

6 Modernist responses to post-modern demands?

‘Differential treatment’ in Europeanising Turkey

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Introduction

This chapter examines the issue of differential treatment in contemporary Turkey, with an emphasis on the merits and limits of the rule and exemption approach in local context. I will survey the Turkish scene for requests for exemption from the law (EFL) and subsequent responses by state institutions – identifying, in the process, a significant mismatch between requests and responses, indicating that historically there has been little space in the Turkish polity to accommodate the range of EFL requests. However, recent signals indicate changes in this trend since Turkey attained European Union (EU) candidate status in 1999.

The main argument of this essay is that the above mismatch reflects a chasm between the dominant conception of Turkey as a ‘modern’ state, which emphasises solidarity, unity and secularity, and the development of a civic society, whose ‘post-modern’ demands for recognition and accommodation are grounded in religious, philosophical and ethnic markers.¹ The modernist Turkish state is premised on an understanding of nation as a people within a territory making up a community of citizens (with rights) and a community of sentiments (based on common bonds). Nationhood, in this sense, ‘involves a high level of cohesion that binds nation and state together’ (Jackson and Sorenson 2007: 271). During the twentieth century, Turkish elites adopted a modernising mythology premised upon the superiority of Western (Enlightenment) values. They believed that only strong states could promote economic and political development, and ‘this could be undermined if religion, ethnicity, or caste dominated politics.’² However, the modernist perspective has created its own discontents, so much so that some have termed the twentieth century the ‘last modern century’ (Katzenstein 2006: 31). In the post-modern conception of politics, it is argued that ‘collective identities are projected away from the nation and no longer linked to socio-political cohesion or the strength of the state’ (Jackson and Sorenson 2007: 273). This perspective thus opens up the possibility of ‘multiple modernities’, or ‘multiple ways of being modern appropriate to the different cultural and religious traditions’ (Thomas 2005: 45).

The Turkish experience with regard to the issue of differential treatment is of significance for the future of the EU project. For one, the Turkish case represents

a rare phenomenon of a secular political system within the Muslim world with ramifications on the issue of differential treatment. This is of particular significance in cases where the Islamic doctrine and secular values come into conflict. Similarly, the main problem for European Islam is its rejection of the public–private distinction that is now firmly enshrined in European law and practice (Katzenstein 2006: 13). This fundamental issue is often boxed into a debate of Muslim exceptionality in multicultural Europe.³ The Turkish case provides an opportunity for the analyst to tackle this vital issue – how to synthesise democratic and Islamic values more generally – on its full merits.

Muslim integration into Europe is becoming an increasingly salient issue. As discussed elsewhere, ‘western Europe has become increasingly secular’ (Katzenstein 2006: 14) while the Muslim communities in Europe have become increasingly assertive in claiming exemptions on religious grounds (Meer and Modood 2009). Indeed, ‘in the immediate future, questions about the status and treatment of Muslim communities in Europe might have the strongest potential to activate religion as a basis of competitive mobilisation and claims-making’ (Nexon 2006: 281). Debates over this issue ‘have the potential to be quite disruptive, as they immensely complicate bargaining over law, authority, and any more mundane policy issues that they implicate’ (Nexon 2006: 281). This chapter argues that, while an analysis of the Turkish experience since the 1920s does not offer all the answers, it does provide a century-old ‘laboratory’ for examining Islamic-versus-secular debates within the EU.

The following pages are organised around several key questions. What kinds of requests for differential treatment are made in Turkey? What are their rationales? How are they expressed? What are the general characteristics of Turkish state responses? What historical and political factors shape these responses? How, if at all, has the EU process influenced the state’s responses? Can we observe changing state responses to the requests for differential treatment in specific cases? And, finally, what can we conclude from the implications of possible change in Turkey for the broader issue of constituting a European ethos?

A typology of Turkish practice

A survey of the Turkish scene indicates that requests for exemption from law may take various forms, including conscientious objection, and group or individual exemption from legal obligation.⁴ Though each case could be classified under a certain form of request for differential treatment, it often reaches beyond one form. It would not be an overstatement to say that conscientious objection constitutes the bedrock of the demands for differential treatment in Turkey, often coupled with civil disobedience or request for exemption from legal obligation. For instance, the request for exemption from the dress code in public institutions contains elements of all three categories of request.⁵

We could analyse the cases of requests for differential treatment on the basis of three main cleavages in Turkey. The first group of cases revolve around the

cleavages between religion (Sunni Islam) and the secular (Turkish) state. Examples of this group include the request for exemption from the dress codes in public institutions (including schools) and the right of female doctors not to examine male patients. A second group of requests for exemption from law pits the state-recognised Sunni doctrine against members of the minority Alevi sect of Islam. The main complaint in this regard is that the law makes religious education compulsory for primary- and secondary-school students from which Alevi families want to exempt their children. Contrary to the first two groups of the requests, a third group of the requests involves *individual* exemptions from law, such as freedom from military conscription.⁶ In this case of individual conscientious objection, the claimants typically invoke secular/universal values – such as anti-militarism – rather than religious/particular ones.

The Turkish state's response to these requests for differential treatment has been quite rigid. The state does not back away from the official principle of universal application of the law, because it views differential treatment as a sign of weakening state authority. Several factors play a role in this particular perception of the Turkish state. For one, the Turkish state in some ways is still going through the nation-building process, with a heavy emphasis on the unity of the state and homogeneity of the society. This leaves little room for a more nuanced approach to demands for exemption from law. Second, the Turkish state sees the issue of religion in a distinct manner. On the one hand, it officially aspires to keep religion separate from the political process. On the other hand, it seeks to control the religious life of the country through the Directorate for Religious Affairs (DRA) under the Prime Ministry with the aim of curbing religious extremism. As we discuss later, this rather awkward position complicates and leads to a stalemate in the way the Turkish state approaches religion-based demands for exemption from law. Third, Turkish political and social traditions place the interests of the state and society-at-large above those of the group or individual (see Ahmad 1996).

The interface between requests for differential treatment and the response of Turkish institutions generates several important issues for analysis. As the majority of the cases involve religion-based conscientious objection, the rule and exemption discussions usually revolve around cleavages of the state versus religion. In addition, group rights versus order and individual rights versus order are important points of tension. As discussed above, what cuts across all of these issues is the modern conception of the Turkish state as a unitary and secular entity, as opposed to the more recent post-modern, multicultural conception of the Turkish polity. This impasse has been further complicated by Turkey's post-1999 EU accession process. EU requirements, especially the Copenhagen political criteria – with their emphasis on plurality, individual and group rights and tolerance for minority requests – have strained the modernist outlook of the Turkish state.

In the next section, I will provide a brief overview of the historical and political legacy of the rule and exemption approach in Turkey. I will discuss both the enduring and changing aspects of this system since the country began the EU accession process at the end of the 1990s.

Historical and political background

The history of modern Turkey begins with the dissolution of the Ottoman Empire in the wake of the First World War. The Ottoman state resembled contemporary multi-ethnic, multi-faith and multicultural empires (see Lewis 1961). It had Islam as its official religion but recognised the rights of non-Muslim minorities in its so-called *millet* (nation) system. The largest ‘nation’ was of Muslim faith, with this being treated as a whole (without taking ethnic and sectarian differences into consideration). The non-Muslim minorities included mainly Armenian, Greek and Jewish ‘nations’, who had more specific rights, such as the right to have their own schools (including religion-based institutions), to train clergy, to instruct in their own languages and to practise their religious duties (see Oran 2004: 61–81).

While certain elements of the Ottoman legacy continued to survive under the new republic, many were abolished or marginalised. A radical departure from the Ottoman Islamic past was the adoption of the principle of secularism (laicism) as one of the main pillars of the modern Turkish state. As a result, two important policies emerged: a strict separation of religious affairs from state affairs; and the foundation of the DRA to safeguard against religious reactionary movements and to regulate the religious life of the Muslims in line with Sunni doctrine (Oehring 2002: 8). The overall marginalisation of the Islamic identity by the republic faced resistance from religious conservatives who felt politically isolated and threatened. These sentiments never amounted to a full-blown resistance movement but led to sporadic episodes of resistance in those more traditional areas of the country that were strongly influenced by religious brotherhoods (Mardin 1977: 279–97).

As part of the overall secularisation drive, a new national education system was set up to replace the religious one. Education was unified under the Ministry of National Education, with the aim of bringing not only modernisation but also secularisation to the schools. Schools educating religious clergy were kept separate from regular schools. Like the educational system, the legal system was also freed from its previous basis, and Western secular laws were adopted. For example, a new Civil Law was fashioned after the Swiss Civil Code. These new laws and the philosophy behind them brought radical social reforms to the country. Among them were women’s rights and equality of men and women before the law. The reform of the dress code encouraged Western-style clothing and prohibited the wearing of religious clothing such as the veil. The wearing of all types of clothing with religious significance was banned in state institutions (Berkes 1998).

However, the republic did not fully discard the policies of the Ottoman era. For one, it continued to assume the homogeneity of the Muslim *millet* in the country. This has led to two main areas of tension in the country. One, it perpetuated the ignorance of the distinct Alevi sect with its proclaimed differences from the majority Sunni sect. This prepared the grounds for claims of discrimination against Alevis in later decades. Second, it has also led to the non-recognition of the Muslim ethnic minorities, the most significant of whom were the Kurds. Several Kurdish rebellions, often with conservative religious colours, took place in the 1920s and 1930s.

In line with contemporary trends elsewhere, in the interwar years the new regime launched a nation-building process that downplayed the issues of religious/sectarian/ethnic identities and ‘securitised’ its approach to demands for religious/sectarian and ethnic rights. Overt expression of these identities was seen as anathema to ‘national unity’ – viewed as essential for survival in the crisis-ridden regional and international systems of the period. It was only after the transition to multi-party politics in 1946 that the voicing of demands for recognition of various identities began to emerge more clearly.

The Cold War years shifted attention away from identity claims towards ideological claims. Sunni religious sentiments found their expression in the policy positions of the far right and – in some measure – the centre-right. Kurdish demands for ethnic recognition and Alevi demands for religious rights, on the other hand, became embedded into the overall rhetoric of the Turkish left. As the ideological rivalries subsided at the end of the Cold War, these identity claims re-emerged. Among them, Kurdish sentiments dominated the Turkish political scene. Conflicts with Kurdish groups culminated with a bloody armed rebellion led by the separatist Kurdish Workers’ Party (PKK) with the demand of a separate Kurdish state carved out of eastern Turkey. The earlier denial of the distinct Kurdish identity was left behind in the past decade due, in part, to the reforms conditioned by Turkey’s EU process. In recent years, the Kurdish separatist demands seem to have died down, as the group increasingly focuses its efforts on improving cultural rights within Turkey. (Since the Kurdish demands amount to a significant transformation of the political system, as opposed to requests for exemption from a limited number of legal obligations, this paper does not deal with this issue – but see Barkey and Fuller 1998.)

In the post-Cold War period, demands for differential treatment became the new norm. What is relatively novel in this period is that the international community, including European institutions and countries, began to place much more emphasis on human-rights norms and closely monitored their implementation. Though one can recall earlier efforts (such as the Council of Europe and the Helsinki Act of 1975) to formalise human rights in Europe, the EU’s Maastricht Treaty, which established the Copenhagen political criteria as essential principles for accession into the EU, has set the tone of European politics on diversity since the early 1990s. The Copenhagen political criteria require candidate countries to ensure the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. These elements are substantiated through various practical mechanisms, including the rulings of the European Court of Human Rights (ECHR) and the common recommendations of the Council of Europe. In this new environment, the rigid Turkish state attitude towards requests for differential treatment have come into direct contact with the more flexible and pluralistic European norms, putting the former under scrutiny and forcing a certain degree of change, i.e. Europeanisation.⁷

After the EU Helsinki Council Summit of December 1999 offered Turkey the status of a candidate state, the EU process became the major driver of changing policies in Turkey on cultural diversity issues. The EU, in its Accession Partnership

Documents (APD) for Turkey, has outlined its expectations from Turkey on cultural diversity and pluralism. The EU has examined ongoing developments and provided a score card of the reforms in Turkey in yearly progress reports. In all of these documents, the EU has called on Turkey to recognise, and show greater tolerance for the expression of, various religious, ethnic and individual identities. There were sweeping reforms in Turkey, especially in the area of human rights, between 2001 and 2004. In this period, nine constitutional reform packages and many legal changes were enacted into law (Ozbudun 2007: 179–96). Consequently, since the Progress Report of 2004, the EU has officially considered Turkey a country that has met the Copenhagen political criteria. It was on the basis of this report that the EU and Turkey commenced full membership negotiations in October 2005.

These reforms either directly or indirectly expanded the political space for requests for differential treatment to be aired. The primary issue was the official recognition of various ethnic identities in Turkey, including both the Kurds and other non-Muslim minority groups. The reforms also strengthened the freedom of expression and freedom of association judicial reforms, thus enabling formerly restricted groups to more freely express their demands and requests from the state. Most of the issues that this chapter deals with came to the political discourse in the country thanks to these reforms. The claimants utilised this new space, often invoking the EU process and the *acquis* to support their claims (Yavuz 2006).

Despite the dynamism of Turkey's 'European' era in terms of human rights, demands at the individual level for exemptions from the law did not occupy a significant place in the national discourse. This has begun to change gradually in recent years. Nowadays, one sees high-profile public discussions on individual-level requests for legal exemptions, such as objection to military conscription. These individual-level demands are generally grounded in rhetoric about individual conscience and universal secular values, such as the values of dignity, and ethical convictions against militarism.

The following section aims to represent a broad range of identity-based claims – religious, secular, group and individual – through analysis of three specific cases: the headscarf issue (religion versus state), compulsory religion course for Alevis (sect versus state/religion), and the right to object to military conscription (individual versus the state). In each case, there have been encouraging developments towards a more satisfactory balance between requests and responses, as well as towards the resolution of certain cleavages in Turkey.

Requests on religious grounds: exemptions from dress codes and religion courses

Demands for exemption from law on religious grounds and state responses to these demands have been at the core of many Turkish public debates in the past two decades. The debates themselves have been dominated by the issue of religious symbols in the public square, especially of the Islamic headscarf in universities, and, to a lesser extent, the demands of the Alevi for official recognition.

In the 1990s, enthusiasm for Islamic symbols was on the rise. Since coming to power in November 2002, the Islamist-rooted Justice and Development Party (JDP) government has expressed sympathy with, and even encouraged, stronger Islamic symbolism in public sphere. The issue became more salient after the JDP won the general election by a landslide in July 2007 and showed signs of catering more insistently to its religious conservative supporters. In this context, there was an attempt in the early months of 2008 by the current JDP Government to modify the law in order to allow female students to wear the headscarf in universities. This was denied by the Constitutional Court, an earlier decision of which to the same effect had been endorsed by the ECHR.

The majority of the Turkish people are in favour of lifting the ban on headscarves in universities on religious and human-rights grounds.⁸ Naturally, the religious clergy has participated in these discussions. Traditionally, a majority of the theologians have argued that the wearing of the headscarf is an obligation for Muslim female believers. Some NGOs regard the headscarf ban as discriminatory against women and mostly as a violation of their freedom of religion and expression. They argue that men who share the same ideologies or beliefs do not face the same criticisms. Additionally, men are not being subjected to litigation since they do not wear any overt religious attire.⁹

The response of state institutions towards the question of allowing headscarves in the public sphere has been based on different narratives of the issue under consideration. Turkey has specific laws and rules governing religious symbols in the workplace, according to which use of religious symbols by employees of the public sector is strictly forbidden at work. The legal thinking behind this prohibition is reflected in the Preamble to the Constitution, which states that ‘as required by the principle of secularism, there shall be no interference whatsoever by sacred religious feelings in state affairs and politics.’ Based on this premise, the Turkish state has opted for a strict interpretation of its norms in a way that excludes religion from public workplaces, including schools and universities. The wearing of the headscarf by public employees (in the workplace) has thus been interpreted as a display of political and pro-Islamic attitudes. The state does not see the headscarf as a case of religious freedom but as a political symbol of Islamism. As Skach argues, the Islamic headscarf is no longer simply considered a religious symbol but is increasingly perceived as a political symbol that presents a clear and present threat to public order or to the liberty of others (Skach 2006: 186–95).

There are also important societal segments that support the ban on the premise that it is a matter neither of religious nor human rights but of religious oppression of women and an assault on the secular, modern character of the regime. In addition, there are several influential theologians who argue that the veiling of the body parts is not a binding obligation of Islam. Their position is that in order to be a believer of Islam one has to fulfil five religious obligations, which do not include veiling or wearing a headscarf. They indicate that the veiling of women exists as an obligation in the Qur’an but an ancillary one compared to the main religious duties, such as praying and fasting. On this basis, they claim that the state may apply its own rules and regulations, and that according to Islamic law, the state

has the discretionary power to decide what is permissible. Thus, they suggest that, as the wearing of the headscarf is not a primary pillar of conviction, the rules imposed by the state should not be considered contrary to the religion (see Figlali 1999). In short, they argue that in Islam the state order has priority over individuals' interpretations of religion.

The preceding analysis indicates that the state institutions have held their staunch position on the headscarf issue in universities. However, in recent years, this attitude is changing, and more change is on the way if a number of hurdles are overcome. First, the request must be limited to universities (i.e. excluding female public servants and high-school students). On the state side, the institutional consensus has disappeared; the Higher Education Council gave a green light to wearing the headscarf in universities while the Constitutional Court annulled a law that allowed the headscarf in universities. It is clear that each new appointment to the Court by the President will bring the Court closer to lifting the ban. Thus, it is highly likely that the dress-code requirements for female university students will be changed to allow the wearing of headscarves rather than granting them exemptions from the legal requirement. Alternatively, this could also be interpreted as exempting universities from other public squares.

Positive signals are also emerging in connection with the other important tension point in Turkish polity: Alevi demands from the Turkish state. There is the potential to bring this issue to a resolution that is satisfactory to both state and society. The Alevi community seems closer to official recognition than ever before. There are an estimated 7–10 million Alevis in Turkey. They are considered to be a sect of Shi'a Islam but one which also incorporates some pre-Islamic elements. The Turkish state identifies the Alevis as heterodox Muslims, although some elements of the Sunni community consider the Alevis to be a heretical offshoot of Islam (United States Commission on International Religious Freedom 2007: 10). As a Muslim group, the Alevis do not benefit from the rights accorded to some categories of non-Muslims by the Lausanne Treaty of 1923. The 1982 Constitution, prepared under the aegis of the military government, reversed the earlier policy of parental choice and made a course on 'religious culture and moral education' (designed along the lines of Sunni doctrine) mandatory for all primary- and secondary-school students in the country (Article 24). The Alevi community has considered this policy to be an assault on its religious identity and culture by the dominant Sunni doctrine. Alevis have demanded either an overhaul of the standard textbook used in the course to include satisfactory information on Alevism or a change in the law to make the course optional.

The state response to these requests for differential treatment has been mixed. The religion course is still mandatory for all children (except those of non-Muslim faiths). The DRA resisted the suggestion that Alevism is a distinct branch of Islam to be recognised, making reference to differing classifications of Alevism by Alevi scholars and followers themselves. But there have been some government efforts in recent years to include more complete information on Alevism in the course textbook. For instance, a committee led by a prominent Alevi theologian has been set up to implement such a mandate.

This trend towards meeting the Alevi request for differential treatment must be considered in its legal context. In response to an Alevi family's application to the ECHR complaining about the mandatory course on religion, the Court held unanimously, in October 2007, that there had been a violation of 'the right to education'.¹⁰ The Court also took note of the Government's acknowledgement that these classes do not take into account the religious diversity that prevails in Turkish society; it decided that the religious instruction syllabus did not meet the criteria of objectivity and pluralism necessary in a democratic society; and it ruled that there was no appropriate method to ensure respect for parents' convictions. Consequently, the Court held that Turkey should bring its educational system and domestic legislation into conformity with the ECHR. The Court judgement still has to be implemented. In August 2008, the Alevi Federation applied to the Committee of Ministers of the Council of Europe complaining that this decision had not yet been implemented. In August 2008, in two separate cases, the Council of State decided that the children of Alevi families were entitled to be exempted from religion-education classes. Recent EU progress reports on Turkey have given this issue considerable importance and have succeeded in putting it on the country's political agenda.

There have been positive signs in recent years that a consensus is emerging among the major parties in the Turkish parliament to resolve this and other problems facing the Alevi community. The developments in this area indicate that the Turkish state and public attitudes toward Alevism are changing. Either the law may change or Alevi pupils get their exemption from the course or Alevism gets its fair share in the curriculum.

The closure of religion-based cleavages in Turkey will serve as an important transmission belt for the further maturation of Turkish political system and will pave the way for greater multiculturalism in the country. These recent changes also signal a lessening of the mismatch between requests for exemption from the law and the response of state institutions. Although just as significant in terms of the maturation of the system, individual, secular-based claims in Turkey have not enjoyed the strength that the religion-based claims have had. The next section deals briefly with one such request (exemption from conscription) and examines the slow evolution of the state's responses to this type of request.

Requests on secular grounds: exemption from conscription

There is a European consensus on the institutional response to the request for exemption from military conscription. Forty-five out of forty-six members of the Council of Europe found a solution by offering alternatives to military service. Due to this strong consensus, the Turkish practice of military conscription seems unsustainable. The concept of conscientious objection to military conscription became significant in Turkey during the 1990s. Though it has never become a large-scale phenomenon, certain objectors to military conscription and their treatment in the legal system have drawn public attention. They have stressed that their act is based on their individual conscience and that they do not have to explain it to the

state authorities. Contrary to some of the other national experiences, Turkish objectors have based their request for exemption from law solely on secular values, including anti-militarist political persuasion and philosophies of passivism or anarchism. Some of them see mandatory military service for each male citizen of the country as an assault on their human rights and argue that the law must be changed to make such service voluntary. Others argue that those who want exemption from the conscription must be offered alternative ways of performing civilian public service by the state. Still others, the so-called ‘total objectors’, reject both military service as well as compensation through civilian public service.

The response of Turkish institutions to calls for exemption from military service has evolved over time. According to the Constitution (Article 74), ‘public service is the right and duty of each citizen.’ The courts have generally ruled that the concept of conscientious objection is unavailable in the Turkish system. On the other hand, international agreements to which Turkey is a signatory stipulate that those who consciously object to military service can be required to perform alternative public services instead. The Turkish Penal Code (Article 155) had considered conscientious objection to military service as ‘an act of discouraging people from military service’ punishable as a terror-related offence. But after 1993, a military court ruled that, since international agreements that Turkey has signed treat conscientious objection as a right, it therefore cannot be considered as an offence. Today, if the objector is already in the military, he is charged for ‘insistence on disobeying an order’ with a sentence of between six months and five years in prison.¹¹

Objection to the military draft will draw more support as the armed conflict with the PKK gives way to a political solution to the problem. Currently, the number of objectors is relatively small (about eighty men). Therefore, it does not feature as a major issue within Turkish public discourse or between Turkey and the EU. But it does reflect how the Turkish state approaches the issue of individual exemption requests.

Conclusions

This chapter has analysed the prevailing approach to rule and exemption in Turkey and focused on the issues of differential treatment for the purpose of understanding the extent to which the country has evolved towards a more pluralistic set of values. We have discussed three main cases of requests for exemption from law. In choosing them, we have tried to ensure that the cases are related to both religion-based and secular value claims. We have also aimed to include requests for exemption from law that are typically presented by groups or individuals. Thus, we have explored the cases of the headscarf in the workplace, Alevi requests for exemption from religion courses and the right to reject military conscription.

Reflecting on this discussion, our first observation is on the timing of the demands for differential treatment in Turkey. Despite being heir to a multi-ethnic, multi-religious and multicultural concept of statehood, from the 1920s on, the republican regime prioritised the nation-building process, which led to a dismissal

of claims for differential treatment. This modernist outlook implied that requests for exemption were unpatriotic, mostly 'irrational' and anti-modern. The Turkish state adopted a paternalistic approach towards society, the individual, religion and ethics. In this sense, at the end of the Cold War, the burgeoning set of requests for exemption from the rule signalled the dawn of a new era for the country. Indeed, these requests, largely of a post-modern nature, received meaningful public attention only in the past two decades.

This leads us to another observation: despite its initially rigid responses to the new and/or renewed demands for differential treatment, the state seems to have gone through a learning curve, as manifested by the relatively more flexible and consultative attitude of some state institutions, especially in the 2000s. What accounts for this slow yet significant change? For one, the maturation of Turkish civil society in the post-Cold War era has counterbalanced the overwhelming dominance of the state in the public sphere. Second, the globalisation process has opened up new avenues for the introduction of new ideas and approaches to both state and society.

Third, and as a vital complement to these other factors, the Europeanisation process that accelerated in the 2000s has reshaped the cleavages between state and society, state and individual and society and individual. As expected, this process of change in the political and legal spheres increased the flexibility of both the state and society in dealing with various requests for differential treatment. Overall, we could state that current public discourse on the issues of plurality is profoundly shaped by demands of non-state and 'minority' actors.

What are the preliminary implications of the Turkish case for the construction of a European ethos? The Turkish experience indicates that if there is, by and large, a consensus in Europe on how the state institutions should respond to a particular type of request for differential treatment, pressures build up on the divergent cases to change in a harmonising direction. The case of the increasingly positive stance of the Turkish state towards Alevi demands is a case in point, as the Council of Europe decisions and EU pressures were of vital importance for the change in the making. Yet, a European consensus is not enough if the national exigencies are strongly against the European trend. The case of the military draft illustrates this situation. The armed struggle with the PKK from the mid-1980s made such requests look unpatriotic and opportunist. Against the wider lack of a European consensus on how to reply to a particular type of request for differential treatment, the Turkish state's response seems to be protracted. The case of religious symbols illustrates this situation.

It should be also noted that analysis of the Turkish case seems to be valuable for the construction of a shared European ethos, if the latter is taken as requiring a degree of consolidation of the commitment to human rights in response to religion-based requests emanating from highly conservative Muslim elements in Europe. For, however issues of differential treatment are viewed or resolved, it is likely that certain such demands – particularly concerning the status of women and the headscarf question – will be considered in breach of European (or universal) human-rights norms.

Notes

- 1 For the concepts of modernity and post-modernity, see for example, Jackson and Sorenson (2007).
- 2 For the Third World elites more generally, see Thomas (2005: 41).
- 3 For such a debate in the British context, see Meer and Modood (2009: 481–3).
- 4 This paper follows the definition of conscientious objection by Decker and Fresa: ‘an act of disobedience of law, justified by a “conflict of conscience” between compliance with the law and observance of inmost ethical convictions’ (Decker and Fresa 2001: 380). It considers legal obligation as ‘[respecting] the state’s legal authority to make and to enforce laws and policies’ (DeLue 1989: 1). Thus, request for exemption from legal obligation is to mean a release from some legal obligation or requirement, especially where others are not so released.
- 5 There have been occasional illegal public demonstrations at the gates of universities since the late 1980s.
- 6 Of course, these cases are not exhaustive. For the purpose of brevity, I only take the most significant ones within the past decade.
- 7 There is a growing literature on the mechanism of Europeanisation. They generally argue that the higher the degree of ‘misfit’ between the national and European norms is, the deeper the degree of Europeanisation required will be. See for example, Featherstone and Radelli (2003).
- 8 According to a country-wide survey in September 2007, 73 per cent of respondents favoured a lifting of the headscarf ban in universities. See <<http://forum.vatan.tc/basortusu-arastirmasi-kamuoyu-yoklamasi-t12444.0.html>> (accessed 31 July 2009).
- 9 See, for example, the position of the Human Rights Foundation on this point at <http://ihd.org.tr/index.php?option=com_content&view=article&id=960:basorunu-ve-kesel-tutumlar&catid=48:tutum-belgeleri&Itemid=126> (accessed 31 July 2009).
- 10 Article 2 of Protocol No. 1 of the European Convention of Human Rights.
- 11 Military Penal Code, Articles 87 and 88.