RIGHTS OF MINORITIES IN ISLAM
FROM DHIMMIS TO CITIZENS

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The question of whether Islam has already provided or can ever provide equal rights for minorities within a democratic and pluralistic system is related to the broader discussion of the relationship between religion and law: can any religion do so?
What is **Dhimmah**? Who are the **Dhimmis**?

*Dhimma* is based on verse 9:29 of the Qur’an and finds precedent in the conquest of Mecca. **Caliph Umar's pact** with non-Muslims (ms 1, ms 2), granting them life and property protection, constitutes the detailed provisions of the institution. Under this status, minorities enjoyed exemption from military service, freedom of religion, freedom to practice their religious duties, and the right to renovate, although not to erect, new houses of worship.

In return, a **poll tax (jizya)** was levied; in addition, **dhimmis** (or *ahlu-dh-dhimmah*, protected people) were prohibited from criticizing the Qur’an, expressing disrespect to the Prophet or to Islam, conducting missionary activity, or having sexual relations with or marrying Muslim women. They were not allowed to make their crosses, wine, and pork conspicuous, or to conduct their funerals in public. Riding horses was prohibited, as was erecting houses taller than those of the Muslims. **Dhimmis** were required to wear clothes that made them recognizable and were barred from holding certain public positions.

[NOTE: Some sources claim that the **Pact of Umar** was not issued by the second Caliph Umar ibn Khatab in the 7th century, but rather by the Umayyad Caliph Umar II in the 9th century.]
Dhimmah & Modernity

- Modernity has posed for Muslims problems of equality, freedom of religion, and human rights, which seem to originate in an ever-increasing contact with the West, free communication, and multiculturalism.

- Historically speaking, dhimma was conceived during the Islamic conquest but diminished when foreign powers gained the upper hand, especially during the reign of the later Ottoman period and the rise of nationalism.

- Western conservative thinkers believe that since the late second half of the twentieth century, the "clash of civilizations," and the increase of Muslims in foreign countries, dhimma has become a symbol for the relationship between Islam and the rest of the world.
Dhimmah - conservatives vs. liberals

- The more conservative Islamic thinkers (see, for instance, Sheikh Omar Bakri) reject any thought of changing the institution of dhimma. Their views range from denying the principle of equality to religions other than Islam, through blocking certain positions of influence in the state to non-Muslims, to reiterating their rights and Islam's traditional liberal attitude according to the sunna, especially by comparison to European historical record. Some even go as far as to offer *Islamic citizenship* to non-Muslims.

- Others claim that the distinction between Muslim and non-Muslim is one of political administration, not of human rights, according dhimma to all religionists. (Quran 17:70, 2:62, 5:69, 22:17, 5:48)

- The debate over dhimma includes political issues: Some of the minorities are accused of having abused it internally, and the West has been accused of having created and exacerbated the entire problem of "minorities."
Univeralists vs. Communalists

Jurists adopt divergent views on why minorities should be granted rights. Is it because of their humanity, or because of their citizenship?

There are contradicting and evolving views advocated by jurists from the classical and modern periods. The cleavage between universalist and communalist jurists can be observed in all major legal traditions, including Islamic law.

The universalist group believes that human beings, be they from the majority or the minority, are entitled to rights by virtue of their humanity.

In contrast, the communalist group is concerned only with the rights of the citizens of their state, usually called a nation, or with the members of religious or ethnic communities.
Rights of Minorities in Classical Islamic Law
(From the 7th to the 18th century)
The Universalist vs Communalist School of Minority Rights in Islam

- **The universalist school** grounded human rights on **humanity**, **adamiyyah**, and thus advocated equal rights for all human beings regardless of their inherited and innate qualities such as class, race, color, language, religion, and ethnicity. This view was first formulated by **Abu Hanifa** (699-767 C.E.) in the following precept: *Inviolability is due to all human beings by virtue of their humanity.*

- In contrast, **the communalist school** did not accept universally granted human rights. Instead, it advocated civil rights, or constitutional rights granted to citizens by virtue of their citizenship or subordination to the Sultan’s sovereignty. Their view is summarized in the following precept: *Inviolability is due by virtue of faith or treaty. Subjects are not citizens*. Only with the emergence of **constitution** that gives people their political rights (right to vote and to be elected to an office), a subject becomes a citizen (*hommo politicus*).
Article 6 of the United Nations Charter stipulates: "Everyone has the right to recognition everywhere as a person before the law." This statement should be seen as a culmination of lengthy debates and conflicts in human history. Before this declaration, some segments of populations in the West, especially non-citizens and minorities, did not have the right to personhood. Right to personhood entitles one to have rights and responsibilities. Without it, human beings cannot bear rights and duties; in that case, they are treated as property or outcasts, but not as human beings with moral capacity.

Article 6 of the United Nations Charter aimed to end such discriminatory practices. Among the most well-known cases are colonized peoples, racial minorities such as African-Americans in the United States before the civil rights movement, Jews in Europe prior to the Jewish Emancipation, and women until the twentieth century.
Personhood in Islam

According to Senturk, “In classical Islamic jurisprudence, the term **dhimmah** means **accountability** and **inviolability**, which is usually termed **personhood** in modern legal discourse.

Moral, religious, and legal **accountability** requires one to have **dhimmah** *(personhood)*.

If one has **dhimmah** *(personhood)*, one can bear rights and responsibilities.

**Dhimmah** distinguishes human beings from animals because humans are responsible for their actions. Having **dhimmah** is thus a privilege that entitles one to be a full member of society. **Accountability** before the law is a prerequisite for membership in society, which comes with a right to complete **inviolability**.”
Dhimmah as “protection” & “personhood”

According to Senturk, “Dhimmah is also commonly understood as ‘protection,’ ‘treaty’ (‘ahd), and ‘peace’ (sulh, rather truce), because it is a treaty that puts non-Muslims under the protection of Muslims. Thus, ‘This is in his dhimmah’ means that a person is accountable to the law or is under its protection. This accountability may be based on a written contract or a general law.

Islamic jurisprudence stipulates that dhimmah is what makes a person responsible for the consequences of his actions; because he has personhood, others can hold him liable for his deeds and demand that he fulfill his duties - which are their rights. Yet it is unanimously accepted that ‘one's dhimmah is originally clear of charges’ (al-Asl fi al-dhimmah al-barah) unless a charge is proven beyond doubt by evidence. This principle is interpreted as ‘one is innocent unless proven otherwise.’”
Who has the rights to dhimmah (personhood)?

According to Senturk, “This question has divided Muslim jurists. Some have claimed that dhimmah is a birthright and that people have dhimmah after conception by virtue of being human.

Others have contended that dhimmah is a gained right and that people obtain it by virtue of their citizenship (belonging to a community).

The non-Muslim individual who has a right to “personhood” is called dhimmi, while their community as a whole is called ahl al-dhimmah, which literally means ‘people with accountability and inviolability,’” according to Senturk.
The following citation from the prominent Hanafi jurist Sarakhsi (d. 1090) succinctly elucidates the issue of personhood:

“Upon creating human beings, God graciously bestowed upon them intelligence and the capability to carry responsibilities and rights (dhimmah, personhood). This was to make them ready for duties and rights determined by God. Then He granted them the right to inviolability, freedom, and property to let them continue their lives so that they can perform the duties they have shouldered. Then these rights to carry responsibility and enjoy rights, freedom, and property exist with a human being when he is born. The insane / child and the sane / adult are the same concerning these rights. This is how the proper personhood is given to him when he is born for God to charge him with the rights and duties when he is born. In this regard, the insane/child and sane/adult are equal.”
Universalistic View of *Dhimmah* (personhood)

* The fact that non-Muslim minorities are conventionally called *dhimmis* means nothing other than reiterating and affirming with a written contract that non-Muslims are equal with Muslims in enjoying the right to personhood. It indicates that non-Muslim minorities also have the right to legal personhood and that they acknowledge their accountability. It may be seen as a declaration of the equality in that aspect between Muslims and non-Muslims. Other non-Muslims, without a treaty with Muslim authority, have to officially acknowledge and register that they accept their accountability and liability before the law for their actions.

* According to Senturk, “non-Muslims are already granted all the rights they may possibly have by virtue of their humanity, and thus signing a treaty with Muslims is not going to bring them new rights. However, the act of *dhimmah* serves as a confirmation of those rights and duties by both parties.”
Universalistic View of Human Rights

The universalistic school sees no difference between Muslims and non-Muslims as far as human rights are concerned. The same is true between citizens of an Islamic state and others because human rights are not granted on the basis of citizenship. These basic rights include the right to life, property, freedom of religion, freedom of expression, family, and honor. These rights are granted to all human beings by virtue of their being human.

On the level of constitutional rights, however, the universalistic school allows diversity and accepts differences between Muslims and non-Muslims. These differences manifest themselves in the debates about interreligious marriage, inheritance, and giving testimony against a suspect from another religion. In addition, non-Muslims are not required to join the army or serve the state; these may be seen as advantages or restrictions. Yet there is one dear restriction: a non-Muslim cannot be the leader of a Muslim state. Non-Muslims can occupy any position other than the top leadership.
**Dhimmah (personhood) - a Hanbali, Maleki, & Shafi’i View**

- Not all Muslim jurists in the classical period agreed with the views of the universalistic school. The competing communalist discourse, represented by Muhammad ibn Idris al-Shafii (d. 820), Malik Ibn Anas (d. 795), and Ahmad ibn Hanbal (d. 855), maintains that having *dhimmah (personhood)* is a status that only Muslims can enjoy. Non-Muslims achieve that status by virtue of the *contract* they make with the Muslim authority.

- From this perspective, **dhimmah** is a gained right and privilege; it is also the basis of other rights to be gained by virtue of signing a *treaty* with the Muslim authority. Enjoying **legal personhood** requires fulfilling the conditions of the treaty. Otherwise, it will be lost. One of the conditions of keeping **legal personhood** is to pay the special *poll-tax, jizya*, to the state.
Communalist View of Human Rights

In contrast with the universalist school, the communalist school lacks the abstract concept of *human qua human* as a possessor of rights. Instead, it relies on the religiously defined categories, such as *disbeliever (kafir)* and *believer (mu'min)*. Nor does it support the concept of *birthrights* or *natural rights* as the Hanafis do.

For the communalist school, all rights are gained and granted by the law. As mentioned above, the right to inviolability is gained by virtue of *faith (iman)* or a *treaty of security (aman)*. One is automatically considered a citizen of the Islamic state if one is a Muslim and consequently his *dhimmah* is respected.

The non-Muslim who makes a treaty with the Islamic state can also become a citizen and gain the right to *dhimmah*. Only then can he become accountable and inviolable. By the treaty of *dhimmah*, Muslims take non-Muslims under their protection, grant them minority rights, and accept accountability for their security. In other words, they take non-Muslims under their *dhimmah* (protection).
What is Jizyah?

- From the perspective of the communalist school, the *jizya* is the fee for *dhimmah* (protection), which entitles one to inviolability ('*ismah*), and residence in the Muslim state (*sukna*).

- But universalist jurists argue otherwise. For them, *dhimmah* and '*ismah* are not subject to monetary exchange; they are inalienable universal rights that are granted at birth. From this perspective, as Muslims are required to pay *zakat* and other annual charities and taxes, non-Muslims are also required to pay taxes in the form of *jizya*.

- For the Hanafi school, *jizya* is acceptable from all non-Muslims, including the People of the Book and non-Arab pagans, the only exceptions being Arab pagans and polytheists.

- For the Shafi'i school, *jizya* is acceptable only from the People of the Book and Zoroastrians and not from the followers of other religions because the Our'an and *hadith* did not list them among those who are allowed to make peace with Muslims and pay *jizya*.

- Mughals and Ottomans, who followed the Hanafi school, indiscriminately collected the *jizya* from the followers of all religions.
Who paid Jizyah?

- Among non-Muslim subjects, only the able, the young, the healthy, and working male adults were required to pay jizya. Non-Muslim women, children, the aged, the sick, the unemployed poor, the disabled, and clergy were not required to pay jizya.

- The jizya was negotiable if a territory surrendered willingly to Muslim rule and made a peace treaty with Muslims. Once the jizya was set for a certain amount after mutual agreement, the state was never allowed to change it unilaterally. If a territory was conquered by force, however, the amount of jizya, according to the Shafi'i school (one dirham, silver money, per month), was the same for all non-Muslim citizens regardless of their income level.

- By contrast, the Hanafis divided non-Muslims into three categories and required them to pay different amounts: a rich dhimmi was required to pay 48 dirham per year, a middle-class dhimmi was required to pay 24 dirham per year, while a low-income dhimmi was required to pay only 12 dirhams per year. It was possible to pay the tax in monthly installments.
Waiver and collection of Jizyah?

- If a *dhimmi* accepted Islam, according to the Hanafi school, his past *jizya* charges were waived. The Shafi'i school, however, required that past *jizya* be paid because this was debt in exchange for a good, namely, the security that the *dhimmi* received.

- In the Ottoman Empire, *jizya* traditionally was collected by the representatives of each *millet* organization to be transferred in whole to the state. The income generated by these taxes was used to sponsor public services. During the nineteenth century, the Ottomans standardized taxation for all citizens, Muslims and non-Muslims, and abolished *jizya*. 
Millet System

In medieval Islamic states, the word *millet* was applied to certain non-Muslim minorities, mainly Christians and Jews. In the heterogeneous Ottoman Empire (c. 1300–1923), a *millet* was an autonomous self-governing religious community, each organized under its own laws and headed by a religious leader, who was responsible to the central government for the fulfillment of millet responsibilities and duties, particularly those of paying taxes and maintaining internal security.

In addition, each *millet* assumed responsibility for social and administrative functions not provided by the state, conducting affairs through a communal council (*meclis-i millî*) without intervention from outside. From 1856 on, a series of imperial reform edicts introduced secular law codes for all citizens, and much of the millets' administrative autonomy was lost.
Limitations to the Rights of Minorities

According to Senturk, “Minorities are allowed to fully practice their cannon law provided that they do not contradict the six axiomatic principles of Islamic law, which are,

1. the right to the inviolability of life (‘ismah al-nafs or ‘ismah al-dam);
2. the right to the inviolability of property (‘ismah al-mal);
3. the right to the inviolability of religion (‘ismah al-din);
4. the right to the inviolability of freedom of expression (‘ismah al-'aql);
5. the right to the inviolability of family (‘ismah ai-nasl);
6. the right to the inviolability of honor (‘ismah al-'ird).

Thus, muslim rulers prohibited the practice of suttee in India and the practice of marriage with siblings that existed among some Zoroastrians in Persia due to their disagreement with the Islamic Law.
Broadly speaking, Islamic law recognizes two major groups: Muslim millet and non-Muslim millet, each with subdivisions. The Muslim millet is divided into two major groups - Shiites and Sunnis - again each with subdivisions, each of which is called *madhhab* (referring to a school of law).

The subgroups under the non-Muslim *millet* are also called *millet*. The institutional organization in which all these groups are connected to each other horizontally and to the Muslim ruler vertically is called *the millet system*.

This pluralistic social and legal structure was facilitated by a particular view of "*normative truth.*" The pluralistic theological approach to legal and moral norms made possible the coexistence of different millets and madhhab side by side with in a given society.
Islamic jurisprudence accepted from the very beginning that normative truth is multiple rather than unique. There was a consensus that this was the case at the societal level. The disagreement was on whether normative truth was multiple in God's eye as well.

Some theologians found an answer to this question in the following Quranic verse,

*Those who believe (in the Qur'an), and those who follow the Jewish (scriptures), and the Christians and the Sabians, any who believe in Allah and the Last Day, and work righteousness, shall have their reward with their Lord; on them shall be no fear, nor shall they grieve.*

(The Qur'an, Al-Baqarah 2:62).
According to Senturk, “during Islamic history, Muslim minorities, be they ethnic or religious, enjoyed complete equality with the Muslim majority. It is possible to say that the problems [that did occasionally occur] were instigated for nonreligious reasons, such as political motives, clash of interests, and personal rivalries.

Classical Islamic law required that non-Muslim communities be organized as millets under their religious leader and follow their canonical law. As explained before, the Islamic view of other religions and legal systems plays a large role in justifying such legal pluralism. In the Qur'anic verse cited (Q 2:62), the mention of Sabians, who are not part of the People of the Book, may be seen as an indication that religious freedom is not restricted only to the People of the Book. The status of millet and the rights emanating from it are granted not only to Christian and Jewish communities-who are considered People of the Book, Ahl al-Kitab, but also to Zoroastrians in Iran and to Hindus and Buddhists in India.”
Respect & Discrimination

According to Senturk, “throughout Islamic history a great number of Muslim and non-Muslim communities managed to maintain their identity and culture. This does not mean, however, that there were no discriminatory practices toward non-Muslims, particularly when viewed from the perspective of modern human rights standards. However, compared to the practices of their counterparts during the Middle Ages, the degree of religious freedom granted by Islamic leaders, although it looks insufficient today, was immensely progressive and crucial.

Structurally speaking, classical Islamic law granted non-Muslim communities the right to considerable autonomy or self-determination in their internal affairs regarding education, tax collection, law, and religion, along with exemption from military and state service. When needed, the leaders of the millets negotiated the amount of jizya with the state. They also established and managed their own institutions such as places of worship, schools, courts, and pious foundations.”
Rights of Minorities in the Ottoman Empire during the Early Period
(From the early 15th to the early 18th century)
According to Senturk, “The Ottoman Empire followed the tradition of the millet system, and, beginning with Sultan Mehmet Fatih the Conqueror (1432-1481), improved its institutional structure by explicitly stating that rights of non-Muslim communities be addressed to them in the royal decrees. These decrees were called Ahdname, and because they were accompanied by the Sultan's pledge, they had the force of an international contract.”
Greek Orthodox Christians in the Ottoman Empire

According to Senturk, “Greek Orthodox Christians were not established as the first millet after the conquest of Constantinople by Sultan Mehmet, as is commonly assumed in the literature. Rather, they had the same communal rights all along under the Seljuqs and the Ottomans prior to the conquest of Constantinople in 1453. The Orthodox patriarch had been granted the same rights as the leaders of other communities that had previously come under Islamic rule. The patriarch was allowed to apply Orthodox law in secular and religious matters. What Sultan Mehmet, who after the fall of Constantinople considered himself the Eastern Roman Emperor, did was to grant a charter to the patriarch of the Orthodox Church, Genady II.”
According to Senturk, “As the policy of religious pluralism and multiculturalism was consolidated by the millet system, it allowed the Jews to form their own community and to establish independent religious, educational, and legal institutions in Istanbul. Historians commonly note that the freedom that was granted to the minorities within the Ottoman territories attracted large numbers of displaced Jewish communities that were among the victims of persecution in Spain, Poland, Austria, and Bohemia.”

In 1492, after the Christian reconquest of Iberia (Spain & Portugal) from the Muslim Moorish suzerainty, the local Christian rulers, Ferdinand II of Aragon and Isabella I of Castile, forced the Jews and Muslims of Spain to either covert to Christianity, leave the country, or be killed. A great many of them escaped to the territories of the Ottoman Empire where they could have lived in peace. The Jewish converts to Christianity (Morannos) and Muslim converts (Moriscos) even a century later were not trusted and were persecuted and expelled from Spain. (for more check this link)
Armenians in the Ottoman Empire

According to Senturk, “Armenians were another religious community that formed a millet under the Ottoman rule. Sultan Mehmet issued a royal decree, or Ahdname, establishing the Armenian patriarchy in Istanbul under Patriarch Hovakim. As a result, a great number of Armenians reportedly emigrated to Istanbul from Iran, the Caucasus, eastern and central Anatolia, the Balkans, and Crimea - not because of persecution or forced dislocation, but because Sultan Mehmet made his empire a true center of Armenian life.

The Armenian community thus expanded and prospered together with the Ottoman Empire until the Armenian uprising after the collapse of the millet system.”
According to Senturk, “In 1463, Sultan Mehmet also granted a charter of rights, or *Ahdname*, to the Bosnian Franciscans. The *Ahdname* granted significant rights to the Catholic Church in Bosnia represented by the Bosnian Franciscan official Andjeo [Angel] Zvizdić. In this document the Sultan stated the following:
Mehmed son of Murad-khan, forever victorious! The decree of the honourable and sublime Sultanic seal and serene edict of the Conqueror of Worlds is as follows:

I Sultan Mehmed-khan [proclaim] to the whole world, both lords and commons, that the Bosnian clerics are recipients of my great grace and I therefore command that nobody shall molest or trouble them or their church. They shall peaceably exist in my empire, and those who have fled may feel free to return and without fear live in their monasteries in the lands of my empire. Neither my high majesty, nor viziers, nor my servants, nor my subjects, nor any of the inhabitants of my empire shall cause them offence or harass them. Nobody shall attack or threaten them, or their life, or their property, or their church. And if from abroad they bring someone to my empire, this is allowed. I have extended the above grace by imperial decree and I swear the following oath:

By the Creator of earth and heaven, He who sustains all creation, and by the Seven Holy Books, and by the Great Prophet, and by the sword with which I gird myself, no one shall act in opposition to what is written here as long as they are in my service and true to my commands.

Written 28 May [1463] in Milodraž.
According to Senturk, “The millet system may be seen as a major reason why the Ottoman Empire survived so long. The system afforded the right of self-governance to the communities and delegated power and the numerous administrative burdens to local authorities. Representatives of the millets, but not Ottoman officials, had to deal with their communities on many issues. The religious heads of these communities were elected by the members of their communities, and their role was to establish and maintain relations with the state. These leaders served as the bridge between the government and their communities, thus functioning as intermediaries between the state and society. The different community groups themselves acted independently of the state, as they had the authority to organize their own judicial, educational, and religious affairs.”
According to Senturk, “Regulating the relations among different millets was a daunting task and posed some problems. One issue was the testimony of a witness against a suspect of another religion. Some Muslim jurists ruled out such testimony because of possible prejudice due to the religious difference between suspect and witness; some jurists, however, thought that religious difference was not an issue in testimony. Another problematic issue was that of interreligious marriage. Muslim males were allowed to marry women of the People of the Book, but Muslim women could not. This was based on the rationale that a Muslim man would respect his wife's faith because, as a Muslim, he is required to believe in her prophet and sacred book. But a Christian or Jewish man does not believe in the Prophet Muhammad and the Qur'an and consequently is not obliged by his religion to respect a Muslim woman's faith. Non-Muslim communities, too, completely restricted interreligious marriage.”
According to Senturk, “Apostasy and blasphemy were among the most common crimes according to all canonical laws during the Middle Ages, including Islamic law. Yet the punishment classical Sharia stipulated for an apostate was never implemented unless the case was politically charged.

Building new worship places required permission from the state. Ottomans did not proselytize non-Muslims, nor did they allow followers of other religions to proselytize each other.

Members of different millets were required to carry symbols of their faith in public places to reveal their identity. This regulation regenerated the existing configuration of authority relations within the society by maintaining social identities. It was also part of freedom of expression. However, during the period of modernization, as the role of religion in forming social identities declined and secular identities prevailed over religious identities, such rules looked obsolete and restrictive.”
According to Senturk, “The most important restriction in the millet system from a modern perspective was not allowing a non-Muslim to take the responsibility of "general leadership (al-walaya al-'amnah)."

Under classical Islamic law, non-Muslims were allowed to serve as minister and prime minister (vizier), but not as the ruler of the state.

The same restriction applied and in many Muslim countries still applies to Muslim women as well, because according to classical Islamic law only a Muslim man can assume the responsibility of "general leadership."
Rights of Minorities in the Ottoman Empire during the Modernization Period (From the early 19th to the early 20th century)
According to Senturk, “As the Muslim states, notably the Ottoman Empire, gradually began to modernize, the definition of minority shifted from religious to ethnic terms as a secular approach to identity gained prevalence.

"Minority” under classical Islamic rule, meant primarily non-Muslim [subjects]. Their entitlement to human and [religious] rights had been a major issue in classical Islamic law as discussed earlier. But after the abolition of the millet system, religious differences lost all consequence, and, instead, ethnic differences became important.

The millet system had minimized the impact of ethnic differences. But over the course of the 19th century, especially after the collapse of the religion-based millet system, such differences became important. This trend was accompanied by the rise of a **nationalist spirit**, which during the 19th century spread from Europe to the Muslim world. Consequently, ethnic groups became conscious of their identity and began to demand more rights, if not total independence. In response, the Ottomans had to reform their traditional system and grant equal citizenship and rights to their non-Muslim subjects.”
According to Senturk, “The first royal decree - the Royal Decree of the Rose Garden (Gülhane Hatt-i Humayunu) - was launched in 1839 during the Tanzimat Reforms. This declaration, which may be seen as the first declaration of human rights by a Muslim state, assured all citizens of their basic rights, namely the right to life, property, freedom of religion, protection of honor, education, employment, and due process. The Tanzimat declaration was grounded on the doctrine of 'ismah (inviolability) in Islamic law. The document is especially significant for its recognition of equal rights for Christians in education and in government administration. Exemplifying egalitarian principles, the decree declared: ‘All Muslim or non-Muslim subjects shall benefit from these rights. Everyone's life, chastity, honor, and property is under the guarantee of the state according to the Shari'a laws.’ Representatives of all religious groups and the ambassadors of European states were present at the declaration ceremony, which ended with a prayer led by the Shaikhulislam (the highest-ranking Muslim cleric and administrator of religious affairs on behalf of the sultan).”
The Hatt-i Sharif of Gülhane (Noble Edict of the Rose Chamber or Royal Decree of the Rose Garden)

promised reforms such as the abolition of tax farming, reform of conscription, and greater equality of religion. The goal of the decree was to help modernize the empire militarily and socially so that it could compete with the Great Powers of Europe. It also was hoped the reforms would win over the disaffected parts of the empire, especially in the Ottoman controlled parts of Europe, which were largely Christian.
TANZIMAT REFORMS

- Started with *The Hatt-i Sharif of Gülhane* in 1839
- introduced by the Sultan Abdülmecid I (b. 1823 - d. 1861)
According to Senturk, “The reformist sultans and statesmen aspired to make the Ottoman state a modern European nation. These aspirations, coupled with internal pressures from minorities and international pressures from European allies and foes, triggered reform in Islamic law.

Following their deliberations, the advisory council sought the opinion and blessing of the Shaikhulislam for their decisions and obtained it. On March 26, 1855, the council met once again and produced the most important official document on reforms regarding minority rights in Islamic law.

The document advised the Ottoman sultan to adopt modern European standards on the following six issues: accepting the testimony of non-Muslims as equal to that of Muslims; granting non-Muslims high-level official titles; employing them in state jobs; accepting them into military service; allowing them to restore their churches; and abolishing jizya. The document stated that these reforms would facilitate the membership of the empire in the European community of states, as recommended by Lord Palmerston, the British ambassador in Istanbul. Sultan Abdulmejid (who ruled 1839-1861), approved the document.”
How were these revolutionary changes possible?

According to Senturk, “The Islamic justification for these reforms came from the work of Muhammad Shaibani (749-805), the great student of the Muslim jurist Abu Hanifa (699-765), *Kitab al-Siyar al-Kabir*. Through this work, the Ottoman scholars and statesmen who were attempting to reform the law according to the universalistic perspective rediscovered the roots of the universalistic school in Islamic law. This strategy proved useful for getting the *ulema* (community of legal scholars) and the Muslim community to comply with the new reforms. Thus the ground was laid to treat non-Muslims as equal citizens with Muslims under Islamic law with the blessing of the caliph and Shaikh-ul-Islam, the highest authorities of Islamic faith.
Tanzimat - the Third Stage

- This process of reform heralded the beginning of the end of a period during which non-Muslims had been treated differently.
- On February 18, 1856, these reforms were announced to the world in the form of a human rights declaration (*Islahat Fermani*).
- In 1875, the *Imperial Edict on Justice (Ferman-i Adaler)* provided for the independence of the judicial courts and ensured the safety of judges.
- Eventually, in 1876, these reforms found their way into the *first Ottoman constitution*, which clearly stated that all citizens of the state are equal.
Important economic changes

1858 Ottoman Land Code

The code gave peasants the right to register the lands they were working in their own names as private property.

The goal of the Ottoman government was to increase the accountability for taxation, expand agricultural production, and end tax farming.

The peasants, however, mistrusted the government and feared that the government made this “gift” merely to increase their tax burden and that the regulation may eventually lead to the conscription of their sons into the Ottoman army.
TANZIMAT REFORMS

- Culminated with the Ottoman constitution in 1876, which was promulgated by the Sultan Abdülhamit II (1842-1918)
- the constitution was suspended in 1878 by the same Sultan
The 1876 Constitution marks the most important step along the road to the rule of law in the Ottoman Empire, initiating the First Constitutional Period (which continued for one year under the rule of Abdulhamid II).

Although this first constitution is seen as somewhat restrictive regarding the exercise of powers, it nevertheless for the first time recognized a parliamentary system.

The constitution had provisions covering basic rights and privileges and the independence of courts and the safety of judges, among other aspects.

In 1908, the Young Turks who dethroned Abdulhamid II launched the Second Constitutional Period and laid the foundations of a parliamentary system, which continued until the fall of the Ottoman State in 1923.
Constitutionalism & The End of the Millet System

According to Senturk, “Proclamation of the constitutional system meant the abolishment of the traditional millet system and the introduction of the modern nation-state model to the Ottoman Empire. As the dhimmis became equal citizens on the individual level, there was no need for them to continue to form separate communities under their religious leaders based on their religious and cultural identity. Rather, the identity of major millets such as the Jewish, Armenian, Rum, Catholic, and Orthodox became subsumed under a new identity, namely that of the Ottoman millet.”

The Turks vs. The Ottomans. It is important to understand that until the Constitutional Era, only the members of the elites were considered and called the Ottomans. The Turkish speaking peasants and other non-aristocratic Muslims were not considered the Ottomans. Actually, the Ottomans used to pejoratively call their Anatolian Muslim serfs “the Turks.”
According to Senturk, “The concept of *millet* (religious community) shifted from religious to secular and ethnic content and came to mean “*nation.*” But this project of integrating all religious communities under one national identity failed, however, as ethnic groups rose as minorities with distinct secular identities. The Ottomans were caught unprepared about how to cope with this new wave of *secular nationalism*, as Islamic law was silent on this new configuration of relations based on ethnic identity.”
Is the problem secularism or the desire for independence?

According to Senturk, “The transition from a religious approach in the network of social relations to a secular ethnic approach was not easy. Armenians may be seen as the victims of the collapse of the millet system under which, as did all other religious minorities, they led a safe and secure life with their Muslim neighbors for centuries. As secular ethnic identity gained prominence, the role of secular leaders increased. Most of these secular leaders worked to secure independence from the Ottoman Empire in the Balkans and Anatolia. With the collapse of the empire, scores of nation-states emerged on its territory with religious and secular regimes.”

What do you think of this above statement by Senturk? Is the reason for the Armenian tragedy the fall of old millet system or the desire of their secularist leaders for independence? What would have happened if the Armenians tried achieving their independence from the Ottoman state as a religious, not secular community?
Rights of Minorities during the Period of Secularism
(From the early 20th century until today)
According to Senturk, “The emergence of nation-states turned ethnic groups into minorities as the newly founded nation-states adopted national identities.

In the modern era, the Muslim Brotherhood has opposed the demands of ethnic minorities who have been deprived of their cultural rights, rights that they enjoyed under classical Islamic rule. This opposition has been justified mostly in the name of national cohesion.

The foregoing shows that both secular and religious approaches may be used to promote or undermine minority rights. Muslim countries with secular regimes as well as those with religious regimes provide ample examples for this observation. Today, both religious and secular regimes in the Muslim world are frequently accused of violating the rights of minorities - evidence that the type of regime is not the determining variable in this process.”
According to Senturk, “Outside observers who are not familiar with the Islamic world's cultural dynamics might mistakenly attribute the restrictive practices of secular regimes in Muslim countries to Islamic law. In reality, however, the secularization of the legal system in the Muslim world indicates a complete departure from the principles of Islamic law as outlined here.

Turkey is a prime example of a Muslim country with a secular legal system where minority rights are highly restricted. Secularization of the Turkish legal system did not automatically solve problems of minority rights. Some problems were solved but new problems emerged.”

Think of this latter statement by Senturk in the light of the current situation in Turkey while the country is led by the Turkish Islamic Party, the Justice and Development Party [Adalet ve Kalkınma Partisi (AKP), also called AK Party or in Turkish AK Partisi.]
According to Senturk, “The Kurds did not pose a problem under Ottoman rule, as they were allowed to use their language and maintain their culture. Yet they felt disturbed by the new nationalist ideology and the restrictions imposed on the practice of their culture and language.

Religious minorities, too, experienced problems that they had not experienced under Ottoman rule, in particular problems concerning religious education due to the state monopoly on religious education. Even the Muslim majority has experienced problems in religious education for the same reason. The Turkish Republic nationalized pious foundations and outlawed Sufi orders.

Missionary activities by Christians were also prohibited.

And finally, the headscarf, which a considerable number of Turkish Muslim women wear, was banned during the 1980s for students and state employees. Similarly, around the same time, male students, professors, and state employees were banned from having a beard.
According to Senturk, “... after the collapse of the Ottoman Empire, some of the newly established states like Saudi Arabia professed to practice Islamic law. Some others, including Pakistan, Sudan, Iran, Afghanistan, and Nigeria, recently joined them by declaring Shari'a rule because of the public pressures during the last decades of the twentieth century.

Yet their interpretation and practice of Islamic law pertaining to minorities has not been as tolerant as that of the Ottomans or other traditional Islamic states.

In particular, the implementation of the penal law of Islam has gone beyond reasonable limits and has drawn protests from both Muslims and non-Muslims.

None of these states has adopted the universalistic Islamic tradition outlined [in Senturk’s article.] Instead, they have chosen to implement the most restrictive interpretations of Islamic law.