Minors do not possess a *mens rea* or 'guilty mind', because they are deemed unable to comprehend the full implications of their actions. The various schools of Islamic theology, with the exception of Shi'ism, set a minimum and a maximum date for the onset of puberty. For females, according to the Hanafi tradition (that is, the official Islamic school of law for the empire since the sixteenth century) puberty begins as early as nine, but no later than age fifteen. For males, the Hanafi tradition holds that puberty starts sometime between the ages of twelve and fifteen.<sup>22</sup> Lawmakers adopted these Islamic legal concepts for juvenile criminal culpability into the 1858 IOPC.<sup>23</sup> In other words, girls as young as nine and boys as young as twelve theoretically could be tried, convicted, and incarcerated as adults.

Article 40 of the original 1858 IOPC reads as follows:

An offender who has not attained the age of puberty is not liable to the punishments prescribed for the offence which he has committed and if he is further not a person possessed of the power of discernment he is given up to his father, mother or relatives by being bound over in strong security. In case no strong security is produced by the father, mother or relatives he is put in prison for a suitable period through the instrumentality of the police for self-reformation.

But if such offender who has not attained puberty is *murahiq* [that is, on the verge of puberty, between the ages of nine and fifteen and still not having

shown the physical signs of puberty] that is if he has committed that offence deliberately by distinguishing and discerning that the result of his action and deed will be an offence, if his offence is of the category of *Jinayets* [serious crimes] calling for the punishments of death or perpetual *kyurek* [permanent incarceration with hard labour] or confinement in a fortress or perpetual exile he is put in prison for a period of from five years to ten years for self-reformation; and if it is an offence necessitating one of the punishments of temporary *kyurek* or temporary confinement in a fortress or temporary exile he is likewise put in prison for a period equal to from one fourth up to one-third of the period of the punishment called for by his offence; and in both these cases he may be taken under police supervision for from five years to ten years; and if his offence necessitates the punishment of deprivation of civil rights he is similarly imprisoned for reformation for from six months to three years; and if his offence is one necessitating a punishment less severe than the punishments mentioned he is similarly imprisoned for reformation for a definite period not exceeding one-third of such punishment.<sup>24</sup>

Article 40's legal definition regarding the age of accountability was mitigated and clarified for procedural purposes by a Ministry of Justice directive circulated on 26 March 1874. This circular states:

Males and females who have not completed the age of thirteen years shall be regarded as infants whilst offenders who are just over the age of fifteen if their puberty cannot be established shall be deemed to be *murahiqs* [on the verge of puberty] with discernment.<sup>25</sup>

However, the original Hanafi interpretation of the age of accountability was re-established with the creation of the *Mecelle* in 1877. As mentioned in Chapter 1, the *Mecelle* was the Ottoman Empire's official civil law code consisting of a combination of Hanafi interpretation of *shari'a* and Western civil law.<sup>26</sup> According to the *Mecelle*, the age of puberty and, thus the beginning of accountability and adulthood, is as follows:

Art. 985. The time of puberty is proved by the emission of seed in dreams and the power to make pregnant, and by the menstrual discharge and power to become pregnant.

Art. 986. The beginning of the time of arrival at puberty is, for males, exactly twelve years of age and, for females exactly nine years, and the latest for both is exactly fifteen years of age. If a male, who has completed twelve, and a female who has completed nine, has not reached a state of puberty, until they reach a state of puberty, they are called '*murahiq*' and '*murahiqqa*' [on the verge of puberty].

Art. 987. A person in whom the signs of puberty do not appear, when he has reached the latest time for arrival at puberty [fifteen years old] is considered in law as arrived at the age of puberty.<sup>27</sup>



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In other words, everyone who has commenced puberty is considered criminally culpable and punished as an adult, even if she is only nine years old. If a child has reached the minimum age of the commencement of puberty, but has not shown its signs, she or he is considered ‘partially responsible’ and is subject to punishment. This punishment, however, is at a reduced level from that of an adult. Additionally, if a person has reached the age of fifteen, but he or she has yet to produce evidence of puberty, he or she is criminally culpable and subject to full punishment under the law. It is theoretically possible, therefore, according to Article 40, that children even under the age of nine (girls) and twelve (boys) could be placed in jail alongside adults if there was no relative to whom the child could be ‘bound in strong security’.

Determining the criminal culpability of a minor was very convoluted in the nineteenth century. Consequently, it was open to vast differences of interpretation and opinion. This complicated definition of criminal culpability allowed Islamic court judges incredible latitude in determining accountability on a case-by-case basis. Each child’s accountability was subject to issues of age, sex, and puberty instead of a simple age threshold. Having the parameters for accountability more clearly delineated for the first time in the 1858 IOPC and the *Mecelle* constitutes a vast improvement over previous practice since it standardised the rules for criminal culpability and limited them to Hanafi guidelines. Even though the empire was officially Hanafi in its Islamic traditions, various regions of the empire were allowed to maintain alternate Islamic interpretations and local judges possessed the liberty to follow those customs as long as they did not contravene Sultanic decree. For these reasons, the new codifications should be considered a major rationalisation of Islamic law and practice within the empire. Islamic judges and courts, however, still possessed great autonomy in implementing these laws. The CUP considered this autonomy contrary to its desired outcome of a standardised, rationalised, and centralised criminal justice system. This issue, therefore, became a major focus of reform.

### ***Adopting a Concrete Definition of Childhood***

These legal statutes determining the age of accountability remained intact until the Second Constitutional Period. On 4 June 1911, the Ottoman Parliament repealed Article 40 of the 1858 IOPC and replaced it with this new version:

Those who have not completed the age of thirteen years [who are not fourteen years old] at the time of committing an offence are deemed to be devoid of the

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power of discernment and are not responsible for the offence they commit, but are given up to their parents or relative or guardian by judgment of a Junha Court [Court of Less Serious Criminal Offences] and by way of taking recognisance from them, or they are sent to a reformatory [*islahhane*] for training or detention for a period not to extend beyond their age of majority. If opportunity is afforded through negligence in care or supervision to children given up to their parents or relative or guardian by recognisance, to commit an offence before completing the age of fifteen years, a fine of from one Lira to one hundred Liras is taken from those charged with their care.

With regard to those who, at the time of committing an offence, have completed the age of thirteen years but have not finished the age of fifteen years [who are not sixteen years old] punishment is ordered with regard to them, on account of the offence committed by them, in the following manner:—

If his offence is of the category of Jinayets [serious offences] calling for the punishments of death, perpetual kyurek [life sentence with hard labour] or confinement in a fortress, or perpetual exile he is put in prison for self-reformation for from five years to ten years; and if it is an offence necessitating the punishments of temporary kyurek, temporary confinement in a fortress, or temporary exile he is likewise put in prison for self-reformation for a period equal to from one-fourth up to one-third of the period of the punishment called for by his offence, and in both these cases he may be taken under police supervision for from five years to seven years; and if his offence necessitates the punishment of deprivation of civil rights he is likewise put in prison for self-reformation for from six months to three years. If it necessitates a punishment less severe than the punishments mentioned he is likewise put in prison for self-reformation for a definite period not exceeding one-third of the period of that punishment. If it calls for a fine, half of it is deducted. Those who, at the time of committing an offence, have finished the age of fifteen years but have not completed the age of eighteen years [who are not nineteen years of age] are put in prison for self-reformation for from seven years to fifteen years in cases calling for the punishments of death or perpetual kyurek or perpetual confinement in a fortress or perpetual exile; and in cases calling for the punishments of temporary kyurek or temporary confinement in a fortress or temporary exile they are likewise put in prison for self-reformation for from one-half to two-thirds of the period of the original punishment, and in both cases they may be taken under police supervision for from five years to ten years; and if the offence is one necessitating a punishment less severe than the punishments mentioned, punishment of imprisonment is ordered after deducting one-fourth of the original punishment.<sup>28</sup>

A comparison of the original Article 40 with its successor reveals a number of important changes in the legal status of children and definition of childhood. In fact, the 1911 version represents a fundamental shift in the 'official' nature, definition, and view of childhood in the late Ottoman Empire, at least in terms of criminal culpability. It shifts from a flexible

Islamic legalistic view to one that is standardised and consequently closed to individual interpretation, particularly concerning the age of accountability, when childhood ends, and the 'rehabilitation' of juvenile offenders.

The 1911 revisions establish the age of accountability and the ability to discern between right and wrong as being fourteen years of age. No longer is accountability based on the attainment of puberty, but solely on a specific age regardless of gender or puberty. This represents a closer adherence to the 1810 French Penal Code, which states in Article 66 that those accused under the age of sixteen are not capable of knowing the difference between right and wrong (*sans discernement*). However, the new Article 40 preserves a version of the concept of *mürahik* by making provisions for lesser punishments for those who are fourteen and fifteen years old, thus preserving Islamic interpretations of accountability at the latest possible age prior to the manifestation of puberty and melding this with Western conceptualisations of criminal culpability. This demonstrates an interesting example of Ottoman adaptation of European norms and mores to its specific cultural context that does not represent what many scholars have deemed Ottoman 'secularisation'.<sup>29</sup>

This change also represents an example of continuity and ideological manifestation. The CUP and the Ottoman Parliament during the Second Constitutional Period built upon continuous attempts by various Ottoman governments to centralise bureaucratic, administrative, and legal power within the hands of the state. This is evident in the progression and development of the legal statutes determining the age of discernment, which progressed from a strictly Islamic legal interpretation as witnessed by the promulgation of the 1858 IOPC and the *Mecelle* to the combination of Islamic legal definitions and age designations in 1874 to accountability being determined solely upon an established age in 1911. In addition to being an example of continuity and change, the 1911 Article 40 is a manifestation of the CUP's ideological goals and pragmatic style of rule.

One of the core facets of CUP pragmatism and ideology or 'shared set of attitudes' was the creation of a more rational, centralised, efficient, and regulated system of government in all of its multifarious actions and responsibilities.<sup>30</sup> By placing a concrete standard for the age of accountability, the CUP circumscribed the power of Islamic courts and judges. It also rationalised the process for determining accountability and removed the ambiguity that existed under previous legal interpretations. When combined with other changes to the IOPC discussed in Chapter 1, these actions further established the state as the central powerbroker over its population in terms of crime and punishment.

### ***Access and Reconfiguration***

Through the appropriation of increased authority at the expense of 'traditional' Islamic legal institutions, the CUP gained more access to the private sphere, specifically the family. One of the quintessential characteristics of the modern era is the attempt by states to intervene into the lives of their populations in order to harness social power. From time immemorial, the family is the most recognised unit of the private sphere, where individuals, specifically fathers and husbands in patriarchal societies, have the greatest amount of autonomy over their dependants in terms of social behaviour, finances, education, living arrangements, and marriage.<sup>31</sup> With the commencement of the early modern period and absolutism, rulers attempted, in a more systematic way, to remove intermediaries and gain greater access and control over the resources of their domains, including the family. Starting in earnest in the late eighteenth century, rulers and states assumed progressively greater amounts of authority over the family, so much so that traditional patriarchy had been replaced by 'state patriarchy'.<sup>32</sup> In other words, the state assumed the role of the familial patriarch in an attempt to shape and control society on its most fundamental level. This was done through education, concerns for child safety and welfare, the promotion of women's rights and freedoms, and even issuing marriage licences and promulgating inheritance laws. The CUP's appropriation of the power to determine the age of accountability demonstrates a culmination of Ottoman bureaucratic efforts over the nineteenth century to create a level of 'state patriarchy'.

The Ottoman administration's penetration into the lives of its subjects, particularly at the level of the family, is further illustrated by the nature and potency of an important vagrancy law passed by the CUP-led Ottoman Parliament in 1909, entitled *The Law on Vagabonds and Suspected Persons (Serseri ve Mazanna-ı Su-i Eshas Hakkında Kanun)*. This law provided the police with incredible latitude and discretion in controlling what the Ottoman administration viewed as the most volatile and threatening segment of the population: single, adult, unemployed males, who lived alone. Parliament passed stringent laws restricting and controlling their movements, housing, ability to find work, and leisure activities. Authorities justified these measures by claiming that vagrants and vagabonds were immoral, lazy, and lecherous individuals who threatened civil order because they did not pursue 'family life'. The state assumed the responsibility to protect the family from these dangerous individuals, because it viewed the family as the foundation of national identity and civil society's well-being.<sup>33</sup>

Ottoman lawmakers did not formulate and pass the 1909 vagrancy law in a vacuum. This law built upon legislation passed in the 1890s that increasingly restricted the occupation of begging and highlighted vagrancy as a threat to public order. These were not laws, but ‘regulations’ (*nizamnameler*), crafted in direct response to the break down in public order in urban areas resulting from a huge influx of refugees to the empire from the Balkans, the Crimea, and the Caucasus. They did not, however, target vagrants in such a direct way as did the law of 1909.<sup>34</sup> The roots of this law can be traced even further back to the late eighteenth century. Sultan Selim III decreed harsh anti-vagrancy laws and adopted extensive surveillance practices in response to social disorder caused by a sharp increase in rural migration to Istanbul.<sup>35</sup>

Throughout the nineteenth century Ottoman sultans and administrators established many youth organisations associated with athletic, educational, and military institutions in order to expand state patriarchy and further intervene into the life of the family.<sup>36</sup> For example, the CUP adopted and promoted boy scouting in the empire. Scouting originated in Great Britain and quickly spread to the United States during the first decade of the twentieth century. The first scouting organisation established in the Ottoman Empire was The Turk’s Strength (*Türk Gücü*) in 1913 with the support of CUP members such as Ziya Gökalp. It was organised with the purpose of promoting morality and vitality among the empire’s youth, particularly among male Muslim Turks.<sup>37</sup>

In May 1914, the Minister of War, Enver Pasha, hired Harold Parfitt, an Englishman and founder of the first boy scout troop in Belgium, to establish a new scouting organisation (*İzcilik Dernekleri*) in the Ottoman Empire. This was a state-sponsored organisation connected to the Ministry of War and founded to prepare young males for military service. It was a completely voluntary organisation whose membership comprised of young males aged from eleven to seventeen.<sup>38</sup>

Within a month of the establishment of *İzcilik Dernekleri*, Enver Pasha and the Ministry of War established another scouting organisation, the Ottoman Strength Associations (*Osmanlı Güç Dernekleri*). This organisation was compulsory for all young males aged seventeen and above attending public schools. Consequently, the *İzcilik Dernekleri* was subordinated to the *Osmanlı Güç Dernekleri*, and the *Türk Gücü* was disbanded. In addition to founding the *Osmanlı Güç Dernekleri*, the Ministry of War also directed and funded it, thus making it a distinctly paramilitary organisation mandated to prepare male youth for military and national service. This purpose is clearly illustrated by the following Ministry of War declaration:

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In this era, for every nation which wants to survive, to defend its homeland (*vatan*), its virtue (*ırz*), and its honour (*namus*) in the face of its enemies, [it] must become a 'nation-in-arms' (*millet-i müsellah*) . . . From now on when our homeland is in danger, those who are true men will not loiter in the streets, but will run and take up arms to defend our Ottoman honour and homeland, which has been entrusted to us by God . . . The Ministry of War is concerned about this vital issue more than anyone else, therefore, it took upon itself this responsibility and founded the Ottoman Strength Associations (*Osmanlı Güç Dernekleri*).<sup>39</sup>

This notion of a 'nation-in-arms' was further reinforced by the outbreak of WWI and by mobilisation of the Ottoman full military (*seferberlik*). All of the nation's assets and resources had to be mobilised, including its children for protection and self-defence. The connection between scouting and the 'nation-in-arms' concept continued to strengthen and evolve during the war, especially as a result of German military influence.<sup>40</sup> Scouting is a clear example of state attempts to train, influence, and gain greater access to children, which had traditionally been the primary concern of the family.

The combination of the CUP's newly established graduated system of punishments for minors and the establishment of scouting organisations represents the entrenchment of the concept of adolescence in the Middle East. These legal and social developments helped establish a grey area between childhood and adulthood for male inhabitants of the empire. Adolescence became a critical period for young males to gain education, training, and experience, thus preparing them for adulthood and service to their national family.<sup>41</sup>

In addition to giving the state more access to the private sphere, these regulations and laws also enabled the CUP to reshape and secure state control over the public sphere, at least in terms of consolidating and centralising its control over the adjudication of criminal matters. Building on the legal reforms of the nineteenth century, particularly the adoption of the 1858 IOPC and the promulgation of the *Mecelle*, the creation of *nizamiye* courts, and the adoption of the 1879 Code of Criminal Procedure, the CUP intensified Ottoman bureaucratic efforts to whittle away the relatively independent authority of the empire's Islamic legal institutions. This process culminated in 1917, when the CUP-controlled parliament passed the Law of *Şeriat* Court Procedure and the Law of Family Rights. These two laws effectively unified Ottoman judicial procedure by finishing the codification process of Islamic law started during the Tanzimat and fully centralised the state's power over the judiciary. The combination of the processes of codification and procedural delineation standardised Ottoman

judicial practice and procedure in both criminal and civil matters. The state assumed complete control over all judicial authority by completely bringing both *shari'* and *nizamiye* courts under its authority.<sup>42</sup>

The consolidation of state power over criminal law and its adjudication are partial fulfilments of the CUP's stated goals. When addressing the Grand Assembly (Ottoman Parliament) in 1910, the Ottoman Grand Vizer, İbrahim Hakki Pasha, declared:

A constitutional government cannot govern according to the methods of an authoritarian regime [that is, Abdülhamid II's *ancien régime*]. A constitutional government cannot accept or allow one law to be valid in one part of the country and not in another, or that soldiers are recruited from one portion of the population and not from another, or that a portion of the population would pay certain taxes while another portion is exempt.<sup>43</sup>

The ambiguity caused by utilising puberty to determine one's age of accountability could not remain unchanged according to the ruling philosophy of this new constitutional government and administration. All facets of life, law, religion, and politics had to be harmonised and uniformly applied. This CUP agenda appears to be equal parts pragmatism and idealism.

### ***Rehabilitating the Delinquent Child: Islahhaneler (Reformatories)***

The 1911 version of Article 40 places great emphasis on the 'rehabilitation' of juvenile delinquents. It significantly augments the gradation of punishment according to the age stipulations set forth in the original article. In 1911, prisoners aged from fourteen to nineteen were not considered 'full' adults, and therefore, deserved lighter sentences than their adult counterparts. New provisions stipulate measures for the betterment, welfare, training, and 'rehabilitation' of the accused under the age of fourteen. Most significantly, however, these rehabilitative provisions were to be determined by newly established '*Cünha*' (minor criminal offence) courts. Court judges no longer automatically entrusted parents or guardians of the child to supervise and rehabilitate their under-aged juvenile delinquent. Special courts were designated to determine the proper procedure for the 'correction' and 'rehabilitation' of the child. Unlike its original version, the revised Article 40 stipulated that children under fourteen be placed in reformatories (*islahhaneler*).

Ottoman reformatories originated in the Tanzimat period (1839–76) and were first established by the famous Ottoman bureaucrat and reformer,

Midhat Pasha, during his governorship of the Danube and Niş provinces in the 1860s. Midhat Pasha originally intended these institutions to be special training and vocational schools for orphaned and indigent children in the above-mentioned provinces. They soon spread throughout the empire in order to assist in the manufacturing sector of the Ottoman economy. Separate reformatories were established for girls and boys and some were employed to make uniforms for the army and to train young artisans after the disbanding of the guilds. Still others were used to develop a new cadre of trained technicians to run the sultan's factories. These modern schools and factories served technical, economic, and charitable purposes.<sup>44</sup>

Midhat Pasha specifically commissioned these first reformatories as a means of assisting in the relief of poor, orphaned juvenile refugees who were flooding the empire's urban areas as a result of recent wars in the Balkans and the Crimea. He legitimised these institutions by claiming to draw their name from a Quranic verse that calls for the improvement and reformation of orphans. During the reign of Sultan Abdülhamid II, the Ottoman administration continued to utilise these reformatories, but changed their name from *islahhaneler* (reformatories) to *Hamidiye Sanayi Mekteb-i Alisi* (Sultan Abdülhamid II's Vocational School for Industry) in order to marginalise Midhat Pasha and take control of these institutions.<sup>45</sup> It is important to point out that at their inception and for the first fifty years of their existence these nineteenth-century *islahhanes* were not centres of punishment or reform for juvenile delinquents. Even during the Second Constitutional Period, Ottoman journalists referred to the Tanzimat and Hamidian era reformatories as 'orphanages' instead of juvenile criminal correctional facilities.<sup>46</sup> In fact, the only provisions made for children convicted of criminal behaviour prior to the Second Constitutional Period entailed either placing them under the strict supervision of their parents/guardians or in prison.

The CUP's prison reform programme for children under the age of fourteen consisted of two interrelated policies. The first required the complete separation of juveniles from adult criminals and the second called for a focus on their rehabilitation. Reformatories (*islahhaneler*) were the key to achieving both of these priorities. The Prison Administration reintroduced *islahhaneler* into the Ottoman bureaucratic vernacular, but transformed them into centres of reform and rehabilitation for juvenile delinquents as detailed in a new penal regulation entitled Regulations for Reformatories (*Islahhaneler Nizamnamesi*), promulgated in the fall of 1911. Officials circulated this new regulation concurrently with the 1911 IOPC changes, the drafting of the comprehensive prison survey, and the creation of the Prison Administration.



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The first article of this regulation referenced the 1911 version of IOPC Article 40, especially the portions stressing the rehabilitation of children, thus reinterpreting and expanding the role of the *islahhane*. In fact, the first article of the newly written Regulations for Reformatories justified this transformation based upon the non-existence of a 'suitable place within the Ottoman Empire' to reform and rehabilitate juvenile delinquents under the age of fourteen as mandated by the revised Article 40. Ottoman officials created these reformatories for the sole purpose of reforming juvenile criminal offenders and, therefore, they should not be conflated with existing institutions for the orphaned and indigent.<sup>47</sup>

The Prison Administration designed these new *islahhaneler* as places where juvenile delinquents under the age of fourteen would be separated from adult criminals, could serve their sentences in a healthy environment, obtain an education and suitable upbringing (*terbiye*), and would come to possess 'proper character'. Juvenile delinquents would stay in these institutions until they reached the age of majority (eighteen years old).<sup>48</sup> Ideally, these reformatories would be built far from cities in open-air locations with a preference given to agricultural areas. They were to accommodate both boys and girls, but were to separate the sexes into specially designated buildings. Their education would consist of special studies and training in modern curriculums grounded in the science of child development. These curriculums included lessons in reading and writing, proper behaviour, and industrial training so they could learn a trade and work in the empire's factories. Both the reformatory's director and instructors were required to be specialists in childhood development. Other regulations required each reformatory to implement proper health and hygiene practices, and keep a physician and chemist on staff. All employees, including staff, doctors, and teachers, were required to submit regular reports of their observations to the director. Daily routines for the children were to follow normal prison regulations and to consist for all inmates of lessons, work, and opportunities for religious worship. Their food was to be hot and prepared on site. Finally, off-site visitations with parents/guardians or other relatives were prohibited.<sup>49</sup>

Children were rewarded for industriousness and for good behaviour, but they were punished for bad behaviour. If a child was a repeat offender then the punishments meted out became steadily more severe. Repeat offenders were first placed in isolation, in the place of which they would lose privileges, such as correspondence and on-site visits. If infractions continued, then the child's clothing would be withheld (for a maximum of three days). If the behaviour persisted then food and water would be withheld (for a maximum of three days). Finally, as the ultimate punishment,

their food, water, and clothing would all be withheld (for a maximum of three days). In the course of these punishments the physician was instructed to keep close watch over the juvenile to ensure his or her safety. These regulations, however, repeatedly stressed that the aim of these punishments was the child's rehabilitation.<sup>50</sup> The end goal of these reformatories was to provide delinquent children with a safe environment where they would be housed, educated, trained, disciplined, and rehabilitated. Similar to their nineteenth-century namesakes (that still existed), these reformatories rehabilitated delinquent children by teaching them vital life skills and by providing them with modern educations, thus turning them into contributing members of society.

While the process of establishing these reformatories began in 1911, major progress was not made until 1916 when the CUP hired Dr Paul Pollitz as Inspector General of Prisons and Penitentiary Establishments for the Ottoman Empire. As mentioned in Chapter 2, Dr Pollitz continued, expanded, and oversaw a massive Ottoman prison reform campaign during WWI. Using IOPC Article 40 he successfully pressed for the expanded use of *islahhaneler* throughout the empire until his dismissal in 1919. In addition to advocating for the construction of more reformatories, he also called for renting appropriate spaces for these institutions until suitable edifices could be built.<sup>51</sup> Prior to his appointment, there appears to have been built only one reformatory for juvenile delinquents in the empire (Istanbul).<sup>52</sup> By 1919 the Prison Administration had completed or was building sixteen reformatories in major population centres throughout the empire.

Reformatories, however, only dealt with those juvenile delinquents under the age of fourteen. There existed a still larger population of incarcerated children aged from fourteen to nineteen addressed by provisions in Article 40. In lieu of reformatories, Dr Pollitz implemented a pardoning campaign for incarcerated children aged from fourteen to eighteen that ended up releasing nearly half of those inmates early from prison.

### ***Counting and Pardoning Juvenile Delinquents***

Situations similar to those described above at Beni Saab prison were exactly what CUP prison reformers attempted to address by reforming IOPC Article 40, creating a centralised Prison Administration and commencing sweeping prison reforms in 1911–12. The 1911 changes to Article 40 were immediately reflected in the 1912 prison survey. The section of the questionnaire requesting a prisoner's age contained similar categories to that found in Article 40; the first two categories, for example,

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requested the number of prisoners who were aged fourteen and younger and those aged from fourteen to twenty, respectively, in addition to six other categories recording a prisoner's age grouped according to ten-year increments.<sup>53</sup>

In the period from 1912 to 1917, the number of children under the age of fourteen in Ottoman prisons dropped significantly. In 1911–12, Ottoman prisons incarcerated at least 241 children under the age of fourteen: 234 males and seven females (see Chart 3.8). By 1917 only a handful of inmates under the age of fourteen remained in the prison system. It appears that CUP efforts to remove this age category of children from prison were largely successful. This fact is confirmed by a special prison survey taken in 1917.<sup>54</sup>

As discussed in Chapter 2, Dr Pollitz organised an extensive prison survey (*izahat*) beginning in late December 1916. Part of this survey concerned the total number of the empire's juvenile prisoners who were under the age of nineteen. Prison officials completed this survey and tabulated its results by March 1917.<sup>55</sup> The total number of people under the age of nineteen incarcerated in Ottoman prisons in 1916–17 was 1,676 out of a total prison population of 21,666. The vast majority of these juvenile delinquents were male. According to the survey, Ottoman prisons incarcerated only forty-nine female juveniles.<sup>56</sup> This represents an enormous drop in the number of incarcerated young people according to statistics gathered in 1912. Ottoman prisons incarcerated at least 5,169 inmates under the age of twenty, 236 of whom were female, in 1911–12 (see Chart 3.8). Notwithstanding this precipitous decline in juvenile inmates over this five year span, Dr Pollitz still wanted to reduce further the number of incarcerated children within the empire's prison system.

As early as 3 March 1917, Dr Pollitz wrote directly to the Grand Vizier, Talat Pasha, requesting the pardon of certain types of inmates as a way to ease overcrowding. He offered two specific proposals. The first called for the release of juvenile inmates (both male and female) under the age of nineteen who were well behaved, of good character, and who had served two-thirds of their sentences (regardless of whether they committed a felony or misdemeanour). Second, he proposed the release of adult prisoners, both male and female, who had between six months to a year left of their sentences. These prisoners also had to be well behaved and of good character. Only those incarcerated for lesser offences (*cünha*), however, were eligible for early release provided that they agreed to enter military service.<sup>57</sup> Dr Pollitz waived this requirement for pardoned juvenile inmates.<sup>58</sup>

With the approval of the Grand Vizier, the Ministers of the Interior,

Justice, Finance, and War, and the head of Parliament, Dr Politz organised and oversaw a special prison survey to gather specific information on each juvenile delinquent incarcerated in the empire's prisons. The survey commenced in mid-March 1917 and concluded on 26 April 1917 with the arrival of Beirut province's statistics. The Ottoman Prison Administration quickly tabulated all the statistics into a master list.<sup>59</sup>

In order to determine which particular juvenile inmates qualified for early release, this survey collected data that went far beyond simple numbers. The grand survey (*izahat*) of Ottoman prisons completed in March 1917 only requested overall figures. The special survey, however, collected the children's names, ages, dates of incarceration, time served, time remaining, and crimes committed.<sup>60</sup> For example, in Istanbul penitentiary (*Dersaadet hapisane-yi umumi*), prison officials recorded the above-mentioned details for a total of ninety inmates. All of these prisoners were male and all but eight were incarcerated for theft. The others were serving time for crimes ranging from assault and homicide to kidnapping and indecent sexual behaviour. Sentences ranged from sixty-seven days to seven years of incarceration. Of the ninety minors, only four were under the age of fourteen – two were thirteen years old, one was twelve, and one was eleven. All four were incarcerated for theft (*sirkat*) and their sentences ranged from sixty-seven days to two years. These juvenile inmates hailed from various imperial and international locations, such as Mosul, Diyarbekir, and Trabzon, as well as Iran and Greece. For example, the eleven year-old inmate, Hasan bin Rasul, was given the designation of *Iranlı* (Iranian).<sup>61</sup>

According to the sources, Ottoman officials pardoned almost 45 per cent of all of the empire's incarcerated juveniles (745 out of 1,676) as reported by the 1917 prison survey (*izahat*). These 745 inmates were not pardoned all at once, but they were released over a period that stretched from May 1917 to December of that year.<sup>62</sup> This juvenile pardoning occurred simultaneously to the pardoning of adult inmates who met the afore-mentioned stipulations. For example, on 15 July 1917 the CUP Government, including the Grand Vizier, various cabinet members, heads of ministries, and the leader of Parliament pardoned ninety prisoners from the Istanbul penitentiary. Sixty-nine prisoners were adults and the remaining twenty-one were people under the age of nineteen.<sup>63</sup> On 13 December 1917 the same Ottoman officials authorised the pardon of 480 additional prisoners from various provinces and independent sub-divisions, including Beirut, Antalya, İzmid, Mecca, and Haleb. The pardoned inmates included 346 adults and 124 children, all of whom met the stipulated criteria for early release.<sup>64</sup> By the end of 1917, the empire only had 931 inmates

who were eighteen years old or younger in its prisons. This represents an enormous reduction in juvenile prisoners compared to 1912 figures.

### ***Conclusion***

In addition to removing large numbers of young people from prison through pardons and the construction of more reformatories, Dr Pollitz strove to improve juvenile education, health, nutrition, and living standards.<sup>65</sup> Neither Dr Pollitz, the Directorate of Prisons, nor the Ministries of the Interior and Justice viewed juvenile delinquents in the same light as they viewed adult inmates. As they saw it, it was imperative that the two groups be separated from each other so that adult criminals would not corrupt or physically harm the young people. The Ottoman administration and society both agreed that juvenile delinquents should be reformed and made into contributing members of society.<sup>66</sup> Dr Pollitz continued to change the nature and definition of childhood in the Ottoman Empire that built upon the efforts of the CUP and earlier administrations. He was not the harbinger of penal progress and Western standards of penology to the Ottoman Empire any more than Stratford Canning had been in the 1850s. The empire already had its own long tradition of criminal justice and was in the midst of its transformation prior to either of these two individuals' efforts. What Dr Pollitz did was re-invigorate and better integrate current Ottoman prison programmes and policies in order to help bring them to fuller fruition. This is exactly the case for the empire's juvenile delinquents. Nothing he implemented was of his own making; he simply enforced and expanded existing Ottoman standards and programmes, some of which dated back to the 1850s. With his assistance, juvenile delinquency was more clearly delineated and differentiated from adult criminality and both penal codes and practices reflected broader Ottoman sensibilities regarding childhood and punishment.

Today in the Republic of Turkey and other Middle Eastern successor states of the Ottoman Empire, adulthood or the age of majority, at least in the eyes of the state, begins at age eighteen. At this age, youths commence university studies or full-time employment, submit to military service, assume full accountability for their actions before the law, and, where available, obtain voting rights. The roots of this notion of the end of childhood and the commencement of accountability can be traced to the late Ottoman Empire, particularly the Second Constitutional Period. During this era, the CUP, the Prison Administration, the Directorate of Prisons, and Dr Pollitz successfully implemented many reforms regarding the welfare and legal status of children. These penal reforms, in conjunction

with the establishment of scouting organisations and public education programmes, changed the nature and definition of childhood in the empire. In state-controlled legal terms, criminal culpability was no longer dependent on the commencement of puberty, but set at a fixed age.

These developments introduced a grey area – adolescence – between the innocence of childhood and full maturation, during which a person was partially accountable for her or his actions. Ottoman officials viewed adolescence as an important time of learning, growth, development, and preparation, so that once adulthood was reached, the individual would be ready and able to build, defend, and serve the nation. The CUP's assumption of power over the legal standing of children and its rationalisation of Islamic criminal law and procedure also reflect its desire and ability to intervene more fully into the lives of the members of its population, especially at the individual and family levels. It was during the Second Constitutional Period that notions of state patriarchy, adolescence, and childhood became intimately linked to national survival within the modern Middle East.

### *Notes*

1. BOA, DHMBHPSM 22/43, doc. 12.
2. Peters, *Crime and Punishment*, pp. 59–62.
3. Sir James Redhouse translates *fi'il-i seni* as 'indecent assault' and translates *seni* as 'bad, infamous, abominable; vile, immoral' (Redhouse, *Redhouse Sözlüğü*, pp. 373 and 1,056). This definition of *fi'il-i seni* is problematic. *Fi'il* literally means 'action' or 'act', and 'assault' is not part of its meaning. As a serious offence (*cinayet*) listed in the Ottoman prison survey, *fi'il-i seni* is modified by the word *cebren*, which means 'by force, under constraint, compulsorily' (Redhouse, p. 218) and implies the meaning of 'assault'. Therefore, *cebren fi'il-i seni* more accurately stands for 'indecent assault' or 'sexual assault' and *fi'il-i seni* means 'indecent sexual behaviour'.
4. Doumani, *Rediscovering Palestine*, p. 48 (Table 1).
5. McCarthy, *Population of Palestine*, p. 53 (Tables A1–15).
6. Collins and Steichele, *Ottoman Post and Telegraph Offices*, pp. 44–7.
7. BOA, DHMBHPSM 22/43, doc. 12.
8. *Ibid.*
9. Fernea, *Children in the Muslim Middle East*, p. 11. Other useful works on childhood in the Middle East include Fernea, *Remembering Childhood in the Middle East*; Gil'adi, *Children of Islam*; Barakat, 'Arab Family'; Mohsen, 'New Images, Old Reflections'; and Rugh, *The Family in Contemporary Egypt*.
10. Ariès, *Centuries of Childhood*, p. 128.
11. Concerning the development of current conceptions of childhood, see Stone, *Family, Sex and Marriage in England*; Ariès; and Gillis, *Youth and History*.

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12. Garland, *Punishment and Modern Society*, pp. 201–2.
13. On juvenile justice see Sutton, *Stubborn Children*; and Platt, *Child Savers*.
14. Garland, pp. 201–2.
15. For a detailed discussion of the ethnic cleansing of Ottoman Muslims, see McCarthy, *Death and Exile*.
16. Maksudyan, ‘Orphans, Cities, and the State’.
17. BOA, DHMBHPSM 1/2, doc. 10, Article 90 states, ‘*Onsekiz yaşını tekmlil etmemiş olan çocuklar mevkuf buldukları hade gece ve gündüz sa’ir mahbusinden bütün bütün ayrı bir mahalde ikamet ettirileceklerdir*’ (Convicted children under the age of nineteen must be housed, day and night, in a place that is completely separate from the other inmates).
18. Demirel, ‘1890 Petersburg Hapishaneler Kongresi’.
19. Howard, *State of Prisons in England and Wales* and *Account of the Principle Lazarettos*.
20. Outside of criminal culpability, Islamic legal discourse also debates the issues of when children begin to obtain rational thought and discernment concerning religious truth and the difference between right and wrong. Eyal Ginio looks at how Islamic court judges and scribes determined the appropriate age when a child could legally convert to Islam in seventeenth-century and eighteenth-century Ottoman Salonika. Two prominent eleventh-century Islamic thinkers and jurists, Al-Ghazali and Al-Sarakhsi, divided childhood into three general time periods: ‘(1) the total absence of reason; (2) imperfect reason following the development of discernment; and (3) the full possession of reason when the child approaches maturity’ (Ginio, ‘Childhood, Mental Capacity, and Conversion’, pp. 100–1). Salonika Islamic court jurists assigned specific ages to these periods. ‘The Lasonika scribes registered three different categories of minors when dealing with conversion to Islam: Children under the age of seven [the undiscerning child]; children . . . age . . . seven to ten; and adolescents above [ten]’ (Ibid., p. 101). There is a significant difference, however, between age-appropriate conversion to Islam and criminal culpability. While Ginio’s analysis demonstrates that childhood was subject to different Islamic-based legal interpretations, the age of criminal accountability is very clear (as demonstrated below).
21. Peters, *Crime and Punishment*, p. 20.
22. Ibid., pp. 20–1.
23. Bucknill and Utidjian, *Imperial Ottoman Penal Code*, pp. 26–30.
24. Ibid., p. 27.
25. Bucknill and Utidjian, p. 28. For the original text of the circular, see Nazif Bey, *Kavanin-i Ceza’iyeh Mecmu’ası*, p. 16.
26. Messick, *Calligraphic State*.
27. Tyser, Demetriades, et al. *Mejelle*, pp. 154–5.
28. Bucknill and Utidjian, pp. 29–30.
29. Berkes, *Development of Secularism*, pp. 347–410.
30. According to Zürcher, the CUP leadership ‘shared [a] set of attitudes rather

- than a common ideological programme'. These shared attitudes included nationalism, Positivism, a great faith in the power of education to elevate the masses, an implicit belief in the role of the state as the prime force in society, and a powerful belief in progress and change (Zürcher, *Turkey*, p. 132).
31. For a discussion on patriarchy, its origins, and development, see Lerner, *Creation of Patriarchy*.
  32. Hatem, 'Economic and Political Liberation in Egypt'.
  33. Ergut, 'Policing the Poor'.
  34. 'Tese'ülün men'ine dair nizamname, 13/Ş/1313 [29 January 1896]', *Düstur, Birinci Tertip*, vol. 7, pp.48–9.
  35. Başaran, 'Remaking the Gate of Felicity'.
  36. For an overview of these organisations see Aktar, 'Tanzimat'tan Cumhuriyet'e Gençlik' and Toprak, 'II. Meşrutiyet Döneminde Paramiliter'. For a detailed discussion of youth sporting movements and nationalism during the Second Constitutional Period, see Cora, 'Constructing and Mobilizing'.
  37. Cora, 'Constructing and Mobilizing', pp.45–61; Üstel, *İmparatorluktan Ulus Devlete*; and Toprak, 'II. Meşrutiyet Döneminde Paramiliter' and 'İttihat ve Terraki'nin Paramiliter'.
  38. Cora, pp.47–8.
  39. 'Güç Dernekleri', *Tanin*, 11 Haziran 1330 [24 June 1914], No. 1,977, p.4 and 'Güç Dernekleri', *İkdam*, 11 Haziran 1330 [24 June 1914], No. 6,229, p.2. This is a modified translation of the quotation in Cora, p.51.
  40. Cora, pp.51–8.
  41. The modern Turkish word for the concept of 'youth' (*gençlik*) may trace its origins to this time period.
  42. Berkes, *Development of Secularism*, pp.416–19, and Peters, *Crime and Punishment*, p.133. While both authors consider these changes as proof of Ottoman/Turkish secularism and Westernisation, their interpretations are difficult to substantiate. The Ottoman state had always been the chief authority in judicial matters, but it never exercised direct centralised control over them. Analytically separating religion and state contradicts the historical fact that both were intimately intertwined during the empire's long history. For a more nuanced analysis of the intent and effects of the 1917 Code of *Şeriat* Procedure, see Hardy, *Blood Feuds*, pp.52–61. He effectively demonstrates that the 1917 Code of *Şeriat* Procedure did not abrogate *shari'* court authority to adjudicate in criminal matters, particularly regarding blood money.
  43. MMZC 1/3 1: 275.
  44. Özen, 'II. Meşrutiyet'e Kadar Islahhaneler'; Kornrumpf, 'Islahhaneler'; and Maksudyan.
  45. Maksudyan, pp.494 and 507, endnote 6. Abdülhamid II saw Midhat Pasha as a threat to his attempts to centralise power in his own hands.
  46. *Ibid.*, p.507, endnote 6.
  47. BOA, DHMBHPS 151/83. This regulation consists of twenty-five articles detailing the authority, purposes, goals, and responsibilities of these reforma-



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- ories. It also stipulates that reformatories must provide incarcerated children with education and professional training.
48. Ibid. Article 2.
  49. Ibid.
  50. Ibid. Articles 20–3.
  51. BOA, DHMBHPS 76/5, 158/37, 78/36, and DHMBHPSM 34/97.
  52. BOA, DHMBHPS 78/36.
  53. BOA, DHMBHPSM 8/3, doc. 13.
  54. For example, see 1917 prison survey results for Istanbul (BOA, DHMBHPS 158/17), Aydın (BOA, DHMBHPS 158/2), Suriye (DHMBHPS 160/69), and Adana (DHMBHPS 158/66). These surveys list the ages of all inmates under the age of nineteen. Among these provinces only Istanbul and Aydın had any children under the age of fourteen. Istanbul had four children of ages eleven and twelve and two who were thirteen years of age. All of the children were incarcerated for theft (*sirkat*). The remaining eighty-six juvenile inmates were of age fourteen to eighteen. Aydın had two thirteen year-old inmates out of a juvenile prison population of 110. These two provinces generally had the highest number of juvenile and adult prisoners in the empire and serve as good barometers concerning fluctuations in the prison population.
  55. BOA, DHMBHPS 143/93.
  56. Ibid., doc. 2. This master list breaks down inmates under nineteenth years old according to province (*vilayet*) and independent administrative sub-division (*sancak*). The breakdown by province (children/adults) is Istanbul: 90/967, Edirne: 47/604 (2 girls), Adana: 104/1,049, Ankara: 103/1,385 (21 girls), Aydın: 310/2,843 (17 girls), Bitlis: 7/96 (not all districts reported), Beirut: 51/1,251, Halep: 39/664, Hüdavendigar: 48/849, Diyarbekir: 63/1,128, Suriye: 31/1,149, Sivas: 143/1,214, Trabzon: 23/183 (not all districts reported), Kastamonu: 55/1,255, Konya: 75/985, Mamuretülaziz: 23/234, and Mosul: 14/505 (not all districts reported), independent administrative sub-divisions of Urfa: 17/285, İzmid: 24/279, İçil: 13/85, Eskişehir: 22/164, Bolu: 26/502, Teke: 22/215, Canik: 34/289, Cebel-i Lübnan: 18/275, Çatalca: 3/19 (not all districts reported), Zor: 0/102, Kudüs (Jerusalem): 54/643, Karesi: 73/757, Kala-i Sultaniye: 23/151, Kayseri: 52/255, Karahisar-ı sahib: 7/302, Menteşe: 28/248, Maraş: 8/366 (6 girls), and Niğde: 30/368 (3 girls).
  57. Although not stated explicitly, the military service stipulation only applied to male prisoners, but records indicate that female prisoners were still released as a result of Dr Pollitz's proposal. For example, his proposal resulted in the early release of six women from prisons in Adana province (BOA, DHMBHPS 108/31).
  58. BOA, DHMBHPS 79/38, doc. 71.
  59. BOA, DHMBHPS 159/5 contains the tabulated statistics from this campaign. The only provinces and independent sub-provinces whose totals were not included in this compilation were Istanbul, Aydın, Antalya, Cebel-i Lübnan, and Bolu.

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60. For the numbers and names of incarcerated children in most of the empire's provinces and independent administrative sub-divisions for 1916–17, see BOA, DHMBHPS 158/66 (Adana); 159/2 (Ankara); 158/2 (Aydın); 159/12 (Beirut); 159/33 (Bitlis); 117/6 (Canik); 158/9 (Diyarbakir); 158/68 (Halep); 159/7 (Hüdavendigâr); 158/17 (Istanbul); 158/57 (Kastamonu); 158/63 (Konya); 159/4 (Mamüretülaziz); 159/10 (Mosul); 158/69 (Sivas); and 160/69 (Suriye).
61. BOA, DHMBHPS 159/16. While this file does not specifically state that these prisoners are from the *Dersaadet hapishane-yi umumi*, when it is cross-referenced with BOA, DHMBHPS 108/13 there is an overlap in prisoner names that makes it clear that DHMBHPS 159/16 refers to the Istanbul penitentiary.
62. For the documents associated with the pardoning of juvenile offenders, numbers, and the requirements for their releases, see BOA, DHMBHPS 108/13, 108/16, 108/19, 108/27, 108/31, 109/49, 116/41, 159/05, 159/16, and 159/36.
63. BOA, DHMBHPS 108/13.
64. BOA, DHMBHPS 108/31.
65. Documents related to Dr Pollitz's reform programmes are as follows – Reformatories: BOA, DHMBHPS 76/5, 158/37, 78/36, and DHMBHPSM 34/97; Children of Incarcerated Women: DHMBHPS 160/82 and 61/20; Children's Health in Prison: DHMBHPS 158/43; New Regulations for the Punishment of Children: DHMBHPS 158/49; and Regarding the Establishment of Prison Schools for Incarcerated Children: DHMBHPS 39/20.
66. BOA, DHMBHPSM 35/91.