The Modern Shaping of “Minorities” in the Post-Ottoman Era: An Anachronism in Service of Sectarian Powers and Nation-States

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As an innovative system of protection based on the identification of non-Muslim communities within the Ottoman Empire, the Millet system led to the institutionalisation of ‘minorities’ within post-Ottoman states of the Middle East. In a global historical context, labelling of the ‘minority’ referred to the process of identification of ‘the Other’ under a protective legal agenda. It echoes concern for ‘the ill-treatment of the Other’. This is precisely how Ottoman authorities introduced it in the late 19th in an attempt to foster a protective regime able to contain centrifuge forces threatening the empire by delegating power, control and prerogatives to local elites. This is also how, upon independence, national States readily advertised them, boasting sectarian equality or a protective legal formula for the minorities. Draped in the gratifying
costumes of political modernity and enlightened agenda, this discourse fails to acknowledge the ingrained ambiguities of a regime that kept religious and lay elites as the exclusive intermediaries between the governed population and the governing entity. Doing so, it belies the national interests at stake in preserving religious or sectarian prerogatives up to this day and at the expenses of individual citizens.

I. Introduction

An enduring romanticised representation of the late Ottoman era depicts this era, together with its ‘millet’ system, as a peaceful model of religious coexistence. Restoration of Ottoman nostalgia as a beacon of tolerance especially re-awakened towards the end of the 20th century when the very idea of the nation-state came into crisis. These ‘nostalgic accounts’ and ‘fascinations’ are at times premised on a failure by the state to impose national unity, as manifested by the recurrence of intra-national conflicts showcased in the wake of wars in Yugoslavia, Lebanon, and Iraq. Rehabilitated

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versions of the millet administration are seen as ‘beneficial’ solutions, or ‘useful examples’ to cure the weakness of the national ideal and the ‘disease of nationalism’. This powerful representation of the Ottoman ability to control and delegate control has been reflected in recent academia, the media, and the film industry, which has been copiously dwelling on the Empire’s glory days. In Turkey, television shows such as *The Magnificent Century*, and films like *Conquest 1453* – a retelling of the taking of Constantinople – are popular examples of this sentiment. They echo a political resurrection of the Ottoman Empire’s glorious past and reflect a tendency to reclaim Ottoman legacies within public spaces (museums, theme parks). Implicitly, they draw attention and, at times, outright publicize a progressive, enlightened and ground-breaking Turkish tolerance towards minorities. Another national case in point could be Lebanon, where a civil war and ensuing collapse of public infrastructures has profoundly discredited the state and triggered nostalgic accounts for an Ottoman period presumed to be characterized by peaceful coexistence, social order and prosperity.

Against the backdrop of states’ internal struggles and centrifuge forces, the very idea of minority communities

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received revived interest as a chief component of the state incapacity to protect and its inadequacy to conceptually and practically embrace various groups in this part of the world. The permanence of instability and violence contributed to a re-questioning of territorial modes of organization:

Decades of secessionist conflicts and (...) wars have laid bare the inadequacies of territorial autonomy as an ordering principle to keep states together and minorities content. (...) Interest in the millet system will only grow as academia and the policy worlds search for a way out of the current crisis of the nation state.\(^4\)

At the same time, the conceptual rise of the ‘minority discourse’ came alongside a growing cultural reading of the region as an essentially fragmented space under an interventionist, protectionist agenda: minorities have taken a thriving share as a relevant category to conceptually capture reality in the Middle East (as opposed to other categories such as people, social or ethnic groups etc.). This tendency echoed a consistent pattern of international intervention in the name of minority protection.

The implicit imaginary yet belies the modernity of ‘minority’ as a political and legal concept introduced in the late 19\(^{th}\) century and institutionalised throughout the 20\(^{th}\) century.

Minorities – understood as legally recognized sectarian communities in post-Ottoman states – have been associated with the legacy of the millet. As a loosely institutionalized system, the millet has been deemed to be a ‘set of arrangements, largely local, with considerable variation over

\(^4\) Barkey and Gavrilis (n 1) 25.
time and place.'

As historical religious or ethno-religious communities, millets have been identified as the bedrock reality behind minorities, both as shaping identities and as protective legal regimes. Following the dismembering of the Ottoman Empire, European powers followed on from already forged local elites, and introduced or further institutionalized communal prerogatives within the modern legal system through different legal instruments such as the Lausanne Treaty, Mandate Treaties, the British Unilateral Declaration of Egyptian Independence, internal legislation, codified religious personal status laws in Lebanon and Syria, and the Lebanese Constitution, among others. Minorities were further institutionalised under the treaty-based regime that emerged in the interwar period under Western championing. Minority protection was then introduced in Eastern and Central European states as part of internationally supervised mechanisms which came together with the need to administer the fate of fallen Empires by leading processes of nation-building: ‘the great experiment of the minority treaty system, one of the important precursors of international human rights law, was animated by the idea of

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qualifying sovereign rights’.  

Beyond the contemporary relevance of ‘minorities’ as a concept to capture enduring social realities, the modern legal shaping of minorities within post-Ottoman nation-states thus deeply interrogates the relationship between central states, religious or sectarian leaderships, and the individual they claim to represent or protect. The historical review, and contemporary fallouts, of a century-old collusion between States and local elites implies to review the Ottoman legacy and its constitution of social, political and legal institutions under an innovative model to administer differences within the Empire (considered in Part 1). Although informal in nature, these arrangements laid down the social, legal and political ground to be further institutionalized within post-independence nation-States, securing sectarian or minority prerogatives and powers all the while perpetuating fundamental ambiguities (considered in Part 2).

II. The ‘Millet Policy’

A New Model to Manage Differences

The millet idea of Ottoman gradual recognition of national and religious differences is symptomatic of a paradigmatic shift from religious Sunni supremacy toward the recognition of national, ethnic or non-Muslim spaces for self-governance. This is reflected in the idea that,

The gradual dissolution of the Ottoman Empire (...) could be described from another, entirely different

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standpoint: that of the progressive collapse of a cultural value system based on the predominance of the religious element, and its replacement by the principle of the nation-state.\textsuperscript{8}

As a way to sustain the Empire’s unity by delegating power, the millet system was a local response to the emerging idea of national autonomy: ‘national cultural autonomy model (…) was proposed in order to manage ethno-religious conflicts’.\textsuperscript{9} As such, recognition of religious and national plurality, rather than assimilationist aspiration, was the rule within the Ottoman Empire, up to the emergence of pan-Islamism and pan-Turkism in the late 19\textsuperscript{th} and early 20\textsuperscript{th} century.

This system has been remembered as a famous formula for non-territorial autonomy and indirect rule as it was used by the Ottomans to manage pluralism within its conquered territory by creating communities and delegating power to intermediaries and leaders.

Contemporaries’ responses help explain the function of the millet system as an innovation towards managing differences within empires and a shared understanding that the millet system was a compromised formula to handle diversity and curb centrifuge forces and nationalist separatist leanings. European critics saw in it a form of ‘mongrel liberalality and rampant fanaticism’\textsuperscript{10} unable to address the challenge of emerging nationalism threatening the empire. At the same time, some elements of the millet system were reproduced within the Austro-Hungarian and Russian empires as a means to manage religious diversity by granting non-

\textsuperscript{8} Stamatopoulos (n 6) 253.
\textsuperscript{9} Barkey and Gavrili (n 1) 29.
\textsuperscript{10} C M Churchill, Mount Lebanon: A ten years’ residence - Vol. IV (London Saunders and Otley 1862) 3.
territorial autonomy.\textsuperscript{11}

As such, the millet system was surely meant to strike a compromise and prevent the emergence of opposition against the central Ottoman authority by investing local representatives as intermediaries with responsibility to create peace and order. It was also conceived to prevent the formation of alternative allegiances by grouping communities spread across vast and distant territories under one same millet. This resulted in the ‘overall effect of preventing the consolidation of large-scale territorial movements against the state.’\textsuperscript{12} Nationalist or other local movements were further prevented from emerging through practices of population transfer: the strategic implantation of Sunni populations amidst Christian areas in order to change demographic balances and restore Ottoman domination against possible local alliances. This practice foreshadowed latter Ottoman violence, such as the infamous Armenian massacres\textsuperscript{13}.

The ‘millet compromise’ represented mutually beneficial arrangements between the state and communities’ representatives: securing popular support towards the Porte by granting recognition and autonomy in religious, education and legal matters, outsourcing local conflicts to local leaders under the understanding that ‘The state gave up its control of the internal dynamics of the community in return for regular taxation and cohesive and obedient administration.’\textsuperscript{14}

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\textsuperscript{11} Barkey and Gavrilis (n 1) 29.  
\textsuperscript{12} Barkey and Gavrilis (n 1) 26.  
\textsuperscript{13} Stamatopoulos (n 6) 267-268.  
\textsuperscript{14} Barkey and Gavrilis (n 1) 24-26.
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The Emergence of Lasting Social, Legal and Cultural Institutions

The shaping of institutions resulted from the Ottoman central authority’s allocation of local autonomy and power transfer: the distinctive community only appeared as it was created, distinguished and recognized by the central power, and whenever that local power came in a position to challenge central authority, the latter intervened to alter local dynamics, demographics and balances.

As such, three basic non-Muslim religious communities were to be gradually recognized during the ‘classical age’ of the Ottoman Empire between 1453 and 1566: that of the Greek Orthodox (‘Rum’, under the authority of the Orthodox Patriarchate of Constantinople in the Balkan and Asia Minor populations), the Armenian (Gregorian and other Christian groups such as the Copts of Egypt), and the Jewish (Romaniotes, Sephardic and Ashkenazis) which were, in the 19th century, the last to be recognized.

The guarantee of a ‘sense of localism’ was made possible through self-governing religious and political institutions that administered on restrained portions of the territories, respectful of particularisms and cultures, thus concurrently creating ‘religious universalism and local parochialism’.

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15 Stamatopoulos (n 6) 253.
16 Stamatopoulos (n 6) 253.
This translated into legal pluralism and the progressive development of a rights-based system through ad hoc agreements negotiated between the Porte and local leaders that allowed for the emergence of a local leadership. The millets were granted protection as well as organizational, administrative and cultural autonomy in exchange of the payment of a tax. This was therefore able to secure the Ottoman Empire’s stability, by granting leaders the ability to conduct religious practice along local particularism (specific rites, languages etc.).

Legal pluralism was produced by a dual legal system, where Sunni ‘qadi’ courts as a means of appeal coexisted alongside religious communities’ courts that were meant for ‘personal and community affairs and disputes’ ruled by specific personal status laws. This gave communities autonomy in managing grievances while ensuring that ‘the state was maintaining order and security’. Together with social and cultural autonomy, it enabled communities to preserve local diversity, maintain choice, and develop internal cohesion despite, or alongside, Ottoman rule, whose tutelage was fairly favourably seen by local urban elites, especially in comparison with latter European control.

The collective achievements that were obtained, and the institutions that resulted from them, were later taken on as legitimate ground for continued, institutionalised, recognition and state protection. Post-Ottoman political structuration within the Mandates and nation states followed

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18 Barkey and Gavrilis (n 1) 27.
19 Barkey and Gavrilis (n 1) 27.
20 Barkey and Gavrilis (n 1) 27.
on from such arrangements by further institutionalising them through domestic and international laws.

III. Minorities Within Nation-States

From Millets to Minorities: The Continuity of Institutions

The relationship between the state and minorities can be seen as reproducing the millet ‘dynamic of difference’ where the minority group is understood as the ‘primitive’ other. Minorities ought to be ruled over in order to secure the modern and universal state, which is meant to transcend traditions of the particular and the interests of minorities to become both the recipient of allegiance and the source of authority.

The Millet system in itself is a reflection of a broader Ottoman policy meant to spur political modernity – in that sense it foreshadows the replacement of a system based on religious dominance onto the idea of the nation-state. Its persistence within national institutions indicates that its laws and spirit were translated, included and institutionalized at the inception of nation-states. The memory of the empire in the forms of the millet system echoes persisting and strongly anchored modes of functioning. Especially in the field of personal status laws, legal pluralism and judicial autonomy was reproduced within nation-states. This reproduction of delegation of powers from the central states to communities finds explanation in the fact that ‘for centuries, groups and individuals had been accustomed to responding to state demands and exigencies within the protective shield of the

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22 Anghie (n 7) 205-6.
community’ as well as the reluctance of religious and laymen leadership to relinquish the privileges and powers obtained under Ottoman rule.

Milles-like communities were to be recognized, such as in Israel (14 communities), or in Lebanon (18) and enabled the continuity of local elites, which maintained their roles as intermediaries after the dismembering of the empire. In Israel, the state granted to the communities’ jurisdiction over personal status affairs. This has been interpreted as a tool for nation building, as evidence of the attempt to maintain formal separation between Jews and non-Jews and amongst non-Jewish communities between themselves, and to strengthen Jewish unity and identity as an indivisible whole. When independent legal status did not pre-existed, it was purposely created, such as the Druze. In Lebanon, a very similar legacy has given birth to a ‘sectarian’ system whereby religious and sectarian institutions and leaders are given constitutional jurisdiction and prerogatives over a series of field (education, political quotas, personal status). The system takes on after already existing Ottoman structures (courts, laws, schools, recognized local leaders), yet formally institutionalise them within modern legal system promulgated by the French (Article 9 and 10 of the 1926 Lebanese Constitution, successive decrees recognizing

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23 Barkey and Gavrilis (n 1) 31.
communities) and upon independence (National Pact of 1943).

Both Israeli and Lebanese version of the millet system has proved unequal, exclusionary and has similarly left individual rights dependant to religious rule and deprived from civil laws pertaining to personal status. The system has thus blocked any secular advancement meant to promote individual and equal rights. Lebanese sectarianism, since its inception but especially also following the civil war, was widely criticized and identified as the root cause for instability and lack of national cohesion perpetuating corrupt practices, patronage, and preventing a secular state from emerging as a means to apply the principle of citizenship and grant equal civic rights.

In other national context, where religious domination of Sunni rule was to be taken as a national principle, such as in Egypt, it led to the recognition of national minorities. The state extended the Ottoman-initiated legal autonomy in personal status affairs to Coptic religious authorities and the Coptic clergy was maintained as an unchallenged intermediary between individual citizens and the State. This situation ‘gave little to no room for Copts to fight for more equal civil rights’ and further asserted religious domination over individuals.

All three national models highlight the continued complicity between local community leaders - which benefit from autonomy, funding, local power over their communities - and central states, at the expenses of individual national subjects. In 2007, the Coptic leadership’s allegiance to the regime, its backing to the inclusion of the Sharia within the Constitution, represented a suggestive example of the

26 Barkey and Gavrilis (n 1) 32.
mechanism through which community-based arrangements allow for sectarian and state leaderships to mutually reinforce each other: in exchange of renewed assurance of the recognition of Christian communal legal system, clergy authorities were to support the state.

*Enduring ‘Millet Mindset’: The Turkish Minority Case*

In modern Turkey, a vast endeavour towards secularization had the millet and religious personal status laws officially abolished - and never seriously reconsidered after that. Unlike previous national exemples, the Turkish secular project interrupted the continuity of community laws and institutions, with the abolition of the Sharia, the end of separate religious personal status laws, and the adoption in 1926 of the Turkish civil code based on the Swiss one.

Yet as mentioned above, Turkish nostalgic representation of the empire carry, if anything, an illustration of the political culture, spirit and memory of the millet which outlived the end of the empire through the specificity of the relationship between the state and its ‘minorities’. Within Article 37 to 44 of the Lausanne Treaty (1923), non-Muslim millets are framed as ‘non-Moslem minorities’ to be granted an extensive set of political and cultural rights. This pivotal moment establishes the basis of the new state around a Turkish majority (represented by the State) versus non-Muslim minorities (represented by intermediaries). The three communities previously constituting the millet (Armenian, Jewish, Greek) continued to be represented by intermediaries and organized along the same internal organizational lines, while other officially unnamed and thus unrecognized minorities were disenfranchised in the process.

Historic accounts indicate that negotiations were marked by hostility from the Turks towards non-Muslims,
foreshadowing long-standing suspicion and wariness towards Christians and Jews. As such, shifting from millet to minority was indicative of a ‘status of being a Christian or a Jew in a Turkish Republic, never a true Turk’. Physical or verbal threats targeting these communities later confirmed the unequal and secondary position these communities maintained despite the theoretical equalization of legal texts under the ‘citizenship regime’.

The persistence of a ‘millet mind-set’, the community-state relationship, as well as the communities’ own self-representations inherited from the millet, are to this day reflected within the political culture. They remain relevant factors to address contemporary politics and, as shown by the language of ‘tolerance’ used by the Justice and Development party (AK Parti), advancing minorities’ rights (reopening of theological school, return of properties etc.) constitutes one aspect of the endeavour to rehabilitate Ottoman memory.

Built-in Ambiguities

Re-built representations around the millet seek to dissimulate the Ottoman origin of the state’ ambiguous and mistrustful relationship towards minorities. Over the 1920s and 30s, hostile discourses on minorities crystalized just as millet communities were made durable within newly formed states. This moment contributed to the long-term labelling of these groups as threats to the nation and its unity.

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27 Barkey and Gavrilis (n 1) 34.

Whether they have a protective design or carry hostility, discourses on minorities within nation-States fail to acknowledge how the very construction and inclusion of minorities within modern states carry some fundamental contradiction between the simultaneous promotion of the individual (citizen principle) and collective (minority community). These contradictions go back to the late 19th century inception of Ottoman modernist reforms, later reproduced within the state minority system, political will to respond to political and military challenges (rising nationalism...) translated to the introduction of secular, assimilationist, citizen-based and European-inspired reforms. The ‘tanzimat’, proclaiming equality between all citizens (equal rights to life and property, head tax, military service for all), set about to shape political modernity. They indeed attempted to decrease the rights and privileges of the millets, yet heralded a new era where self-governed communities’ (education, personal status laws, courts’ system) outlived Ottomanism’s attempts at erasing local particularism and promoting equal citizenship. Such a contradiction was created by the coexistence between the millet - a separate, unequal group protection system which maintained legal pluralism – and a new policy of secular unification through modern individual citizenship.

Minority protection systems in post-Ottoman States recreated the ambiguity between equality in individual citizenship and separate system of group recognition and protection, whose

29 Stamatopoulos (n 6) 257.
30 The European influenced reforms known as the ‘tanzimat’ started with the imperial decree of Hatt-I Serif (1839) and further expanded with the Imperial Rescript Hatt-I Humayun (1856) and the Ottoman Nationality Law (1869); R H Davison, Reform in the Ottoman Empire, 1856–1876 (Princeton NJ Princeton University Press 1963); Stamatopoulos (n 11) 258-260.
collective modes of organization could not sustain the equality component comprised within the idea of citizenship. Today, representations of the millet and late-Ottoman era fail to account for the contemporary consequences for individuals who inherit from century-old arrangements, enduring legal pluralism, continued marginalization and inequalities.

IV. Conclusion

Minorities’ realities in post-Ottoman Middle Eastern states remain infused with the Ottoman model for managing religious, ethnic or national differences. The ‘millet policy’ shaped a legal system backed by social and political structures that were in essential contradictions with Western principles of citizenship, equality, and secularization. Even when a secular policy formally heralded the end of the millet, as in modern Turkey, the endurance of the ‘millet mind-set’ exemplified the solidity of its social and political anchoring.

Just as political modernity was introduced in the late Ottoman era, a fundamental contradiction was created in its territories that would endure throughout the 20th century and the unfolding of post-Ottoman states. The formal institutionalisation of minorities as legal entities embedded within the modern legal system took place at the onset of the mandate and independence era. It preserved traditional sectarian prerogatives through delegated control over personal status affairs, patrimonial and hereditary laws, education, and political representation. Communities and their leaders would continue to grant legitimacy and allegiance to the central authority – be it the Ottoman, mandatory, or post-independent states – while guaranteeing their own financial, material and political survival.
All three powers were endowed with a development mission to overcome minority particularism and spur modernization, centralization and equalization through unified education, language, laws, and economic integration. Their failure to unite under one nation, ethno-religious conflicts and minorities’ struggles, was to demonstrate how the state instead became the arena in which these groups conducted their battles\(^{31}\) - whereby seizure of prerogatives was a tool for domination. This system, based on mutual benefits, rival interests and balance of power, characterizes both minority and sectarian systems, and millet arrangements.

This collusion between community leaders and the state is often presented under the more appealing costume of ‘minority protection’, or ‘sectarian equality’. Such wording tends to obscure conceptual ambiguities and fundamentally unequal practices: the exclusion of the individual as a direct subject, its dismissal as a citizen, the authoritarian nature of non-elected representatives, exclusive religious control over community affairs, the arbitrary identification of ‘recognized’ minorities, or crushing inequalities between sects and between genders\(^{32}\). The demonstration of this filiation between (informal) millet arrangements and (institutionalized) minority or sectarian systems brings to the forefront the continued prevalence of ‘arcane religious institutions’\(^{33}\) over individuals of these states. In countries

\(^{31}\) Anghie (n7) 205-206.


\(^{33}\) Barkey and Gavrilis (n1) 31.
like Egypt\textsuperscript{34}, Lebanon\textsuperscript{35}, Turkey\textsuperscript{36}, Palestine or Israel\textsuperscript{37}, similar developments have arisen around an ‘equality discourse’, the emergence of civil society actors calling for an end to religious prerogatives, or calls for reforms maintaining a ‘legislative search towards equality’ notably around personal status laws\textsuperscript{38}. They are signs that a new shared understanding emerged that what might once have been designed to be progressive in nature is now running against the very population it is claiming to be protecting.

\textsuperscript{34} M Shams el Din, ‘The Right to Marriage and Divorce for Egypt’s Minorities: Tinkering with the Issue’ \textit{Madamasr} (Cairo 16 February 2017).
\textsuperscript{35} J A Clark and B F Salloukh, ‘Elite Strategies, Civil Society, And Sectarian Identities in Post-war Lebanon’ (2013) 45(4) International Journal of Middle East Studies; G Assaf, ‘Reform from the bottom: How judiciary, civil society can loosen the sectarian grip from Lebanese citizens’ \textit{The Daily Star} (Beirut 1 October 2009).
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