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A Brief Overview about Non-Muslim's Legal Status and Rights in the Ottoman Empire

Abstract. This study aims to inform the reader about the rights of non-Muslim people, also known as “Dhimmi” in Arabic, who were living in the Ottoman lands. Briefly the position of non-Muslims in the Ottoman Empire according to Islamic law will be mentioned. Thereafter, the concepts of “nation” and “citizen” that were changed with the declarations of Tanzimat (Imperial Edict of Reorganization of 1839) and Islahat (Imperial Reform Edict of 1856) Reforms in 19th century will be explained.

Key Words: Ottoman Empire, Islamic Law, Non-Muslim, Dhimmi, Millet (Nation) System, Tanzimat Edict and Islahat Edict

The legal system of the Ottoman State was mostly based on Islamic Law until the 19th century. Therefore, the legal rights and responsibilities of non-Muslims living in the Ottoman lands were regulated by Islamic law. For this reason, before discussing the situation of non-Muslims in the Ottoman Empire, it would be better to give some information about Islamic Law.

In Islamic Law, society is based on faith rather than language and/or race, and human societies are further divided into Muslims and non-Muslims. This was called Millet (Nation) System. Non-Muslims among themselves were separated as those who were in peace and war. Those from non-Muslims in peace who accepted Muslim patronage in peace were called dhimmis. The meaning of this word was “those who were entrusted, those who were under Muslim responsibilities for their safety.” Non-Muslims were subject to different laws from Muslims in the Ottoman Empire. These differences and rights can be summarized as follows:

Non-Muslims, usually living side by side in their neighborhoods, were banned from inhabiting in some Muslim holy regions. Their homes were also different in color and height from those of Muslims. By the edicts, the height of the houses to be built was determined, a higher limit was set for Muslims and a lower limit for non-Muslims. There were also restrictions on the clothing of non-Muslims. They had to dress in different colors and fabrics with different headwear; dressing in silk clothes and fur was banned for economic reasons. They had to use a different color of towels in the hamams (Turkish Baths). Moreover, they were also banned from riding horses and carrying weapons without permission. They were not responsible to do military service because of the same ban. Because of their exemption from military service, they had to pay a tax, which was called Jizya (poll tax).

Despite these restrictions on the social side, they had complete freedom of conscience. Their religious buildings, cemeteries, and foundations were not interfered with. For their freedom of worship, there were some restrictions, such as a bell play prohibition, in order not to disturb the Muslims.

As for the legal restrictions; the most important limit was that they were not accepted into the public services. Only Muslims could serve as civil servants in the Ottoman Empire. The other main restrictions were, in terms of the procedural law; they could not testify against Muslims in the courts and in terms family law; non-Muslim men were not allowed to marry Muslim women. In the field of the inheritance law, there was a rule that those who were from different religion could not be heirs to each other. In the field of the criminal law, they were totally equal with Muslims. Moreover, in Ottoman Criminal Law, we encounter an interesting rule which was not in Islamic Law: A non-Muslim who committed a crime was given half of the sentence given to the Muslim who committed the same crime.

The Ottoman non-Muslims were hierarchically organized by the religious institutions they belonged to. Every non-Muslims community had its own religious leaders such as patriarch or rabbi. These leaders were selected by their own communities and approved by the state. These religious leaders could perform this responsibility for a lifetime unless they betrayed the homeland or acted contrary to the rules of their own community. The community leaders collected taxes from their community to meet expenses of religious, financial and legal affairs. But they were under the control of the state in order not to overtax the members of their community. Cases arising from the issues of non-Muslims' private law were tried in the courts established in the patriarchs. A non-Muslim community member could also take his/her case to Ottoman courts.

The Period of Tanzimat and Islahat Reform Edicts

These rules, which were valid before the Tanzimat period, had undergone change with the edict of the Tanzimat in 1839 and the "nation" system based on religion had been abolished and replaced with the concept of "Ottoman citizen".

Citizenship in the Ottoman Empire was determined according to religious principle, not based on ethnicity or language. In other words, while Turks, Arabs, Bosnians and Albanians being Muslims were considered Muslim nation without distinction, non-Muslims living under the sovereignty of the state were divided into classes according to their sect or religion, and each community was governed in a system called the nation.

In the Ottoman Empire, there were in general three non-Muslim nations. In this nation system composed of Greeks, Armenians and Jews, the highest-ranking head of every religion elected by their community was tasked to organize the affairs of their own community, to carry out and manage the legal affairs. The religious leaders' legal and administrative authorities on their communities were determined by a decree granted to them by the Sultans. The religious leaders were tasked to manage the property of their own community, conduct the religious ceremonies and collect the taxes. Apart from those, the religious leaders also had the duty to perform marriages, divorces and inheritance shares of their community members.

However, the concept of religion in the theocratic Ottoman State was not considered anymore as a criterion for law with the Tanzimat Edict. For the first time, everyone who lived in the Ottoman territory would benefit from the same rights and security without regard to differences, and they would be subject to the same

obligations. That is, a single, common legal system was intended to be practiced by all who lived in the Ottoman territories, regardless of any differences between a non-Muslims or Muslims.

The idea of nationalism that spread after the French Revolution and the incitement policy of foreign countries to non-Muslims' independence made it impossible to maintain the "nation system". Ottomans created a new idea to prevent non-Muslims' separation from the empire and founding their own states. This idea was called Ottomanism. Ottomanism meant "we, Muslims, Christians, Jews all are Ottomans and live together forever".

And therefore, the state let non-Muslims work in public services and be civil servants. They could be representatives in the statehouses of the provinces and counties in the Ottoman territories. They could be members at new modern Ottoman courts to implement trade, maritime trade, penalties, jurisdictions and criminal proceedings taken from the West. They were accepted into all educational institutions, including military schools. The rules of Islamic law, which provided taxation under a different name from non-Muslims, were also abolished.

The most important development in terms of determining the legal status of non-Muslim Ottoman citizens was undoubtedly the declaration of Islahat (Reform) Edict (1856). According to the edict, all Ottoman citizens would be accepted to public services, military and municipal schools without any distinction. Another reform was that commercial and criminal cases between Muslims and non-Muslims would be settled in ordinary courts and non-Muslims would be equal to Muslims to testify in courts. In addition, non-Muslim men would do the duty of military services. However, they were not satisfied with the military duty. The religious leaders overreacted to the withdrawal of their old privileges and their secular powers.

However, while trying to create equality for all citizens in the country, the aimed legal unity was not able to be provided due to the privileges granted to non-Muslims and foreigners.

The Greek Patriarchate Regulation was adopted in 1862, the Armenian Gregorian Regulation in 1863, and the Jewish Regulation in 1865. These arrangements helped the Ottoman non-Muslims to continue to be "privileged communities". On the other hand, Western countries, made great efforts to awaken their nationalism consciousness and to remove obstacles on their way to independence, and continually intervened in the Ottoman law and policy systems. Non-Muslims immediately recognized this and skillfully used the sympathies of the European states to their advantage. The reformist Ottoman statesmen had been constantly trying to prevent non-Muslims from turning to the Great Powers by recognizing new rights to them. However, an unpredictable point was that the great states used unlimited political ambitions on the Ottoman lands and non-Muslims to dismember the Ottoman state.

As a result, when the First World War began, it was clear that the idea of Ottomanism did not yield the expected end, and non-Muslims almost dissociated from the Ottoman State, with the idea of nationalism, the West succeeded on the purpose of collapsing the Ottoman State from the inside.

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