

Deutsch-Türkisches Forum für Staatsrechtslehre

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Deutsch-Türkisches Forum für Staatsrechtslehre III

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Minorities in Turkey and in the EU

Baskin Oran

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The issue of minorities presents quite a problem in the relations between Turkey and the EU.¹ This is because - simply put - both sides understand very different things when they refer to the concepts of minorities and to minority rights.

According to the EU, a minority is a non-dominant group of people different from the majority, who considers this difference the backbone of its identity. Again for the EU, minority rights require that the members of this non-dominant group enjoy the same rights as the members of the dominant majority, and no less. They therefore aim for real equality.

In Turkey "minority" simply means "non-Muslim". Again in Turkish usage, minority rights simply and only refer to the non-Muslims' *minority status* as stipulated in the Lausanne Peace Treaty, articles 37-44. Turks do not perceive the presence of a minority and its legal status as two different notions.

I. The historical setting: The Millet System

The reasons for this difference in the realm of notions should be studied under the light of the Millet System of the Ottoman Empire. Initiated way back in 1454 and officially applied until 1839, this system is still vivid in the minds of every citizen of the Republic today. Let me explain this system briefly.

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In a multi-religious/ethnic/confessional medieval empire dominated by the Muslim Turks and therefore run according to the Holy Law of Islam, the subjects of the Sultan were divided into two categories: Muslims and non-Muslims.

The first, composed of all the Muslims regardless of ethnic origin and considered one single "Muslim Nation" (*Islam Milleti*), was called the "Dominant Nation" (*Millet-i Hakime*), "nation" meaning religious community, of course.

The second, composed of non-Muslims from various religions "of the Book", and of different confessions, was called the "Dominated Nation" (*Millet-i Mabkume*). It included many "nations" which were autonomous in many respects, from education to religious practice to church/community tax collection. On the other hand, they were in no way equal to Muslims: A male Muslim could marry and could testify for/against a non-Muslim but the reverse was not possible, etc.

Hence, this System had two very distinct characteristics: It was multicultural, and it was discriminatory.

As the Ottoman society was influenced by the West starting from 1839 mainly, the first characteristic tended to disappear and the second to emerge. The latter is what forms the definition of minority in the minds of people in Turkey today: Minority means non-Muslim, a second class citizen. What's more, it is considered a dividing factor, thus the "enemy within", because the Great Powers, at least after 1878, endeavored to use them to interfere with the domestic affairs of the Empire.

All this explains at least two things the Westerners usually find difficult to understand:

1) In the very laicist Turkey² the definition of the "Turk" is also made by the individual's religious belonging: A Turk today is necessarily a Muslim. A non-Muslim is not considered a "Turk"; he/she is called "Armenian citizen" for instance, or simply "Citizen" as witnessed in the discriminatory campaigns of the 1930s and 60s: "*Vatandas Turke Konus!*" (Citizen! Speak Turkish!). The non-Muslims do not consider themselves "Turk" either, because they are also tainted with this state of mind.

² The extremely Jacobin Turkish State still refuses to admit female students with a headscarf to universities. I would like to profit from this occasion to state that the recent "Leyla Sahin vs. Turkey" decision of the European Court of Human Rights is: a) legally wrong because it represents an open discrimination. These female students are there to seek a service from the State; they do not represent the secular State; b) morally incorrect for Europe because nowhere in Europe are the female students banned from universities on grounds of headgear; c) scandalous from the angle of liberal integrity because this decision would never have been taken prior to 9/11; and d) dangerous for Turkey (and, by extension, to the EU) because the "1920s Model" Kemalist interpretation has thus become stronger in resisting the EU Reforms being initiated since October 2001 to bring Turkey closer to European democracy.

2) Non-dominant non non-Muslim communities such as the Kurds and the Alevis categorically refuse to be called "minority"; they take it as an insult. They consider themselves a "constituent and essential element" of the State, and this is a very faithful reflection of the "*Millet-i Hakime*" mentality.

II. The Situation Today

Besides from the historical setting, there are mainly two reasons why the issue of minorities is a thorny one in EU-Turkey relations.

1. Reactions against democratization from above

In developing countries reforms (and democratization) are initiated by external dynamics, the internal dynamics being too weak to start it. This can be done only, of course, if the internal dynamics of the country are developed enough for such an ignition: Democracy can never be exported³; it can only be imported, the importers being the Western-educated petty bourgeois intellectuals⁴.

Turkey has experienced this revolution from above twice so far. Once in the 1920's with the Kemalist reforms, and now in early 2000, in the form of EU-Harmonization (reform) Packages. Both were met with reaction, as all actions do. The one in the 1920's was met with relatively weak reaction because there was no democracy and because M. Kemal, The Leader, had just emerged triumphantly from the War of Independence. In this endeavor the revolution has strived (and largely succeeded) to make a transition from a Feudal State to a monistic Nation-State⁵ during which the "subject" of the Sultan became the "citizen" of the Repub-

³ It would only be a cover for imperialism then: "Carrying the religion of God", "White man's burden", "Mission civilisatrice", "Bringing democracy to Iraq", and similar efforts for legitimization.

⁴ "Intellectuals" is hardly a proper denomination for "*aydın*" in Turkish. This latter term derives from "*aydınlanma*", the Enlightenment of the 17th-18th Centuries Europe. In fact, *aydın* is the social stratum (not class) that strives to simulate the Western Enlightenment in its own country: As a matter of fact *aydın* is "the product of modernization before modernization reaches its country" (John Kautsky, Political Change in Underdeveloped Countries: Nationalism and Communism, N.Y., John Wiley and Sons, 1962, p.46).

⁵ Nation-State is the type of State that claims its nation is mono-ethnic, and therefore strives to assimilate "the different".

lic. The result was transition from “Ottoman” to “Turkish” as supra-identity, although not all the ethnic sub-identities, the Kurds in particular, were Turkish. Now in the 21st century, the second stage of this bourgeois-democratic revolution is taking place: By promulgating the EU-Harmonization Packages under EU pressure, Turkey is shyly trying to transcend the monistic Nation-State to reach the Democratic State. As a result the “compulsory” citizen of the Nation-State will become the “voluntary” citizen through the replacement of a supra-identity with an ethnic connotation (“Turk”) by a territorially-defined notion: “*Türkiyeli*” (of Turkey, citizen of Turkey⁶), and through respect payed to ethnic/religious sub-identities. This second stage is encountering very strong reaction because of a certain number of reasons:

- a) When compared to the 1920’s Turkey, we now have democracy;
- b) Because of its Islamist roots and past, the main proponent of the EU reforms, the Justice and Development Party (AKP) in power, lacks legitimacy when compared to M. Kemal Atatürk especially;
- c) A very conservative “1920 Model” of Kemalist bureaucracy, formed during some eighty years of Kemalist education, shows great resistance, claiming that democracy permitting free expression of sub-identities will split the nation and disintegrate the State. As a matter of fact, this resistance is the backbone of the reaction shown to the EU Packages.

This is quite an interesting phenomenon, because those who react in these ways to the modernization of the 21st century are the “grandsons” of those who were responsible for starting the first wave of modernization in the 1920’s, and those who are pushing forward the revolution from above now are the “grandsons” of those

⁶ *Türkiyeli* derives from Turk, of course, and this is why a segment of Kurdish nationalists are against it. But this is the name given to this country by the Venetians since the time of the Crusades, and especially since the beginnings of the Ottoman Empire. Turk, on the other hand, is the name given to this People by the Chinese: some people and countries are named from abroad. The “Minority and Cultural Rights Report” produced in October 2004 by the Consultative Council on Human Rights attached to the Prime Ministry was the first official document to mention this term, as a result of which I am now facing (December 2005) a five year prison term as its writer for “inciting people to hatred and enmity” and for “openly denigrating judicial organs of the State”. In this respect the said Report read: “This situation alienated the other sub-identities who do not consider themselves of the Turkish race, and created problems. This wouldn’t have happened had the supra-identity been “*Türkiyeli*” (“being from Turkey”). Because then it would have equally embraced all sub-identities without involving ethnic, religious etc. aspects, since it is fully based on “territory” and completely ignores “blood”. The English translation of this Report and of the Prosecutor’s Indictment can be requested by email.

who gave the religious reaction to the modernization in the 1920's. The first picture shows the defeat of Kemalism, the second its victory; two in one. A perfect dichotomy.

d) In an atmosphere of devastating globalization where all the national identities feel most threatened (just remember what happened at the EU Constitution referenda in France and in Holland), it is only normal that Turkey is shaken to the bones in a Sevres Paranoia⁷.

e) Kurdish nationalism in the form of PKK, still insistent in terrorism, is only strengthening Turkish nationalism and its paranoia.

2. *Mistakes of the EU*

The EU officials are rightfully imposing the Copenhagen Criteria on Turkey. But besides from this, at every milestone of the already difficult march towards membership, they are putting forward new criteria which have nothing to do with Copenhagen: The Armenian question, Cyprus, etc. This just seems too much for the people of Turkey and makes life very difficult for the human rights defenders. On the other hand, the EU has so far been completely impotent vis-a-vis the Cyprus Greeks who refused the Annan Plan and did nothing to assist the isolation of the Turkish Cypriots who voted yes.

⁷ Sevres Paranoia refers to the following state of mind prevalent among many Turks today: "Our Western allies, the very same countries who tried to partition us by the 10 August 1920 Sevres Peace Treaty, are going to disintegrate our country by imposing what they call human and minority rights".