CHAPTER 9

Aspects of Juridical Integration of Non-Muslims in the Ottoman Empire

Observations in the Eighteenth-Century Urban and Rural Aegean

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The title of this essay may at first glance seem to contain an anachronism. Does the term “integration” not denote the efforts of the past few decades (and possibly many to come) to correct social grievances related to labor migration in the industrial states? No, not exactly. In fact, it is this understanding of the term “integration” which is anachronistic. It focuses on perceived deficits of (newly immigrated) minorities vis-à-vis the majority population, and—to make things worse—it also articulates this perception. By dropping this deficit-oriented understanding of integration, to which conservative circles unfortunately still tend to adhere, we can give the term a meaning which not only has the potential to bring today’s societies forward, but is also applicable to the Ottoman Empire. In this view, integration is the development of an environment in which all members of a society enjoy equal opportunities and equal, barrier-free access to state institutions. Clearly, we cannot expect to find a realization of this ideal in an early modern monarchy in all the aspects that come to mind when we think of today’s democracies that recognize a broad catalogue of universal human rights. But there are nonetheless some respects in which early modern states, and the Ottoman Empire in particular, may have offered approaches which look progressive even if compared to those of many modern states. One example is the legal pluralism practiced in the Ottoman Empire. It was rooted in the sultan’s self-perceived duty to guarantee justice for all his subjects. If there was such a thing as a state doctrine in the Ottoman Empire, it would have been the concept of the Circle of Equity, and this duty of the sultan’s was the seminal link of that circle.1

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One central institution in providing justice to the sultan’s subjects was the local court. We may therefore regard access to this institution as an indicator for the integration of minorities into the Ottoman juridical system: In a society that has successfully integrated such groups we would expect their usage of juridical institutions to reflect their share in the population, in relative as well as in absolute terms. As state courts in the Ottoman Empire were, of course, shari‘a courts, the “minorities” in this respect are non-Muslim subjects, although they constituted the majority of the population in many regions.

For my dissertation project, I examined the usage of shari‘a courts by non-Muslims as recorded in legal documents in one such region, the Aegean. Comparing a number of Eastern Aegean islands on the one hand and the city of Salonica (Selānīk in Ottoman, Thessaloniki in Greek) on the other, I noted that the figures of documented cases in these different environments diverge in a way that is far from proportionate to the difference in population between these regions. The aim of this paper is to investigate whether this documents different levels of juridical integration of non-Muslims in the two sub-regions or whether there are other explanations for this observation.

After elaborating on the primary sources on which this paper is based, I will therefore examine a number of factors which could explain the imbalance in the documented usage of shari‘a courts by non-Muslims. I will conclude with the hypothesis that local circumstances on the islands and the general conditions of the Ottoman approach of legal pluralism have promoted the evolution of specific and efficient communal practices of dispute resolution in this sub-region. Uncomfortably to the modern researcher, one of the characteristics of these practices seems to be that they lack written (or at least archival) evidence. Based on these considerations, we will then be able to adequately assess the integration of non-Muslims in the respective sub-regions into the Ottoman juridical system.

The documents this paper is based on have been chosen to typify two different environments of the Aegean region. The important port-city of Salonica represents the urban mainland areas on the coasts of the Aegean Sea. My research on this city, including its immediate hinterland, is based on case records involving at least one non-Muslim party from the Ottoman local court registers (sicills) available in the Historical Archive of Macedonia.

The other set of documents comes from the rural environment of the Aegean islands. In confessional terms these rather small, at times isolated communities were so homogeneous that the qadi, his helpers, and their families often may have been the only Muslims on the island in question. Yet, these island communities were well-connected through the Empire’s most