

An Example of The Religious Tolerance of The Ottoman Empire. The “Dispute of Buda” - a Lawsuit from 1574, Nagyharsány, Hungary

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The issue of religious tolerance is one of the first and most urgent problems of mankind to be resolved. Historical science, however, including legal history, can help us by showing examples of our past. Islam and the Ottoman Empire based on this religion have provided a good example for peoples of different religions to live together in peace. A lawsuit from the Turkish Occupation, Nagy-harsány, Hungary, later known as the “Dispute of Buda”, is a good example of the fact that centuries ago the Ottoman Empire had successfully implemented the Freedom of Religion as a human right in the areas they conquered and governed.

1. The principle of religious tolerance in Islam

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The Freedom of Religion (or freedom of belief) is one of the most important principles of human rights. It supports the freedom of an individual or community, in public or private, to manifest religion or belief in teaching, practice, worship, and observance. It also includes the freedom to change one's religion or belief. The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations. In Article 18 the Declaration it is fixed with a principle edge: *“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”*²

Centuries before the Declaration was drafted, however, in societies based on Islamic traditional law, the practice of religious confinement was general.

Islam, like Judaism and Christianity, believes in prophets and messengers of God. To understand the Islamic point of view in this context, we should understand the role of the prophets and messengers. In Qur'an the duties of the Messengers are clearly stated: *“Not upon the Messenger is (responsibility) except (for) notification. And Allah knows whatever you reveal and whatever you conceal.”*³

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(1) Qur'an 5:48

(2) „Universal Declaration of Human Rights”

(3) Qur'an 5:99

The Qur'an unmistakably says that religion cannot be forced on anyone: "There shall be no compulsion in (acceptance of) the religion. The right course has become clear from the wrong. So whoever disbelieves in Taghut and believes in Allah has grasped the most trustworthy handhold with no break in it. And Allah is Hearing and Knowing."⁴

The Prophet of Islam also said: "O you who do not believe! I worship not what you worship, and you are not worshipping what I worship; nor am I worshipping what you worship; neither -art you worshipping what I worship. Therefore, to you your religion; and to me my religion!"⁵

The Constitution of Medina, or the "Charter of Medina", was drafted by Prophet Muhammad shortly after his arrival at Medina in 622 CE (or 1 AH), following the Hijra from Mecca. The document ensured freedom of religious beliefs and practices for all citizens who follow the believers. It assured that representatives of all parties, Muslim or non-Muslim, should be present when consultation occurs or in cases of negotiation with foreign states.⁶ The non-Muslims had the following rights on the condition they follow the Muslims:

- a) The security of God is equal for all groups,⁷
- b) Non-Muslim members have the same political and cultural rights as Muslims. They have autonomy and freedom of religion.⁸
- c) Non-Muslims take up arms against the enemy of the nation and share the cost of war. There is to be no treachery between the two.⁹
- d) Non-Muslims are not obliged to take part in the Muslims' religious wars.¹⁰

In Medina, the role of the Prophet as a mere religious leader ended, and He became the political leader of a state, governed by the

precepts of Islam. He constituted so clear laws of governance on professional basis to ensure harmony and stability in a society which once had been distraught by decades of war, one which must ensure the peaceful coexistence of Muslims, Jews, Christians and polytheists. The Constitution thus formed the base of a multi-religious Islamic state in Medina.

During the later subversion of Islam, the prophetic principles were consistently maintained. The word *dhimmitude* comes from *dhimmi*, an Arabic word meaning *protected*. *Dhimmi* was the name applied by the Arab-Muslim conquerors to indigenous non-Muslim populations who surrendered by a treaty (*dhimma*) to Muslim domination. Islamic conquests expanded over vast territories in Africa, Europe and Asia, from 638 to 1683. The Muslim empire incorporated numerous varied peoples which had their own religion, culture, language and civilization. For centuries, these native, pre-Islamic peoples constituted the great majority of the population of the Islamic lands. Although these populations differed, they were ruled by the same type of laws, based on the Shari'a.¹¹

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2. Legislation and religious rights of the Turkish Occupation in Hungary

The Turkish Occupation was part of the Carpathian Basin under the rule of the Ottoman Empire from the occupation of Buda in 1541 for more than a century and a half until the Habsburg regime occupied the whole country (1686-1699). The Turkish occupation area consisted most of the territory of today's Hungary as well as the northern part of Croatia and Serbia today (Southern Lands; in Hungarian: *Délvidék*). The Te-

(4) Qur'an 2:256

(5) Qur'an 109: 1-6

(6) Barakat, *Muhammad and the Jews*, 46-47.

(7) Ibid. Article 15

(8) Ibid. Article 25

(9) Ibid. Article 37

(10) Ibid. Article 45

(11) El Fadl, *The Great Theft: Wrestling Islam from the Extremists*, 82.

mesköz (in the territory of today's Serbia and Romania) belonged to the Turkish occupation as well as the Partium of Transylvania. With the occupation of Buda, the Kingdom of Hungary broke into three parts: the "Royal" Hungary (or rather the territory occupied by the Habsburgs), the Eastern Hungarian Kingdom (from 1570 to the Principality of Transylvania), and the territory of the Turkish Occupation. Here for the administration of domination, the Buda *vilayet* was created. It was headed by the Pasha, and led by the military and civilian government, with the help of an appropriate central magistrate and auxiliary staff. The vilayet was divided into several areas, called *sandjak* ((liva), each of which was headed by a Bey. Beside him, the Mufti worked with partly administrative, partly judicial competence. He arranged mainly property and estate lawsuits, as well as inheritance matters, as opposed to the Kadi, who carried out the judgments in civil, criminal and ecclesiastical matters. The Kesar, as the tax inspector, managed the public income. According to these branches of government and powers, sandjaks were divided into several *nabies*. Sultan Suleiman the Magnificent organized public administration, justice-, religion- and public education affairs in Buda vilayet just as in other provinces of his empire. But the most vigorous influence of the Turkish conquerors on the Hungarian population was that they did not even intend: it was religion. They did not want to bother with religious affairs at all, but the Christians did not leave them in peace. The Turkish authorities were always harassed by them as the Christians demanded them to judge upon their theological disputes. They considered the state as the "sword of the Church" even under the new conditions, although this state was Islamic, but still they wanted to repress each other with secular power. It was not once that Turkish civil servants were present at the summonses of Christians and they decided who was right.¹²

The non-Muslim population lived relatively quietly after paying certain taxes: *jizya* and *kharaj*. Most Muslim jurists and scholars regard the *jizya* as a special payment collected from certain non-Muslims in return for the responsibility of protection fulfilled by Muslims against any type of aggression, as well as for non-Muslims being exempt from military service, and in exchange for the suppliance of poor *dhimmis*.¹³ *Kharaj* is a type of individual Islamic tax on agricultural land and its produce developed under Islamic law.¹⁴ However, for the payment of the taxes, non-Muslims were exempt from military service, which was compulsory for Muslims.¹⁵

According to the generous Islamic religious law, in the Ottoman Empire the Jews and the Christians lived safe. They maintained their religion and their local institutions. The Ottoman authorities did not regulate the processes initiated by Reformation at all, however, they did not even persecute the old Catholic church, nor its adherents. Immigrants in the occupied territories (Catholic Bosnians and Orthodox Serbs) thus could bring their own ecclesiastical system with them. Jewish merchants who were in precarious situation in Western European Christian states could also settle down unabated in the cities of the Turkish Occupation. However, of course, the Islamic Church and the monasteries of Dervish orders supported by the state power were also present. Hungary, during the Turkish Occupation, therefore, lived in a religious diversity which was not found elsewhere in contemporary Europe.¹⁶

3. Democracy in Ottoman public administration: a Jewish- and a Christian-born young people's career

The democratic nature of the Ottoman administration is also shown by the fact that

(12) Szilágyi, *A magyar nemzet története*, 980.

(13) El Fadl, *The Great Theft: Wrestling Islam from the Extremists*, 204.

(14) Lewis, *The Arabs in History*, 72.

(15) Matuz, *Az Oszmán Birodalom története*, 90.

(16) Molnár, „Reformáció a hódolt Magyarországon”, 5-11.

the career opportunity was open to non-Muslim talents as well. Pál Ács Hungarian literary historian in his paper quoted in many places¹⁷ outlines the parallel life of two Istanbul interpreter-diplomats. The mother tongue of one was German, and the other's was Hungarian.

The Viennese-born Mahmud was originally named Sebold von Pibrach. He was the son of a Jewish merchant Jacob von Pibrach¹⁸. Dragoman Mahmud is mentioned in 1541 as diplomat, who had been serving the Ottoman authorities for a long time¹⁹, so it is possible that he was captured in the battle of Mohács in 1526. Between 1541 and 1575 Mahmud led many diplomatic missions to Vienna, to Transylvania, to Poland, to Italy and to France. He even died during his last diplomatic mission in Prague.²⁰

Murad dragoman was born in Nagyvárád, Hungary (now Baia Mare, Romania), and his birth name was Balázs Somlyai.²¹ The memorial records found by Béla Varjas and András Szabó also prove that Murad bey was born in Nagyvárád, and was seventeen years old at the time of the battle of Mohács. In his Muslim catechism published in London, Murad himself also tells us that after the battle of Mohács the Ottomans captured him and he converted to Islam.²²

Mahmud and Murad were both responsible for the Hungarian and Transylvanian affairs of the *Bâb-ı Âli*. During the execution of their diplomatic mission in Transylvania, after the murder of Fr. Martinuzzi, the Habsburg armies imprisoned them for thirty months.²³ Murad was bought from captivity by Rüstem Pasha, the Grand Vizier, personally. He introduced Murad to Sultan Suleiman the Magnificent, who appointed him as a the interpreter of the *Bâb-ı Âli*, translator of Latin and Hungarian texts. Murad therefore worked as a Sultanian interpreter from 1553.²⁴

Although the Ottomans were reluctant to intervene in Christian theological debates

in the conquered areas, in some cases it was only because of public security that they were forced to make judgments on certain matters. It is well-known that some radical Protestant thinkers eventually went through Transylvania to Istanbul, where in the 1570s some kind of unitarian "lobbies" were established. The most prominent Istanbul unitarian was Adam Neuser, a refugee from Heidelberg, Germany, who converted to Islam at the end of his inner development. More recently it was published that Neuser in Istanbul was accommodated in the house of Mahmud, as Mahmud exercised control over the German Protestants living in Istanbul.²⁵ With regard to the lawsuit from 1574 to be presented in this study, as a translator for Neuser's help, no one else, but Mahmud hastened. This is much possible, because at the time when the complainants' application to the Sultan arrived, in February 1575, Mahmud was in Hungary on the way to his last diplomatic mission to Prague.²⁶

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4. The "Dispute of Buda"

As it has been already stated, the areas under Turkish Occupation enjoyed complete religious freedom at the times of harsh Protestant or other, non-Christian persecutions. Muslim Turkish people did not intervene in the "disbelievers" traditions, however, it happened many times that Turkish beys or the pasha of Buda were asked to play the role of arbiter in the Christians' theological debates. Such debate took place between a Unitarian

(17) Ács, „Osztrák és magyar renegátok mint szultáni tolmácsok: Mahmud és Murad terdzsümán”, 10.

(18) Szakály, *Mezőváros és reformáció. Tanulmányok a korai magyar polgárosodás kérdéséhez*, 257.

(19) Petrisch, „Der Habsburg-osmanische Friedensvertrag des Jahres 1547”, 60.

(20) Ács, „Osztrák és magyar renegátok mint szultáni tolmácsok: Mahmud és Murad terdzsümán”, 10.

(21) Szakály and Tardy, „Nyomozás egy magyar származású szultáni tolmács után”, 60-67.

(22) *Ibid.* 64.

(23) Kropf, „Terdsüman Murád”, 387-390.

(24) Ács, „Osztrák és magyar renegátok mint szultáni tolmácsok: Mahmud és Murad terdzsümán”, 10.

(25) Szakály, *Mezőváros és reformáció. Tanulmányok a korai magyar polgárosodás kérdéséhez*, 317, 321.

(26) Matuz, „Die Pfortendolmetscher zur Herrschaftzeit Süleymans des Prächtigen”, 51.

an clergyman and a Calvinist priest in the presence of Mustafa Sokollu in 1574. The Unitarians denied the existence of the Holy Trinity, for which the other Christian churches, including the Reformed (the Calvinists), were accused them of of heresy. This theological debate took place in Baranya county, in Nagyharsány village, and the litigation procedure was continued in Buda, and therefore mentioned later in contemporary documents as the "Dispute of Buda". This theological debate has flourished until it had tragic consequences as György Alvinczi Unitarian clergyman was hanged by the audience, only the other Unitarian priest, called Ambrus Lukács Tolnai, could escape to Pécs city. The Unitarians appealed to the Sultan, who appointed the Pasha of Buda as arbiter. From the *Acta: Türkenkriege 1574-1577*, a German-language document, discovered in 1986, we can obtain more information about this lawsuit.²⁷

154 Pasha Mustafa Sokollu sent summons for Illés Veresmart, the Calvinist Archbishop, his companions and the Unitarians as well. The pasha of Islamic faith agreed with the Unitarians and sentenced the Calvinists to death. However, the Calvinists were saved by their Unitarian opponents, who asked the Pasha to grant them mercy. The Pasha was generous and pardoned them.²⁸ The full text of the verdict of Pasha Mustafa Sokollu was translated to Hungarian by János Szász:

"[...] since I belong to the true faith, but no one else of you does this, therefore I can not give you either a verdict or a law concerning the true faith. After God has given so much into our hearts, there are some, who believe in One God – according to our religion –; and there are others, who believe, that God consists in three personalities. And because the Almighty God did not empower authority secrecy for emperors, pashas or others to direct faith, and so God himself governs faith alone; they do not intend, and neither do I want to persecute You because of Your faith, neither to force You to convert from one faith to another, but those who believe in the Holy Trinity should stay in that belief, and those who do not, should stay in that. So I command

all religious denominations to be calm, and do not cause any harm to one another either by words or by deeds. If any religious denomination initiates this, then I will punish it without further action! - [...] the mighty Sultan of Hungarians, Vlachs, Jewish and Greeks and all other nations whom he conquered with his sword, does not intend to force anyone to convert, but everybody is to be saved according to his religion. And for you, Bishop, you have no power to hang anyone because God is the sole creator of faith. That's why and I wanted to catch you with your two fellows to hang, but I'm only punishing you with 800 Tallers, and You have to pay this amount for the benefit of the mighty Sultan. And that is all."²⁹

Undoubtedly, it can be stated that the 16th-century judgment of the Pasha of Buda could be an example of the posterity, including the 21st century politicians. Western European researchers also confirm that the Ottoman Empire manned their minorities in later centuries in a humane and tolerant way as well. On the issue of tolerance towards the minorities Roderic H. Davison, a prominent Western historian of the Ottoman Empire argues:

"It might in fact have been argued that the Turks were less oppressive of their subject people than were Prussians of the Poles, the English of the Irish, or the Americans of the Negroes - There is evidence to show that in this period {late 19th century}, there was emigration from independent Greece into the Ottoman Empire, since some Greeks found the Ottoman government is more indulgent master {than their own Greek government}"³⁰

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- (27) "Acta: Türkenkriege 1574-1577. Summarischer Auszuge, wie sich die Disputation des Glaubens halten, zugetragen halb, zwischen Christen und Arrianern, zu Ofen denn 8 February, Anno 1565."
- (28) Zoványi, *A magyarországi protestantizmus 1565-től 1600-ig*, 131-132.
- (29) Szász, „Újra a budai disputáról"
- (30) Roderic H. Davison, *Reform of the Ottoman Empire 1856-1876* (New Jersey: Princeton University Press, 1963) 116.

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