

ARTICLE VIII.

TURKISH TOLERATION.

By Rev. Ell Smith, Missionary in Syria.

It has come to be generally understood, that Turkish law tolerates only certain existing Christian sects, forbids the rise of new ones, and thus presents a barrier to the introduction of Protestantism. Such was the prevalent understanding of the case among the Franks at Constantinople, when Mr. Dwight and myself visited that city in 1830 and 1831; and this view was presented in the volumes which contain the results of our researches in Armenia. The same view has been repeated by almost every traveller, who has touched upon the subject since. This view, however, needs to be very materially modified. Fifteen years' experience and inquiry in that country, have thrown new light upon the subject, and it seems important that this light should be diffused among the Christian community.

It has been evident from the first, that the above mentioned view of Turkish law, did not hold good in Syria. Whatever obstacles Protestantism may have had to encounter there, it has never been told, either by magistrates or people, that it had no *legal* right to an existence. Those who lately declared themselves Protestants at Hasbeiyah, were never accused by the Turkish authorities, from the brother-in-law of the Sultan downward, that they had taken an illegal step. On the contrary, the high functionary just alluded to, officially declared, that notwithstanding what they had done, they remained dutiful subjects of the Sultan. The common people have never shown that they had a suspicion, that there was a principle in Turkish law, that stood any more in the way of a person's professing Protestantism, than of his joining any other Christian sect. Persecution has always been expected; but it was from the *arbitrary power* of magistrates and ecclesiastics, or from the violence of the populace, and not from the execution of law.

At Constantinople and in that vicinity, I am not aware that this discrepancy between the received exposition of the Turkish rules of toleration and actual experience, has been found to exist. Perhaps the ideas current at the capital in 1831, on this subject, prevail there still. If so, the following suggestions, though offered with diffidence, it is believed may explain the difference between Constantinople and Syria, in relation to this subject. It is proverbial of the Turks, that they rarely repair what has fallen into decay. The walls of Constantinople still show the very breaches made in them when the Turks took that city. If many exceptions to this rule have of late appeared, they are innovations

upon old Turkish habits, borrowed from abroad. Scarcely more have the Turks been given to municipal reorganization. As they occupied fortresses and settled in cities without repairing or remodeling; so, instead of reconstructing existing organizations, they merely superinduced their own still semi-nomadic institutions upon them. This was the easiest course for a semi-barbarous people, when it found itself in possession of an empire made up of several nations, speaking unknown tongues, which it had not the disposition, perhaps not the ability, to acquire. Where any one of these nations presented itself as a unit with its own head, and its own internal organization; to govern it through this head and this organization, at least in part, was much more convenient, than to attempt a reconstruction of society, which required more powers of organization than the conquerors yet possessed. The Greek nation did thus present itself as a unit, with its head in the person of the patriarch, and its organization ramified into every diocese and parish. No sectarian distinction divided it. It even embraced two other nations within itself, the Albanian and Slavonic; which having no distinct national or sectarian existence, were naturally treated as integral parts of the Greek people. The Greek nation was therefore treated as an organic body, the patriarch was acknowledged as its head, and invested with the necessary powers as a magistrate. The Armenian nation presented the same unity of organization, but its head was not at hand. The Catholicos had his see at a great distance from the capital. In this emergency, the bishop of Brusa was brought to Constantinople, and made, by the government, head of the nation, with the title of patriarch. When the Spanish Jews moved into Turkey, they were another distinct nation. As such they were consequently treated, and their chief Rabbi was clothed with magisterial powers.

The important idea intended to be brought to view in the preceding remarks, is this: That what now appears at the Turkish capital, so distinctly as an exclusive establishment of certain sects, was in its origin and intention, *not ecclesiastical*, but *wholly municipal*; not an establishment of sects, but an organization for the government of nations. Each nation happened to be a distinct sect, and an ecclesiastic was acknowledged as the head of each; and hence the system came in time to wear its present sectarian, ecclesiastical aspect. But it was properly at the outset a *Turkish* municipal expedient, and had not its origin in the older Mohammedan laws respecting religious toleration. In confirmation of this view, let me revert to the fact, that the Armenian patriarch is in no sense the ecclesiastical head of his nation. Ecclesiastically considered, he is only bishop of a diocese. He can no more consecrate bishops, than can other bishops. This is the business of the Catholicos. Nor can he perform any ecclesiastical functions beyond his diocesan limits. His patriarchal title is of Turkish origin, and his powers, above those of his fellow bishops, are given him from the same source for magisterial purposes. Another confirmation of this view is at hand. Among the multitudes attracted to Constantinople as the capital of a great empire, is a little knot of a few hundred Christian *Arabs*. In conformity with the system there prevalent, they also must needs be treated

as an organized body, and have a head. But so little was thought by them, or the government, of its being an ecclesiastical arrangement, that the person acting as their magistrate, is actually a *Turk*. Again, take the case of the recently acknowledged sect of papal Armenians. The labors of papal missionaries during many years, had resulted in the conversion of a good many Greeks and Armenians to the Romish church. The Greek converts generally took Frank protection, and thus the question of toleration, in regard to them, was evaded. The Armenians retained their national connection, the patriarch still representing them as their head before the government; and by paying certain fees to the Armenian clergy, they managed to keep all quiet, while they, at the same time, had their own clergy and worship. At length the Armenian patriarch, on the breaking out of the Russian war, saw fit to cast them off. That act deprived them of any acknowledged municipal existence, and they were persecuted for a time as outlaws. At length the government was persuaded to give them a head, as a distinct community. According to analogy, this head was to be a patriarch. A patriarch was appointed by the pope. But here a difficulty arose. The Sultan would not accept, as their municipal head, a person of foreign appointment. No more would the pope accept, as their patriarch, a person of Turkish appointment. The difficulty resulted in the appointment of two persons with the title of patriarch. The pope's patriarch was the real ecclesiastical head of the sect, the Sultan's was only its municipal head, and no real patriarch at all, though bearing the name.

One important suggestion, arising out of the view of the subject thus presented, deserves to be noticed, before I pass to a consideration of the state of things in Syria. It is this: That should it be necessary for Protestantism, in and around Constantinople, to have a municipal organization and a head, like the other sects, that head *need not be an ecclesiastic*. A bishop of foreign allegiance, and foreign appointment, he can never be. A lay head, with a purely municipal organization, will answer every purpose of the Turkish government. Then, different denominations of Protestants can enjoy equally the benefit of the same act of toleration; the great advantage will be gained of giving the Turkish government no occasion to control, or interfere with, purely ecclesiastical matters; and the clergy will be left to the simple discharge of their spiritual functions, unencumbered with municipal duties, and uncorrupted by secular power.

In *Syria*, the Arab nation occupying that country, did not present itself to its Turkish conquerors as a unit. It had no national organization, and no head. On the contrary, it was split up into, at least, eight sects, five Mohammedan and three Christian, each feeling little or no national affinity with any other. For the Turks to introduce their national municipal system here, was plainly impracticable. Nor was it introduced by sects, which would not have failed to be done, had the system in its original intention, been sectarian and not national. The Greek patriarch of Antioch and his bishops do indeed receive firmans from the Porte, yet neither he nor the other patriarchs and bishops in Syria have ever been in practice, treated by the Turkish authorities as municipal magistrates,

nor have the clergy had the collection of taxes. The taxes, it is true, are in many places, collected by sects; but then, it is by lay committeemen, chosen by the people of each religious community, and in each town by itself, while in country places, the distinction of sect, in this matter, is very often not at all observed. The Turks having thus never introduced into Syria, their own peculiar expedient for the government of subject nations, the older Mohammedan principles of religious toleration, have been left comparatively unembarrassed, and allowed to exert their more liberal influence.

What the original principles of Mohammedan law, upon the point in question, are, we have the means of knowing with great exactness. They are contained in a legal document, which I will give in full; after first explaining the circumstances in which it was issued. The city of Aleppo, in Syria, was for a long time the seat of a flourishing papal mission; and as the result of its labors, many converts were made from among the Arab members of the Greek church. At length, in the year 1175 of the Hejira, somewhat more than eighty years ago, the Greeks obtained a firman for persecuting the Catholics; by authority of which they oppressed them, and imprisoned a number. Then the Catholics petitioned the Porte, and obtained a *fetna* in their favor, which is the document in question. A *fetna* is the decision of a *Mufti* upon a point of law, and a *Mufti* is an official expounder of law. His opinions are obtained by proposing questions in writing, often stated in the most abstract manner, without the naming of parties; and they remain mere abstract opinions until acted on by a Kadi. The Kadi's business is to decide whether the conditions, supposed in the question, correspond to the circumstances of the case under trial; and his favorable decision gives executive authority to the *fetna*. The document I am about to quote, having emanated from the chief of the Muftis at the capital, is of the highest legal authority. I am not aware that any one has yet searched for it among the records of *fetnas* at Constantinople. But I have found it in two modern Arabic histories of Syria, and as it, at the time, stopped the persecution that was raging, and is, as it were, the charter upon which the liberties of the Greek Catholic sect are founded, its genuineness does not admit of a doubt, nor is it to be doubted that it received the necessary *exequatur* from the proper judicial authority. Such a document ought to be searched for, however, among the records of the office from which it issued.

The question proposed was the following: "What do you say, (may God preserve your Excellency,) in case a tolerated person is appointed patriarch or bishop over the tolerated Christians, Greeks and other strangers, dwelling in the city of Aleppo, or Damascus, or other cities of the Ottoman empire, by virtue of a royal edict from his Highness our master, the Sultan, to attend to their concerns both general and particular in affairs of religion, such as marriages, prayers, invocations and other legal matters; and then a portion of them dissent from and disobey him, contrary to the command of our master, the Sultan, and mingle with the untolerated Franks, and embrace their religion, and pray in their churches, intending thereby to disobey the command of our master the Sultan,

and elevate themselves above Mohammedans? Shall they be constrained to obey the royal command by conforming to the said patriarch or bishop? And if they disobey the command of our master the Sultan, and elevate themselves above Mohammedans, shall they be considered untolerated, their covenant of toleration be regarded as broken, the treatment of the untolerated be inflicted upon them, their blood be shed with impunity, and their property and their children be a lawful prey to Mohammedans? Favor with an answer, and yours be the reward."

A few explanatory remarks upon this question may be proper before we proceed to the answer.

1. The terms "tolerated" and "untolerated," by which I have translated the Arabic *dhimmi* and *karby*, relate to the two classes into which Mohammedan law divides all non-Mohammedans. One consists of those, who, by submission and paying the capitation tax, become entitled to toleration; as is the case with Turkish rayahs. The other includes all who resist Mohammedan authority and refuse the tax. Upon these, it is one of the cardinal duties of Mohammedanism to make war, and their lives, property and children are a lawful prey to any Mohammedan.

2. The worst construction is evidently attempted to be put upon the proceedings of the Aleppine dissenters, as if the case had been made out by an enemy.

3. The right of seceding from a church over which an ecclesiastic has been appointed by authority of the Sultan, is one of the points brought into question—a point which covers the case of a removal of relations from one acknowledged church to another, even in Constantinople.

4. Joining with a foreign sect and worshipping with Franks, is adduced as an aggravation of the charge. This, in case of the seceders in question, had reference to their adherence to Roman Catholic missionaries. But it is equally applicable to converts to Protestantism. The latter are no more chargeable with seeking a foreign ecclesiastical alliance, and thereby joining an unacknowledged sect, than were the former.

5. The calling of the Aleppine seceders, Greeks and strangers, does not imply that they were not Turkish subjects. That they were understood to be subjects, is distinctly shown by the answer. They were in fact Arabs by nation, and the term Greek is here used only with reference to church relationship.

We will now proceed with our fatna.

"Answer.—Praise be to God the author of rectitude. You are acquainted with what is manifest in the standard books of the Doctors of the school of our Imam en-Naaman, their comments and fatnas; that infidelity is all of one sect. So that if a Christian embraces the religion of a Jew, or a Jew the religion of a Christian, or of a Frank, it shall not break his covenant of toleration. As is declared by the author of the *Kwaz*, and others of our respected Doctors, the covenant of a tolerated person is broken, only by his retiring to a country of the untolerated, or by victory over such a country. Now if you understand what we have affirmed, you will see, that if a portion of the tolerated Christians unite with the Franks, and adopt their religion, and pray in their churches, it is not disobedience in them, nor an attempt to elevate them-

selves above Mohammedans. Nor can we say that they have gone from one religion to another; as we have already affirmed that all religions opposed to Mohammedanism, are infidelity of an equal degree. Wherefore their covenant of toleration is not to be broken, nor are they to suffer the treatment of the intolerated. Inasmuch as the intolerated Franks, if they enter the country of Mohammedans under an assurance of safety, are secured. If they remain a year and do not return to their country, they become tolerated, and are to receive the treatment of those who are tolerated. It is not lawful to shed their blood, nor to take any of their property, while they are in our country; as is manifest from what has been already said. Nor does their not paying tribute render any such thing allowable; nor is our not taking tribute from the Franks who live among us a fault on our part. Even if they refuse to pay it, according to the declaration of the author of the *Kunz*, their covenant of toleration is not broken by their refusal of tribute, nor can we call them intolerated. Wherefore it is not lawful for us to shed the blood of the Franks aforesaid, in our country, nor to take any of their property without right. Much more is it not lawful in reference to the tolerated who are subject to our laws. It is not lawful for any one who believes in God and the last day, to interfere with the portion of the tolerated, be they Aleppines, Damascenes, or others, or to demand of them obedience to the patriarchs or bishops professing infidelity. Especially as it is affirmed in the dogmas of the professors of the *Sunnah*, that to approve of infidelity is infidelity; from which may God defend us. We have appointed over them a magistrate with a royal edict from his Highness our master the Sultan, which does not forbid them to adopt the religion of others. And if there be anything in the royal edict which directs to conformity to the patriarch or bishop, it must have occurred by oversight, arranged at the suggestion of the patriarch or bishop, it being impossible that it should have occurred by intention of the Sultan; may God most high establish him in victory. Wherefore it shall be meritorious for his Excellency our master the Vizier, and the magistrates of Mohammedans, to prevent the tolerated person, patriarch or bishop, from interfering with the tolerated strangers. This is the answer, well considered and decreed. Let no other be considered or attended to. And God knows best.

(Signed,)

SOLEIMÂN EL-MANSÛRY, of the school of Hanîfeh.

The *Imam en-Nuaman*, mentioned above, is the founder of the school of Hanîfeh, the one of the four orthodox schools of the Mohammedan law which prevail at Constantinople and in Turkey proper. The *Kunz* is a standard work in Mohammedan law. The professors of the *Sunnah*, are the dominant sect of Turkey in distinction from that of Persia. A believer in God and the last day is only another phrase for a Mohammedan. With these explanations, this fetna is a very intelligible document. By it the following points are clearly decided.

1. A Christian transgresses no law of Mohammedanism by going from one acknowledged sect to another. As soon as he declares that he no longer belongs to his former sect, the authority of the head of that sect over him ceases. Nor may a Mohammedan magistrate force him to re-

turn to his obedience. On the contrary, it is a commendable act in such a magistrate to shield the seceder from all persecution.

2. The profession of a foreign form of Christianity is no aggravation of the case, and does not change the unexceptionable character of the act of dissent. The necessity of belonging to a sect having an acknowledged head, does not seem to have been felt by the writer of the document. No allusion is made to it, either in the question or the answer.

3. The grounds of this liberty of dissent, are no acknowledgment of the rights of conscience. They consist of two principles characteristically Mohammedan. First, all forms of unbelief are equally wrong, and therefore constituting, in the eye of Mohammedanism, but one sect. To punish unbelievers, therefore, for going from sect to sect, would be a manifest inconsistency. Second, to force a dissenter back into a sect he had left, would imply an approval of the doctrines of that sect; and this approval would be an act of infidelity, the very greatest of all sins. I may add, that if this latter reason be valid against forcing persons back from the Romish Church to the Greek—churches equally idolatrous—how much more weight must it have, in the judgment of a Mohammedan, against forcing a convert back from Protestantism, in which no idolatry exists, into a sect which worships pictures and images?

These grounds for the toleration of dissent, are certainly not to our taste; but the conclusions to which they lead, when acted upon, practically give to non-Mohammedans in Turkey, more freedom of conscience than is enjoyed under almost any government in Continental Europe. Accordingly in Syria, where they have had the freest scope, Christians have always had the liberty of going from one existing sect to another; often, indeed, not without temporary persecutions, but persecutions originating, not in the law, but in bribery and other sinister influences. New sects, too, have risen up. The Greek Catholic sect obtained a settled existence through the influence of this fetna. There are also Syrian Catholics, and Armenian Catholics; and each of the three sects has its patriarch. It is to be noticed, also, that the Armenian Catholic sect was in existence and had its patriarch in Syria, long before the same sect was acknowledged at Constantinople. None of these sects, moreover, has ever had a representative-head, or been officially acknowledged, at Constantinople; and the same is true of the Maronites, a sect that was in existence when the Osmanly Turks first took the country. The Maronite patriarch did indeed, in 1841, through British influence, receive the authority to have his *kapu-kakhiya*, or official agent, at the seat of government; but he immediately involved himself in political and belligerent intrigues, which threw him into disgrace, and this agent is probably no longer known. The Greek Catholic patriarch, also, has been for some two or three years, at Constantinople; but only temporarily, to carry on a lawsuit with the patriarch of the Greeks. Protestantism has, in the eye of the law, as good a chance as papacy. And lately, in the trial, the Hasbeiynans had only to declare that they were no longer Greeks but Protestants, and the Greek patriarch could not touch them; nor did the authorities, on the other hand, charge them with taking an illegal step.

Such is the toleration extended to us in Syria, by Mohammedan law.

It is liable, indeed, to very great infringements from arbitrary and covert proceedings of corrupt magistrates, and from the violence of a fanatical populace. And there is danger of an extension over the country of the ecclesiastical municipal system prevalent at the capital; especially under the influences that are coming in upon Turkish institutions from the neighboring governments of Continental Europe. Were it secure from these contingencies, we in Syria are prepared to say, that we are content with the toleration Mohammedan law affords us, in our labors for the salvation of the nominally Christian population of the country. The extent of this toleration ought to be known to the credit of the law which grants it; and every influence from abroad, tending to curtail it, is highly to be deprecated.

It is sure, that we should have less liberty under any European government that might be extended over the country, unless it were that of one or two of the most tolerant of the Protestant powers. Were any of the native sects, Christian or Jewish, to be put in possession of the government, they would be sure to exclude us from laboring among them. And from the acknowledged toleration of Protestantism as a sect, with an official head and municipal organization, about which there has been some talk, and perhaps negotiation of late, we have, if I mistake not, more to apprehend than to hope. It could hardly fail to be accompanied with the corruption and intolerance of an establishment—a corruption the greater for its being the creature and necessarily the tool of a Mohammedan government; and an intolerance the more overbearing for the want of enlightened views of the rights of conscience in the country where it would exist. The power with which such an establishment would be invested, we do not need. To worldly churches, admitting within their bosom the ignorant, the vicious and the refractory, in a word, the whole community, it would be of use, and in fact necessary, for purposes of government and discipline, if government and discipline be exercised. Our system is wholly different. Purely spiritual in its character, admitting only such as are spiritual to the rights of membership, it needs no aid from the civil power in the management of its internal concerns. Aiming, moreover, at no widely extended organization, it has not to encounter, and make terms with, the jealousy which would be felt by Government toward such an organization, even if it were of a spiritual character. Wherever it finds, or succeeds in raising up, a company of true believers, it regards them as a church of Christ, competent to manage among themselves all their ecclesiastical affairs. It changes in no respect their relation to Government; but leaves them to pay their taxes in the way they have ever done, or in any other way that may be prescribed to them; and in a word, places them before the authorities as simple dutiful subjects, and nothing else. This simple, spiritual form of religion originally worked its way in that same country, amid sore embarrassments and persecutions. It is also specially adapted for introduction there again. And if it be animated with its pristine vitality, it will find openings left by the laws of the land wide enough for it to enter, and spread its spiritual leaven, until the whole mass of society shall be wrought upon by its unpretending, and yet transforming influences.