

The Kokkalis Program on Southeastern and East-Central Europe
Harvard Kennedy School of Government

Western Impact and Turkey

Seminar series by Baskin Oran
no. 3 (October 26, 2009)

Minorities and Minority Rights (until 2001)

oran@politics.ankara.edu.tr

1

Definition of "Minority"

- International definition:
 - A citizen group (relatively small),
 - Non-dominant,
 - Different from the majority,
 - Determined to preserve this difference.
- Turkish definition: Non-Muslim citizens according to LPT.

2

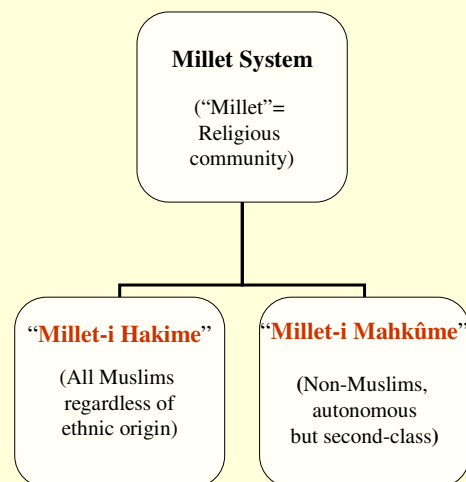
Minority Concept in Historical Perspective and the Ottoman Empire

- Problem and Concept non-existent before 16th C.
- 16th C. :
 - Emergence of the problem with the Reform movement and the Wars of Religion
 - Emergence of the concept with the start of **protection**: “Religious minorities” (end 16th C.) → “National minorities” (19th C.)
- 17th C. : Development of the protection - Encounters with the Ottoman Empire
 - After the Wars of Religion ended European States strived to protect Christians in the nearest neighborhood: Ottoman Empire
 - A good pretext for intervention and expansion.

3

Minorities and the Ottoman Empire

- No such concept; “Millet System” instead
- Officially abolished in 1839 but remained as Muslim mentality
- The birth of “*Ekalliyet*” concept in the 19th C. : Non-Muslims



4

Transfer of the Concept to Republican Turkey

- Millet System was codified in the Lausanne Treaty, arts. 37.-44
 - The “Dominated Millets” remained the same,
 - the “Dominant Millet” changed name: “Muslim” ⇒ “Muslim Turk”.
- Reasons for confining the concept to non-Muslims only:
 - Historical: The Millet System – “minority” is a denigration (Alevi and Kurds)
 - Political: To prevent intervention in domestic affairs,
 - Ideological: To cleanse the Nation of heterogeneous elements
- Unknown but important - Rights in Lausanne were not for non-Muslims only:
Four categories
 - All the inhabitants of Turkey,
 - All Turkish nationals,
 - Turkish nationals of non-Turkish speech,
 - Turkish nationals belonging to non-Muslim minorities.

5

Implementation of Minority Rights in LPT

- Rights of Muslims not implemented - Refusal to apply L. 39/4 to Kurds: *“All Turkish nationals have a right to use any language they wish in commerce, in public and private meetings and in all types of press and publication”*
 - 1930s: Fines applied to peasants speaking Kurdish in towns
 - Today: Candidates using Kurdish in electoral campaigns are jailed.
- Rights of non-Muslims not fully implemented
 - The “Big Three” only: Armenians, Jews, Rum (Greeks)
 - Not even the Big Three:
 - Restrictions in education (violation of arts. 40 and 42/3),
 - Language restrictions ('30s and '60s; violation of art. 40),
 - Restrictions imposed on minority religious foundations (violation of art. 42/3).

6

The “1936 Declaration”

- The 1936 “list of RE” - 1964 Cyprus - Act of foundation – Imperial edict - Confiscation of real estate (RE) regardless of the way of acquisition (buy, inheritance, bequeath, etc.)
- EU Reform Packages (2nd Modernization movement) stopped this practice in Aug. 2002
- The situation is much better now:
 - They can now acquire new RE,
 - They can register RE bequeathed by a will
- But:
 - The State is not returning confiscated RE, except those ordered by the ECtHR
 - Not able to register RE registered on fictitious names (saints, priests)
 - No solution to RE confiscated by the State and subsequently sold to third parties
- All this was described in the Minority Report published by the Advisory Council on Human Rights (Oct. 2004) (five years).

7

Prime Ministry’s Advisory Council on Human Rights and the Minority Report (2004) – Main Points

- 1) Minority definition and protection in Turkey (1923 Lausanne) fell well behind the actual W. European practice today
- 2) Turkey is violating even Lausanne itself
 - Because of Art. 3/1 and Art. 66 of the Constitution,
 - Because of certain important laws: The law on political parties; the law on religious foundations, etc.
 - Because of judiciary decisions: Courts close Kurdish parties; misuse the 1936 Declaration.
- 3) The basis of these violations are:
 - Theoretical basis: Infra-identities not respected - Everybody is called a “Turk”
 - Historical/Political basis: The Sevres Syndrome stemming from:
 - a) Reaction to globalization (EU);
 - b) Fear of the zombies;
 - c) Fear of losing the Dominant Millet status/privileges
- 4) Conclusion:
 - The term “Contemporary Civilisation” is still interpreted as the Europe of '30s,
 - Turk ⇒ **Türkiyeli** .

8

Legislation, Implementation, and Case Law concerning Minorities

(→ May 2001 EU Reform Packages)

9

Minority Legislation and Its Implementation - 1

Constitution Art. 3/1: "The State of Turkey, with its territory and nation, is an **indivisible** entity. Its **language** is Turkish."

– Indivisibility:

- Territory of the State is indivisible.
- But "nation indivisible" means rejection of infra-identities = Monopoly of the dominant ethnicity/religion = Rejection of democracy
- Result: Actions deemed as "violating the indivisible integrity of Turkey by creating minorities" are convicted.

– "Language of the State"

- vs. "The official language of the State"
- Law 2932 (⇒ 1991): "The mother tongue of Turkish citizens is Turkish"
- Constitution Art. 42: "No other language than Turkish can be taught as mother language"
- Law on Political Parties: : "No language other than Turkish can be used by political parties in congresses, meetings..." (violation of Lausanne 39/4).

10

Minority Legislation and Its Implementation - 2

Constitution Art. 66: "Everyone bound to the Turkish State through the bond of citizenship is a **Turk**".

- The meaning of Turk: **Race**
 - 1934 Settlement Law: "Turkish race" (*Türk Irkı ve Türk Soyü*)...
 - 2006 Settlement Law. "Aliens not from Turkish descent and not committed to Turkish culture are not admissible as immigrants".
 - May 2004 Citizenship Law amendment: "Racial situation (*soy durumu*) of applicants for Turkish citizenship will be investigated.

11

Minority Legislation and Its Implementation - 3

Constitution Art. 66: "Everyone bound to the Turkish State through the bond of citizenship is a **Turk**".

- The meaning of Turk: **Religion**
 - → end of 40s the non-Muslims were registered in the "Aliens' book"
 - Non-Muslims were discriminated as "G" category in 1942 Wealth Tax: 8 times
 - 1988 By-laws for Prevention of Sabotages, citing dangerous categories: "*Domestic Foreigners (Turkish citizens) inside the country*"
 - 2006, State Supervisory Council report: "Foreign foundations"
 - → Feb. 2007, Law on Private Schools, art. 24: "Assistant Director in foreign and minority schools will be a Turkish citizen of Turkish descent" (*Türk asıllı*)
 - Not a single non-Muslim as civil servant, except in the State Opera and State Universities.

12

Case Law on Minorities

- Constitutional Court
 - Since 1971, closed eleven political parties for “creating minorities and dividing the nation”.
- Court of Cassation
 - 1971, 74, 75 decisions concerning non-Muslim foundations: *“Juridical persons founded by non-Turks cannot buy RE”*.
- High Administrative Court
 - 1996 Decision concerning a Turkish citizen of Greek Orthodox descent: *“A foreign subject Turkish citizen”*.

13

Treatment of Non-Muslims

- 1) Ethno-religious cleansing:
 - 1923 Compulsory Exchange of Populations
 - 1964 Expulsion of Greeks
- 2) Attacks:
 - 1934 Jews of Thrace;
 - 6-7 September 1955 pogrom
 - 2000s: Attacks on Protestant missionaries
- 3) Pressures:
 - 1920-30s and 1960s: “Citizen, Speak Turkish!” campaigns
 - 1920s and present: Pressures on Phanar Patriarchate
- 4) Non-application of certain laws and international treaties (Lausanne):
 - 1926 church marriage banned; 1927 Imbros & Tenedos education in Greek banned; 1971 Theology Seminar closed; 1993 education in Armenian banned for a short time
- 5) Discrimination:
 - 1924: New Law on Attorneys discarded 75 % of the Greeks and 73 % of the Armenians (Muslims: 47 %);
 - 1925-30: Prohibition to travel outside of Istanbul;
 - 1930s: *“Citizen, Use Turkish Products”* → 1950s: *“Don’t Buy from the Non-Turks”*;
 - 1941-42: Non-Muslims drafted in labor battalions;
 - 1942: Wealth Tax;
 - Late 1960s to present: 1936 Declaration.

14

Systematic Policy: Motivations and Consequences

- Motivations:
 - Build a homogeneous Turkish nation
 - Transfer the non-Muslim capital to Muslim Turks
- Consequences:
 - Turkey's international prestige badly hurt,
 - Cleansing centuries-old non-Muslim middle class ("Total Independence") delayed Turkey's industrialization (economic modernization) (Jews of Spain, Huguenots of France),
 - This "expensive" nationalism did not reach its "Total Independence" purpose anyway ("National bourgeoisie" vs. "maximization of profits").

15

Conclusion Analysis of the Practice Concerning Minorities (Muslim & Non-Muslim)

- Basic Assumption of Nationalist Mentality: "Monism and Unity are the same thing"
As a result, minority is considered harmful to "Indivisible unity of the State and of the Nation"
- Sources of this Mentality
 - Theoretical: **Turkish Supremacy** – Infra identities not recognized; supra identity not territorial but ethnic (Turk)
 - Politico-Historical: **Turkish Fear** - The Sevres Paranoia and the "Chosen Trauma"
 - Greeks will revive Pontus Kingdom;
 - the Dönme (converted Jews) are selling the country;
 - Kurdistan will occupy Southeast;
 - Phanar will become a Vatican, etc.

16

Main Source

- B. Oran, *Türkiye’de Azınlıklar, Kavramlar – Teori – Lozan – İç mevzuat – İçtihat – Uygulama*, 5th printing, İstanbul, İletişim Publishers, 2008, 280 p. (**“Minorities in Turkey – Concepts, Theory, Lausanne; Legislation, Case-law, Implementation**).
- Also see several related documents: www.baskinoran.com / Other Languages / Important Documents, the last four documents
- Also see several related articles: www.baskinoran.com / Other Languages / Academic articles