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Reciprocity in Turco-Greek Relations – The Case of Minorities

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- The Principle of Reciprocity (R), “tit for tat”, emerged as a very important and useful institution of International Law because that law had no hierarchical authority or a centralized enforcement.

As such, it was very consistent with the principles of sovereignty and self-help characterizing such a setting, and was probably the most effective, in not the only, means to ensure that the principle of *pacta sund servanda* was honored, i.e., that anarchy did not prevail.

- As such, R. between states represented a reflection into the collective field of the logic of the Blood Feud principle between individuals: it was meant to prevent killings under threat that other killings would follow.

- At that time the only subjects of International Law were the States. Therefore, R. was meant to be applied between states.

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- R. had an inherent weakness: It returned ill for ill as well as good for good. In other words, in degenerated first into retaliation and then into reprisals; and because of that, once violated, it quickly yielded the exact opposite of what it was meant for. So much so that, in time, it became practically impossible to know “who started it in the first place”.

Mark Twain, in his Huckleberry Finn, describes only too well this diabolic process of blood feud between the Grangerfords and the Shepherdsons once a killing was committed:

“What was the trouble about, Buck, land?”

“How do I know? It was so long ago!”

“Don’t anybody know?”

“Oh, yes, pa knows, and some older people know, but they don’t know who has done it in the first place!”.

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- In time, international society developed, and with it went hand in hand the development of International Law. International Law evolved into International Public Law and other actors emerged on the scene as subjects of this law, and among them, the Individual.

- Consequently, a very important branch of this Law began to protect the Individual.

- When the Individual became a key element in International Public Law, the principle of R. lost its most important characteristic: that of being applied between states.

- One terminal point of this process is the 1950 European Convention on Human Rights based here in Strasbourg. The very moment R. was applied, The Convention was doomed to whither away.

- Another terminal point was art. 60/5 of the 1969 Vienna Convention on the Law of Treaties: R. does not apply to provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular to provisions prohibiting any form of reprisals against persons protected by such treaties. Ratified by 93 countries as of 2002, this art. 60/5 can now be said to represent an “objective statute” as well as it represents the customary law.

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- Greek-Turkish relations in the field of Minorities is a very important case-study in this process because R., from the very beginning, was understood and applied in a most negative sense.

- It’s true that, well until the end of WW II, reciprocity was a key principle of minority treaties also. This atmosphere has been so strong that, even in our day, some segments of these minorities, imbued with the sprit of nationalism, have internalized this principle which but destroyed them; it’s unbelievable but they demand its stricter and wider implementation. They still do not understand that their well-being only depends on the well-being of their counterparts in the other country.

Happily enough, these are very much minority in a minority. Since mid-90s things have reversed for the good, probably thanks to the EU that punches Turkey over the table and kicks Greece under the table. But I must also add that the Judiciary of both parties resist this positive process with great “success”, as shown by the closure of Iskece Turk Birligi in Greece and the still unresolved problems of non-Muslim foundations in Turkey.

- Contrary to what many might still believe, I must say that Art. 45 of Lausanne is not about reciprocity. It’s about what one would be inclined to describe as “parallel obligations”; i.e., Turkey will apply the provisions of Section III to her non-Muslim minorities and Greece will do the same to her Muslim minorities. These obligations are in no way dependent on the practice of the other. They are be applied by the two respective states individually and independently.

(*What’s more, this Section III of Lausanne is not only a document on the Protection of Minorities, although its subtitle suggests this. It’s also a document of Human Rights. It has not been named as such because the term Human Rights did not exist in international law at that time; it’s an invention of post-WW II period.*

*In fact, there are four categories the rights of which are protected by arts. 38-44, and minorities (non-Muslims in Turkey and Muslims in Greece) are only one among them; to cite: 1) All inhabitants of Turkey; 2) Citizens speaking another language than Turkish, 3) All citizens of Turkey, and 4) Non-Muslim citizens).*

- This interpretation can in to way be challenged in International Law especially under the developments post-WW II briefly described above.

- On the other hand, they can in no way be challenged under national law, either. Precisely because reciprocity in Greco-Turkish relations on minority issues resulted in a truly tragicomic situation that concern national laws of both countries: Both parties not only penalize individuals for things they haven’t done, but while trying to penalize the other State through penalizing this other State’s kinsmen, they in fact penalize their own citizens.