

# *The Legal Adaptation of British Settlers in Turkey*

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“The grape will get darker by looking at the others.”

*Turkish proverb*

## **Introduction**

In all the talk and action concerning the curtailment of immigration in Europe, it is easy to forget that Europeans from the west of the continent remain relatively privileged in their ability to travel to and even settle in other parts of the world. Migration from other parts of Europe to the Aegean and Mediterranean area is hardly new and has often been undertaken for the purpose of business and trading, involving a delicate balancing of risk and opportunity. However, migration in that same direction has taken on new forms, now interpreted as Westerners' common search for the “good life” which, despite its internal variety, is generically termed “lifestyle migration” (Benson and O'Reilly 2009). We have been studying one group of European Union nationals settling in Turkey and their social and legal experiences, as well as the reaction of the “locals” to the presence of these immigrants.<sup>1</sup> We research this type of migration through the instance of British settlement in Turkey, with the central concern of examining aspects of the settlers' socio-legal adaptation. To that extent, our study connects with the emerging literature on the way migrants are adapting to their new legal environment and how states are adapting their legal systems to accommodate foreign immigrants and their descendants (e.g. Grillo et al 2009). However, a key difference is that research on those questions has so far primarily been restricted to south-north migration, and has seldom addressed the socio-legal issues arising from migration of Europeans to other parts of the world.<sup>2</sup>

British settlers are becoming part of the “super-diverse” (Vertovec 2007) ethnic map of Turkey. It is also evident that they are immigrating to and settling

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2 It is telling that a recent unique compilation of contributions on cultural diversity and the law globally (Foblets et al 2010), in the chapters that concern the “global South,” addresses issues arising from the presence of indigenous diversity, and not that induced by recent migrations, whereas the chapters concerning Western countries focus on migration-induced diversity.

in particular areas of Turkey and specifically in the region of study, Muğla, which has a sinuously generous Aegean coastline. In that region, British citizens represent the largest single group of foreign national property owners (see Figure 1). In fact, British people are now the largest group of foreign national property owners in Turkey, although that rank is somewhat qualified by the fact that German nationals top the list for the number of foreign-owned properties (see Figure 2).<sup>3</sup> The number of actual settlers in Muğla is likely to be higher than the 15,502 British property owners which official figures revealed on 1 September 2011.<sup>4</sup>

Most of the British people we interviewed were retired and over the age of fifty, while a smaller proportion is living in Turkey because of their relationship with Turkish citizen partners, and a few live there because of work opportunities. There was a slight overlap among the various categories. Those in the third and first groups—the retired and workers—have strong economic motivations for immigrating to Turkey since, for different reasons, they find Turkey a more affordable place to live. The predominance of retired immigrants among our British interviewees reflects the fact that Turkey has become a favoured settlement destination for this group, whose move to Turkey often involves purchase of real estate to reside in.

The main research questions in this pilot project concerned: (a) the immigration status of British settlers in Turkey; (b) their legal standing in the Turkish legal system; (c) the extent to which there is a choice of law—Turkish or British; (d) the mechanisms that exist for the recognition of legal arrangements in Britain; (e) the Britons' preferences for resolution of legal problems or disputes within or outside official fora and the mechanisms utilised; (f) the fields in which legal knowledge, advice, or assistance were most required and the mechanisms used to satisfy this need; (g) the extent to which, and the ways in which, they utilise their "common sense" of law; (h) British settlers' views of the Turkish legal system and their comparison of it with the British legal system; and (i) the extent to which EU law is regarded as important. As these questions defy easy quantification, our methodology is in the main qualitative. It is mostly based on interviews with thirty-four British settlers in Turkey as well as twenty-four local Turkish people involved in some capacity in the tourism economy. These data are supplemented by interviews with two Dutch settlers concerning their impression of the attitudes of British settlers, an interview with an official at

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3 This difference may be explained by the fact that, compared to German nationals, British nationals may be more likely to own property jointly.

4 These and other figures presented here for property ownership are correct as of 1 September 2011.

the British consulate in Istanbul, as well as statistical and legal data in the public record.<sup>5</sup> Inevitably, there was some pre-fieldwork naïveté on our part as we began to realise, already from some initial interviews, which key issues were emerging. Property acquisition, immigration and nationality status, work, and language issues figured prominently as areas of concern although, through the interviews, we also began to develop a sense of the Britons' overall interactions with the local Turkish culture and law. Obtaining the viewpoints of differently placed local Turkish people (traders, officials, etc.) also helped us to obtain a more balanced and multifaceted picture.

In this article, we alternately refer to the “Brits” or the “*İngilizler*” in Turkey as “settlers” or “immigrants.” The latter term in particular reflects a discomfort symptomatic of the assumption that immigrants should be carefully managed lest the local culture is overrun by an alien set of standards, values, customs, and even laws. It has acquired negative connotations, not least because of the way the presence of immigrants and their descendants has come to be viewed in Western Europe where a crisis of multiculturalism is widely being diagnosed.<sup>6</sup> A study commissioned by the British Foreign Office and published by a think tank, the Institute of Public Policy Research (Sriskandarajah and Drew 2006), uses the term “expatriates” and “emigrants” but avoids the term “immigrants,” retaining the perspective of Britain as the mother country. A more recent study published by the same think tank (Finch et al 2010) emphasises the term “diaspora” as a way of underlining the common national origin of British people settled abroad, and to argue for a greater investment in British diaspora communities as assets who could be useful in promoting British interests abroad. Meanwhile, the Turkish research organisation USAK (2008), which reports research on a mixed group of European nationals in Turkey, refers to them as “settled foreigners” (*yerleşik yabancılar*), although it calls for a clearer definition of the term. We found a variety of experiences and desires among the British. One British female respondent, who works from time to time as a holiday rep, had this to say:

I don't like the term “expats” which is used by British people who keep themselves to their gang. They don't have outside interests. The main reason they are here is that it is cheap. They get bored and do not occupy their time and chat about each other.

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5 The main phases of fieldwork in Turkey were between May 2010 and July-August 2010, with some pilot interviews in the United Kingdom beforehand and follow-up work afterwards.

6 This crisis goes back some years earlier than the more recent speeches by German Chancellor, Angela Merkel, Postdam 16 October 2010, and the British Prime Minister, David Cameron, Munich, 5 February 2011. See Grillo (2005).

While few had made a clean break with Britain, many see their future in Turkey, and tend to spend their time in Turkey for almost the whole year. As one retired respondent noted:

We live in Turkey and we want to have citizenship. I get angry when people say “in England we would do this and that.” We have chosen to live in Turkey and this is our home.

However, as will be seen, the desire to be fully a part of Turkey and to become a citizen may be realised in only a few cases. Indeed, the situation of British settlers in Turkey may not be captured by an either-or scenario but involves their navigating through the interstices of legal, cultural, and social boundaries in the process of carving out a space for themselves in an alien environment. Often, however, they may fail to navigate effectively and end up consolidating such boundaries. At the same time, local Turkish people also have to deal with the presence of, and the challenges brought by, these foreigners in their midst, and they too are compelled to rethink their ideas of belonging. While there remains an obvious asymmetry between the experience of Turkish “guest workers” in the European Union and EU settlers in Turkey, our findings show that this cannot be reduced to a simple power equation that would explain such navigation successes or failures. While the Turkish legal system may be the legitimate authority in the country at large, at the local level, an array of legal dynamics is at play defying simplification.

Several Turkish respondents reacted negatively to our asking a question about “ethnic” belonging, which we tried to do for all informants. Asking about ethnicity and religion is fairly common, if awkwardly conducted, in different kinds of British official statistics and social surveys. In Turkey, however, this can easily be read as a sign of encouraging different treatment and separatism. Some insisted that humanity (*insaniyet/insanlık*) is the important thing in one’s relations with others, not ethnicity. Actually, the information relayed by the Turkish respondents demonstrates just how “super-diverse” the local population is, even disregarding the presence of Europeans. We came across people of various, overlapping heritages including Sunnis, Alevis, Turks, Kurds, Turkmens, Greeks (*Rum*), and Iranians. In the area of study, there also reside descendants of Sudanese slaves who were brought to work as the trusted servants of aristocratic households during the Ottoman period.

Meanwhile, British people who were asked to identify themselves ethnically were not as harassed by the question, presumably having become used to being asked this information in application forms and surveys. The information gained did not lead to a definite and falsifiable picture, given the

small sample and the varying types of answers given to the questions, both in terms of brevity and complexity. To look for a pattern of “typicality” from this research would not be warranted, although we can provide what seem to us some impressions of the profile of British settlers locally. Most said they were British or English, and additionally used “white” without being prompted to do so. However, we also found that some of our British respondents talked of their Scottish, Irish, Italian, or Jewish roots. Several of our British respondents had chosen to remain in or migrate to Turkey at least partly because of their having married a Turkish citizen. Among those we could interview, there was only one recently widowed Turkish woman who had been married to a British man; other mixed couples were all British women who had partnered with a Turkish man, more often being married rather than cohabiting. A high proportion of British couples, however, were already married or cohabiters in Britain prior to coming to Turkey. A small minority of the British people we interviewed had converted to Islam either before or since coming to Turkey. This could bring its own benefits, as one couple told us when explaining about being able to act in a manner not found so acceptable in Britain:

For us, very easy. For the expats it is not. Because we are Muslim. It is quite embarrassing in a way. Having the label of English Muslim has opened so many doors. We think the way they do in terms of religion. As soon as they know we are Muslim we are their long lost brothers and sisters. So our interaction is more intimate. Socially, we felt as outcasts in the UK [and] could not blend in and socialise. We would have great trouble sitting in pubs because we do not drink.

One of our interests was to find out whether a new kind of “unofficial law” (Chiba 1986) was building up among the British in the area of study. The process of legal reconstruction in Britain and other areas of Europe by various groups of immigrant origin in diaspora, albeit generally unrecognised officially, is now more prominently documented (Menski 1993, Menski 2001, Shah 2005). The question arises whether Westerners who settled in another part of the world, such as Turkey, mirror the unofficial reconstruction of legal orders by migrants and their descendants as it takes place in Europe. Indeed, the phenomenon of unofficial law is not confined to minority diaspora communities but can be seen as a general feature occurring under the shadow of strong state systems built up in the modern period. While many states in Africa and Asia continue to officially acknowledge the existence of non-state legal orders (Menski 2006), others, including Turkey, have emulated the modern European system of strong states by officially “abolishing” non-state legal orders. Interestingly, Kayaoğlu (2010) shows that legal modernisation and uniformisation pursued in Republican Turkey is an outcome of a global dialectic instituted when powerful

Western states dismissed the sovereignty of the Ottoman Empire and other Asian states. However, modernisation has meant that alternative or supplementary legal orders have not simply disappeared, but gone “underground” to an extent, as shown by Yilmaz (2005) in the case of Muslim law in Turkey.<sup>7</sup> Thus, the unofficial legal orders reconstructed by diaspora groups are a particular case of a more general phenomenon. Furthermore, elements of ethnic alterity now find recognition at various official legal levels in the United Kingdom, which indicates that minority socio-legal reality can, under some circumstances, be acknowledged by a developed modern Western state too (Menski 2008).

Another of the features that makes the type of migration and settlement under study interesting is that the migrants concerned are often engaging in some type of trans-national social and legal behaviour and, furthermore, navigating trans-jurisdictionally, a phenomenon that is gaining more general empirical and theoretical scholarly interest (Benda-Beckman et al 2005, Cotterrell 2008). As Glick Schiller (2005, 32) has written, such trans-jurisdictional practices occur within a wider habitus of “transnational social fields”:

Whether or not trans-migrants have legal rights in more than one country through dual citizenship or nationality, they may claim social or cultural citizenship in more than one country, although the success of their claims is mediated by their legal status. They may also follow customs, norms and values that regulate marriage, interpersonal relations, inheritance, diet, dress, childrearing, modification of the body, etc. that differ from the prevailing legal or cultural norms in one or more of the states to which they are connected. And they may follow these alternative ways of being within a transnational social field that exists beyond the territorial borders and regulation of any one government.

It has been shown elsewhere how navigation by non-Western migrants organising family life trans-jurisdictionally is accompanied by multiple

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<sup>7</sup> Among the ironic results of this driving underground of non-state law is that the European Court of Human Rights (as well as other legal fora in Europe) now has to decide on the legality of denying recognition to unofficial marriages otherwise delegitimised in national law. See *Şerife Yiğit v. Turkey* (Application no. 3976/05, judgment of 2 November 2010). Going through a religious marriage ritual (*imam nikahı*) before the official marriage is registered amounts to an offence under article 230(5) of Turkish Penal Code with a liability of two to six months imprisonment. Further, the imam who carries out a *nikah* without first seeing the official marriage registration document is also liable to punishment for the same term of imprisonment under article 230(6) of the Penal Code. The Yargıtay (Court of Appeal) has even upheld the conviction of a relative who found an imam to carry out a *nikah*. See Yargıtay 4.Crime Section, E. 2009 / 13, K. 2009 / 2729, 18.02.2009. For British people, a pressing issue that is bound to arise eventually is whether non-married couples who cohabit will obtain the recognition of any legal rights e.g. through inheritance laws.

penalties imposed by Western legal orders, indicating continued interest among states to retain some type of control (Ballard 2009, Shah 2010a, 2010b, Holden 2011). For the British people who spoke to us, burning bridges with their country of citizenship is probably an exceptional situation given the fact that many maintain family and friendship links, have bank accounts, perform some life cycle (or legal) rituals, and keep some other interests in Britain (and elsewhere).

The confusions inherent in understanding just what is required in a foreign jurisdiction may reinforce the tendency among some British people currently living in Turkey to make a considered choice to formalise legal relationships in a jurisdiction in which one feels more secure. A previously divorced British woman who is married to a local Turkish man, and whose knowledge of Turkish is good enough for her to be able to teach Turkish to other Brits, noted:

We did not marry in Turkey. I refused. I understand English law. If divorcing I do not understand Turkish law enough and when doing something like that I have to understand it. In Turkey we only did an *imam nikahı* [Muslim marriage ritual with an imam]. The imam asked, “what are you giving?” My husband had not thought about it. Imam then said twenty goats, three cows, five gold bracelets, etc. Turkish law recognises that we are married. We did also register our English marriage at the Turkish consulate in Kensington.

Even in such a case, while formal compliance was made with English as well as Turkish law, one can observe the tying in of the couple to a local Turkish Muslim religious and customary order, revealing a form of legal pluralism at a transnational level.

The overwhelming majority of the immigrants retain their British citizenship, while a four-hour flight back means visits are possible, and any psychological breaking-off is even less likely. British settlers in Turkey were once themselves tourists, and therefore can also be seen as a sedentarised part of this form of globalisation involving human mobility, a transnational social field in which some decide to settle while other actors move on. Although many settling Brits have invested much of their savings in real estate, one female British respondent who is married to a Turkish citizen reveals a more cautious approach:

I have never had money to buy and now I would not. Anywhere overseas, if it's not your home country, it's better to rent. Look at Zimbabwe. You're always taking a bigger risk than in your home country. You cannot

understand fully what the lawyer or paperwork is trying to tell you. You've got to have hundreds of thousands of pounds to lose.

While this response may be untypical, and at an extreme end of the spectrum, the features mentioned above demonstrate that, from a British legal perspective, one's *domicile* remains in Britain since there has been no firm psychological cutting-off from one's jurisdiction of origin. While that may be the case, and may even have concrete consequences when legal matters need attending to in Britain, it is known that domicile works in capricious ways depending on the result an official decision maker wants to achieve. In the Turkish legal system, meanwhile, domicile is not an important signifier and other formal and informal factors come to the fore in conditioning the experiences of the immigrants.

### **Turkey and immigration**

From a formal Turkish legal perspective, it is the bond of nationality that marks one out as a *yabancı* (foreigner) and not having formal Turkish citizenship deprives one of all kinds of civic legal rights. As always, however, real life is more complicated, and citizenship at the level of socio-legal reality in Turkey may depend on an unstable combination of one's ethnicity, what language one speaks, the religion one professes, what part of Turkey one comes from (if at all), and the range of affective relationships one can count on as social capital. Qualifying informally as a *yabancı* may simply result from one not being a local, an unexceptional feat in Muğla, which is also marked out as a destination for a significant level of internal migration. This is especially so given the attractions of the tourist economy, a sector which has risen to major proportions in some regions of Turkey since the 1980s (Baki 1990). One restaurateur, himself an internal migrant, said the following:

I do not feel as if I am from here. I would say I am from the Black Sea. Since 1989 or the 1990s tourists started to come to [this town]. At that time there were only three hotels. People started tourism by opening houses to tourists. By adding new premises to their houses or repairing their old places. Those who came from other parts of Turkey started to buy lands and opened places for tourists. There used to be two main types of work for locals—growing cotton and fishing.

Evidently, some of the many migrants from Turkey who went to Europe (or their descendants) are undergoing return migration.<sup>8</sup> Several of our Turkish

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<sup>8</sup> For the "return" from Germany of skilled and well-educated individuals of a Turkish background



respondents had also spent time in Europe (some in Britain) before settling in the Muğla region, or had close family who had done so. Because of their European sojourn, some also had current or former European spouses, and claimed to know well British or other European customs and languages.

Discourses of citizenship are inevitably soaked in what is now well recognised as the trap of “methodological nationalism” (Wimmer and Glick-Schiller 2002). While the precise contents of the “discourse of nationalism” (Özkirimli 2000) that makes up Turkish citizenship is specific to Turkey’s own history and experiences (Bayır 2013), Britain (e.g. Modood 2005), or any other country, certainly has its own unstable make-up of socio-legal citizenship in this respect. However, in sharp contrast to the use of the migrant presence as a key formant of contemporary nationalism in many European countries, in Turkey, there seems to be a near-total absence of its utilisation in nationalist discourses. As recent work by a team of Turkish scholars demonstrates, however, Turkey is hardly unexposed to immigration flows especially from Central and Western Asia, Africa, and Eastern and Western Europe (İçduygu and Kirişçi 2009).

One explanation for the relative absence of a discourse of nationalism linked to immigration may be that much of this migration occurs below the legislative radar and, unlike Western Europe, has not been taken on in the national agenda of lawmaking. Asked about whether there had been, or were going to be, any future plans to prepare for the immigration of British people into the area, a local lawyer said:

Administrative bodies in this area are not aware of the foreign community. They do not take them into account as a community. There’s no support from the state.

The relatively low level of politicisation that such inaction may signal could also be explained by the fact that regulation of foreigners’ immigration status often occurs through the exercise of bureaucratic discretion, even in decisions purportedly applying fairly general rules. This is not to say that there is no encouragement for a lawmaking agenda that addresses the migrant presence, especially since Turkey has been identified as a transit zone for “irregular” immigration flows to Europe. And it is precisely by the European Union that Turkey stands accused of going slow in recognising its key position and in

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to Turkey often for work reasons, see “Kültürschock in Istanbul,” <http://www.spiegel.de/spiegel/0,1518,704114,00.html>, last accessed 14 September 2011.

doing something to curb these migration flows.<sup>9</sup> However, encouraging reform of foreigners' law, specifically because of prospective EU membership (IOM 2008), may in fact reinforce its relative non-politicisation. This is because it then comes to be viewed as a technocratic affair, like so much of EU related lawmaking in Turkey and within the European Union. Still, EU immigrants are not themselves the targets of such reforms and they may remain in a category of "privileged foreigners," similar to what Hutley (1998) identified for Japanese in Britain.<sup>10</sup> That said, some restrictive rules regulating the position of non-nationals are evident from what one local entrepreneur, whose family has been engaged in the tourism industry in Muğla since its inception, stated:

There is suspicion about foreigners buying land because a lot of Israelis have bought land in the eastern part of Turkey. The state foresaw a risk and took some measures. Now they can't buy more than five per cent in an area. If they want to buy a piece of land more than five dönüm, they have to get cabinet permission.<sup>11</sup>

Meanwhile, some immigration rules in Turkey, at least in their enforcement, remain fairly flexible. While visas are required for British citizens to enter Turkey, they can be purchased for a small price (currently £10) at the port of arrival. They are easily renewed by leaving and re-entering the country and many individuals might make a day-trip to Rhodes or another Greek island to do this. Many residents will remain on these three-month visas even though they are technically not meant to be held by residents. This way of staying in Turkey may be a common pattern among British people given that Nudrali and O'Reilly (2009) report a similar finding for British settlers further north along the coastline, in Didim. This is one of the reasons that it is impossible to obtain anything approaching an accurate figure for the number of British residents in Turkey. Those foreign nationals intending to stay in Turkey should be applying for a residence permit (*ikamet*) which allows access to different facilities including purchasing utilities (electricity, telephone, etc.) for one's place of residence, opening a bank account, and getting on the road to eventual citizenship. The price for an *ikamet* has been rising in recent years and, for a five-year permit, a British citizen currently pays close to £2,000. German citizens, meanwhile, only have to pay in double digits for the same permit, which angers many British people.

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9 A recent report by the Home Affairs Committee of the House of Commons (2011), and the evidence cited therein, albeit couched in diplomatic terms, makes this apparent once again.

10 Several chapters in Eade and Valkanova (2009) also reveal the positive image of British settlers in Bulgaria.

11 A *dönüm* is an area equal to 1000 square metres.

Together with general price inflation, and the necessity of providing the same documents newly translated each time, with inconsistent criteria being applied in different locations, the charge for an *ikamet* can be linked to other irritations experienced by British settlers. One retired accountant who has lived with his British wife in Turkey since 2006 and was himself on a current *ikamet*, said:

My wife's *ikamet* ran out, but we could not renew it. She's on a tourist visa at the moment. Had a residence permit for three years before that. We take it out for five years at a time. Initially we wanted to apply for Turkish citizenship but no more. We'll probably move within the next two years. There is so much negativity surrounding the laws in this country and expat bashing. There is a continual "you foreigners are the scourge of all." They want your money but you are an inconvenience being here. They keep changing goalposts all the time. Now it is so much more expensive, including the price of residencies. The cost of living is no longer cheap here.<sup>12</sup>

The Turkish authorities cite reciprocity as the justification for charging British citizens a far higher amount and link it to what citizens of Turkey have to pay for equivalent permits in the United Kingdom. Although, there is no matching permit in the United Kingdom, it is true that the charges for various types of visas and residence permits for non-European Economic Area nationals have risen sharply in recent years, something largely unknown to British settlers in Turkey since they are not exposed to it.

It is not the case, however, that British settlers are completely unaware of the experiences of Turkish citizens who travel to Europe, even in those cases where they have no family relations among the Turkish citizens. One retired British man who had chosen to buy a place of residence with his wife in a village said:

We are ashamed to admit this but unless one is of European mainstream white stock you get dealt with badly from the UK authorities for visas. Turks get caught up in this and even respectable people.

Resentment about the fact that European countries regulate immigration closely and asymmetrically is not far from the surface. A Turkish respondent,

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12 While we could not study the question of price inflation and decisions to stay, leave, or adapt life-styles accordingly, the issue came up repeatedly in our interviews with British people, and indicated that the initial advantages of a lower price economy might be being worn down gradually.

who migrated internally to Muğla with his brothers, one of whom claimed to know English, German and Dutch quite well because of his European travels, said:

British people complain about everything including queuing for a visa. But if you compare how they treat Turkish people with how they are treated here they would think Turkey is heaven. Conditions here and there are different. If one wants a right to settle in England one would need £50,000. I have not been abroad because I do not like the visa rules imposed on Turks and do not want to be insulted by foreign countries.

Meanwhile, an unexpected legal shift, which causes the kind of insecurity that the British accountant expressed above, took place during one of our research trips in Turkey. On 14 July 2010, there was a sudden and previously unannounced change to the rules whereby a three-month visa would no longer be issued. Instead, a six-month multiple-entry visa allowing a maximum of three months stay during that period had to be obtained. This caused a lot of uncertainty among foreigner communities in Turkey and, exceptionally, provoked the British consular authorities to make representations to the Turkish government because of the unexpected nature of the rule change. The change was then withdrawn but many expect that its reintroduction is imminent, and such actions do not increase the confidence of foreigner communities in lawmaking processes in Turkey.<sup>13</sup>

### **Foreigners in Turkish law**

Foreigners law (*yabancılar hukuku*) is the field of official law under which the regulation of British and other foreigners' residence in Turkey occurs (Ekşi 2006, Çiçekli 2007). This can cover fields as widely varying as immigration status, the right to work or set up and manage businesses or corporate entities, the right to buy real property, access to public health care, and the recognition of personal status under the rules of private international law. Inevitably, this mixes with commonplace assumptions on the part of both the foreigners and Turkish citizens about the position of the former within Turkish society. The British people who spoke to us did not demonstrate any awareness of

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13 "New Turkish visa regulations delayed by the Interior Ministry," in *Hürriyet Daily News/South Weekly*, 28 August 2010. Recent British Foreign and Commonwealth Office travel advice (updated 3 January 2012) stated: "Turkish Authorities recently revised their visa stamps. All visas now state that they are valid for multiple stays up to a maximum of 90 days in a 180 day period. However, the Immigration Authorities inform us that these rules are not being applied and that visas are valid as before, for multiple entries within 90 days of issue. Be careful not to overstay 90 days from the date of issue, as some British nationals have been fined and banned from re-entering." <http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/europe/turkey>, accessed 13 January 2012.

the fact that special legal regimes (capitulations) existed during the Ottoman era allowing the various European and American nationals to be judged in courts instituted by their countries of origin as part of their assertion of extra-territorial jurisdiction, now described by Kayaoğlu (2010) as a form of “legal imperialism.” This system sat alongside a pluralistic legal scenario characterised by segmentation across various *millet* and “flexible” and “diverse” administrative orders in which various non-foreign communities could regulate their affairs and apply their own laws (Bayır 2013).<sup>14</sup> The former system of capitulations, legal concessions granted to citizens of foreign states, which came to be increasingly resented by the Ottomans, was formally abolished by the Lausanne Agreement (1923), during the same period in which the plural domestic legal order was abrogated by the legal system of the modern Turkish Republic.

The local Turkish people were invariably firm in their view that no special arrangements ought to be made within the Turkish legal system to accommodate foreigners. Some did know of the different regimes which had applied to foreigners and among Ottoman subjects and they did not wish to see a return to that system. The same Turkish restaurateur cited above, who is also an internal migrant to Muğla, made the following observation:

There is enough flexibility towards British people but at the state level some things should be changed in order to improve people’s living standards. I do not favour giving more rights to British people but want them to be equal to us. If there is no equality between us and them I’ll develop some feeling of revenge towards them. We already treat them nicely and if the state also treats them with special rights this will turn them into minorities. This cannot be accepted and is also against equality. In the Ottoman Empire there were special rights. I want everybody to have the same law and not different groups having different laws. I want them to be equal.

The modern Turkish legal discourse on equality, and the view of minority rights as a violation of that principle, is reflected in this restaurateur’s

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14 Barkey (2009: 70) describes the Ottoman state’s institutional and organisational structure as a “flexible” and “diverse,” one accommodating “multiple systems of rule, negotiated frontiers, laws, and courts, forms of revenue management, and religious diversity.” Indeed, in earlier centuries such legal pluralism was not unusual in Europe, either, where it is known that a semi-autonomous mercantile law existed since the medieval period (Berman 1983: 333-356). In this respect, the European merchants’ expectations in their dealings within Ottoman jurisdiction may not have been all that unusual.

statement.<sup>15</sup> In fact, a segmented legal order<sup>16</sup> of the Ottoman type is now associated with, and even blamed for, the collapse of the Ottoman Empire, and difference of legal treatment can quickly be associated with separatism in modern Turkey. Political parties advocating the introduction of personal status laws based on religion have been closed down by the Constitutional Court of Turkey, as have parties advocating the recognition of Kurds as an ethnic group entitled to cultural and linguistic rights.<sup>17</sup> However, while the principle of equality may have somewhat of a heuristic status, the view that some “positive discrimination” was practised in favour of the British was often expressed. The head teacher at a village school in an area where some British people had bought residential dwellings said:

Laws and courts are just (*adil*). Sometimes they [the British/foreigners] are even treated specially. The legal system might not be just to us but it is definitely just to them because they have means and capacity to look for justice. If something happens to them here this might put Turkey in difficulties abroad. So courts would treat them with great sensitivity. They also have the right to apply to the European Court of Human Rights. If we want to join the EU then we have to follow their rules.

This statement points to the perception that Turkey has to accord some sort of privileged status to Europeans despite the Republican history of operating a uniform legal order without being subject to the humiliating capitulations of the previous era. A few individuals also expressed suspicion about the increasing

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15 It is common to hear from Turkish people that minority rights (*azınlık hakları*) offer an inferior system than the guarantee of formal equality of citizens under the Turkish constitution. Minority rights are associated in formal Turkish legal discourse with non-Muslim minorities. A similar view is taken in the jurisprudence of Turkey’s high courts, on which see Bayır (2013).

16 The use of the term “segmented legal order” should not be taken to mean that there was no inter-jurisdictional “shopping” among the population of the Ottoman Empire. See e.g. Al-Qattan (1999) for non-Muslims’ use of a Muslim court in Damascus. For a study on Muslim courts in Western India, where similar processes of inter-jurisdictional shopping are evident during the period of Mughal ascendancy, see Hasan (2004).

17 The *Case of Refah Partisi (Welfare Party) and others v Turkey* (Application nos. 41340/98, 41342/98, 41343/98 and 41344/98, judgement of 13 February 2003) in the European Court of Human Rights is well known. It followed the closure of the political party by Turkey’s Constitutional Court on the ground that the party’s programme of establishing a legal order in which each group would be governed by a legal system in conformity with its members’ religious beliefs was in conflict with the Constitutional principle of secularism (*laiklik*). The application to the European Court in the case of *Fazilet Partisi and anor v Turkey* [2006] ECtHR 488 (Application no. 1444/02, 27 April 2006), in which the party had been closed down by the Constitutional Court on the ground that it offended against the secular nature of the Turkish Constitution was formally struck out after the party withdrew the case, alleging bias of the European Court in *Refah*. For the closure of political parties advocating recognition of rights for Kurds, see Bayır (2013).

number of British settlers in Turkey as a plot of the British government or expressed more than idle curiosity about why we were researching British people in Turkey, whether were we trying to create some kind of separatism, and why a British body was funding this kind of research. Echoing this, the USAK (2008) study notes that settled foreigners are often mistakenly seen as missionaries, spies, and agents provocateurs. More generally, some Turkish participants were sceptical of the wisdom of allowing large-scale foreign ownership of property with the spectre of Israeli-Palestinian relations being held up as a potential future scenario.

All the Brits who spoke with us were firmly of the view that they were obviously subject to Turkish law in so far as their residence in Turkey was concerned. Some expressed surprise about the possibility of reliance on British laws in some instances where private international law rules might apply, for example, the making of wills, in divorces, marriages, adoptions, etc., which led to complicated discussions and more confusion.<sup>18</sup> Such confusion increases when settlers start to encounter legal problems and it is compounded even after they seek legal advice. As with several continental European countries (e.g. Rohe 2007, 19, Büchler 2011, 27-34), Turkey's private international law rules take nationality as their main basis with the presumption that the foreign law will be applied, while a dispute in the English courts would be dealt with according to domestic English rules. We heard from many British respondents that they have made or plan to make a Turkish will especially because of a concern about the inheritance rules regarding real property. However, a local Turkish lawyer told us:

British people insist on making a Turkish will although I tell them English wills are valid. An English will is valid also for the dispensation of property in Turkey.

But the same lawyer also pointed to her own experience of the courts to the effect that the principles were not generally being applied:

I have not come across a case where I could claim the application of English law. In fact, the courts here are reluctant to use British law even when English law is the law which should be applicable in the case. Even when English law has jurisdiction in my cases, I do not force the court to use English law because it takes longer. The court would ask the Ministry of Justice in Turkey and the request then goes to the Turkish Foreign Affairs

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18 See particularly articles 9, 11, 12, 13, 14, 16, 18, and 20 of the International Private Law (Milletlerarası Özel Hukuk Ve Usul Hukuku Hakkında Kanun, Law no. 5718, of 27.11.2007, RG: 26728- 12.12.2007).

Ministry which asks their [the British] Foreign Ministry which then asks their Justice Ministry.

The journey would then take the reverse direction once the answer about the applicable law is declared by the British authorities. This very long process also militates against the use of foreign law in any particular case and lawyers may well advise the abandonment of any such strategy. The use of expert evidence concerning the foreign law was unknown in such cases, the lawyer informed us.<sup>19</sup> Further complications arise when a Turkish court has to be assured about the presence of living relatives who could be potential beneficiaries in inheritance cases because of the stricter requirements protecting their rights in Turkish law. These instances show that, while the principle that a foreign legal regime could be applied by a Turkish court is acknowledged, the time and inefficiency involved militate against that route being taken.<sup>20</sup> Even when Turkish law is applied in inheritance cases, however, the problem of different inheritance regimes, and the consequent need for proof, may yet elongate a case.<sup>21</sup>

### **Settlement and adaptation in Turkey**

As already noted, British people are settling in particular areas of Turkey and at a significant level of concentration. We were told by several respondents who had seen the area of study change over the last few decades that, previously, the area was frequented by German and Dutch tourists some of whom had decided to settle. German predominance within the European population of the area has since been replaced with British. As the restaurateur from the Black Sea recounted:

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19 As Gerrooms (2004) and Esplugues et al (2011) show, the English legal system's reliance on expert evidence as the sole means of ascertaining foreign law is distinct, and is not followed in the other Euro-American jurisdictions. The Turkish case requires more research, however.

20 As Rohe (2007) and Büchler (2011) point out, the courts of those European countries where the nationality principle is the point of departure for ascertaining the applicable law may, in practice, not apply that rule for reasons other than those evident here. In the Turkish case, the lawyers we spoke to also cited as a further reason the fact that the judges in the local, lower level courts are not very willing to go down the route of clarifying foreign law and because the lawyers often find it difficult to explain the issues to the judges.

21 By enforcing the application of Turkish law in real estate matters in this way the personal law of Britons is undermined. Turkish law requires the application of the principle of "reserved rights" (*saklı haklar*) based on the culture-specific logic of preserving certain shares for close relatives *regardless* of the deceased person's wish. Obliging British people to comply with the reserved rights principle paves the way for potentially very complicated legal disputes in the future, while arguably failing to respect the personal law of British people.



In 1991 foreigners—first Germans and Dutch people—started to come. Since 1995 British people started to come, and began to buy places here. The [XXX] family began to build around 20-25 villas here. At that time land and construction prices were low and [this town] grew fast until 2002. At that time British people were buying land or houses without a mortgage. They bought villas here for £30-35,000. Now the value is £350-400,000. It was a good investment for them.

A carpenter involved in building houses for British customers and who has lived in the area for some twenty years explained:

In the 1990s there was no *imar* [municipal plan controlling development and construction within an area] and *cadastro* [registered land]. After the Ozal government the *cadastro* came to this area. After this, the house and land prices went up, also because this area has a good natural environment. Ten years ago there were Germans in this area. After [the year] 2000 the number of English people has increased. Germans also used to buy land but not as much as English people. There were no hotels and people used to rent out their houses.<sup>22</sup>

Others ventured comments to the effect that German and British people do not like each other so much. It is evident today that, among Europeans, the area is indeed dominated by British settlers although one can still meet German and Dutch people too. German and Russian residents are now to be found predominantly further along the south western and southern coastlines of Turkey. These trends toward residential concentration and moving away need to be explored further than we could. Still, some offered their views of the different groups of Europeans they encountered. One Kurdish restaurateur observed:

There were Germans before and they were replaced by British people. They had a competition of who will get where. They were fighting over the land. They wish to be the only ones in certain areas. British and Irish people entered the construction business.

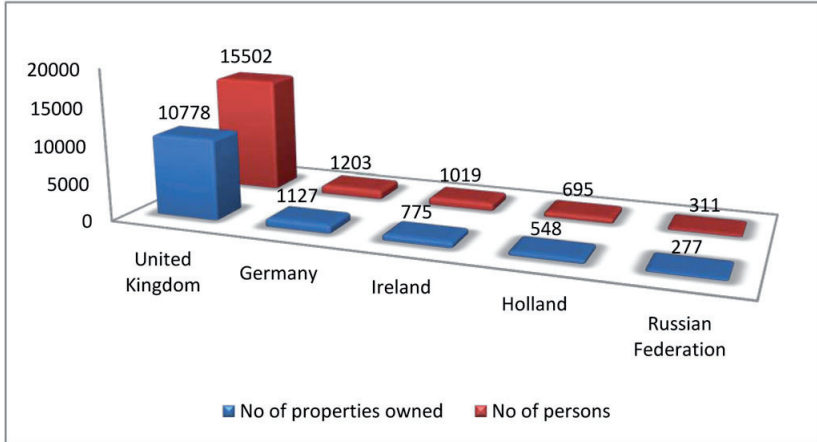
A retired village official noted:

There were first Germans in this area and they then moved to Alanya. British people then came. British and German people do not like each other. For us we do not differentiate between them. If more people come to this area

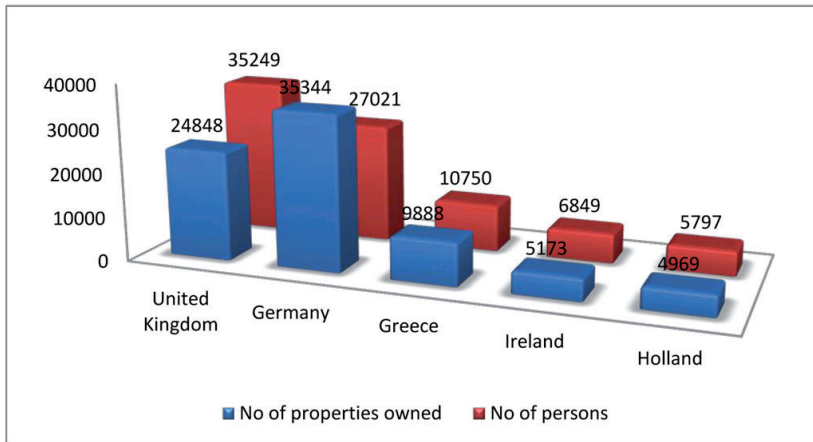
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22 For a fascinating picture of changing legal regimes for landholdings in the region around Bodrum since the Ottoman Empire up to the 1960s, see Starr (1992, 45-68).

this will result in changes in the natural environment and if we can keep these changes in balance and if their arrival would not spoil the environment then I would be happy to receive more immigration into this area.



*Fig. 1: Number of foreign residents and real properties owned by foreigners in Muğla, Turkey on 1 September 2011. Source: Ministry of Environment and Urbanisation, Turkey.*



*Fig. 2: Number of foreign residents and real properties owned by foreigners in Turkey as a whole. Figures correct at 1 September 2011. Source: Ministry of Environment and Urbanisation, Turkey*

One of the factors distinguishing the post-war settlement of non-Westerners in a country like Britain from that of British settlement in Turkey is that kinship factors do not seem to play as significant a role in the latter case as they do in the former (see Ballard 1994 for South Asians in Britain). At least in the area we studied, the migration is predominantly one of couples or individuals seeking a better life and, when it is linked to family relationship, it involves mixed British-Turkish couples, the vast majority of which tend to be Turkish men partnered with British women. In all likelihood other kin will not follow the primary migrants to the place of settlement and that significantly influences the type of unofficial legal reconstruction which can take place. That does not mean that members of the kin group will not inherit property, and the issue of wills and inheritance is already causing some concern among British settlers and, as noted, is likely to be a major legal issue in the years to come. However, our findings need not be extended to incorporate the experience of all British settlers in Turkey. The account by Nudrali and O'Reilly (2009) of British settlement in nearby Didim, while showing that much of the immigration is of a similar nature to that in Muğla, also interestingly records the increasing number of British or mixed British-Turkish children attending a local school (in detail Nudralı 2007). This finding may indicate that, in some localities, British settlement in Turkey is starting to resemble the precedent of Spain.

Geographical concentration might still mean that British residents can be in a position to act in common and, eventually, they might be able to impose their own norms locally. The one major limitation on the official influence they can have is that only the exceptional individual qualifies for Turkish citizenship so, in general, British immigrants would be less able to influence matters through voting strength or taking official jobs which require Turkish citizenship. In recent years, there have been initiatives in Turkey, as part of a UNDP effort at stimulating local participation in decision-making, to organise a "City Council" (*Kent Konseyi*) made up of residents who could put to city authorities any views about problems or improvements that need to be made. In one Muğla town, the *Kent Konseyi* was divided into several sections, one of which was the Foreign Residents Group. However, by the time of our research, it became clear that the *Kent Konseyi* as a whole had become more of a forum for organising social events, while its Foreign Residents Group was not functioning to full effect, with the feeling among the British settlers that the city authorities were not providing adequate facilities. There were also complaints by German participants about the use of English only in the meetings, which may be linked to the mutually allergic Anglo-German relations mentioned. As one Dutch woman resident said:

We also have English friends and German people. German people are also different. We cannot invite both English and German to same party together. They had a war together. We are a little bit in between. There was a big meeting at the Town Council [for the Foreign Residents Group] and the Germans were complaining because the invitation was only in English. So we went to the *belediye* [municipality] and did the announcement in Dutch and German. Also the meeting was in English and the Germans left half way. The older Germans who are here cannot speak English much. We translate a little bit. The *belediye* do announcements in German and in English.

On the whole, this experiment seems to have left those foreigners who wished to work with the city authorities feeling somewhat disillusioned about being able to influence local decision-making. From some of the interviews, it also appeared that locally influential people did not want to see the City Council work as it would upset the local power structures.

Meanwhile, we often heard from British interviewees that other British people wanted to recreate a “little England” in Turkey although none of those we interviewed would class themselves among that group. One British woman who is married to a Turkish man whose family has long been in the area said:

English is the most extreme yabanciness among all the German and Dutch and few French and Russians; I cannot distinguish types of people since they all appear the same to me; I don't know enough of the languages. There are people who have taken issues up and had rows, but on the whole they accept what they find. The English come in with different attitude. They try to build mini suburbia. But then they find they can't have that and then feel upset about that with incessant complaining. This is not Surrey on Sea.

They were also convinced that although their fellow Brits knew that they had come to settle in a different country, that had not always been a well-considered choice in terms of their being able to adjust to a Turkish social and legal environment. Some observed that there was a herd-like attitude of wanting to obtain “a place in the sun” somewhat impulsively, but not fully considering all the implications of it. Another British woman who had lived in the area for more than eight years with her British partner noted:

When we first came here to live we met some other foreigners who were also here because they wanted to be here. In the last few years people have come because of the villa in the sun and the swimming pool. The English are also xenophobic and want to live in little England. Astonishing.

Thus both Turkish and British interviewees observed that some British people frequently complained about local conditions and rules, and often groaned that some local ways of doing things “would not be allowed in England.” One British woman who is married to a Turkish hotel owner from Ankara noted:

British people are not respecting Turkish culture and are expecting things to be like Britain, but they are not. They fall in love and when they come here they find out that it is not like Britain. They know they cannot work. They know it’s a different culture. Then they form packs of expat communities. They do not interact with Turkish communities. In winter there is nothing to do for them and they get bored. Their biggest problem when they move here is that they are bored.

The majority of the British people who spoke to us said that they could not converse or read in Turkish. Some had made efforts to attend classes or to use language learning books, but only a few had advanced to any degree. One British woman who helps other Brits by teaching Turkish said:

Germans and Dutch make a bigger effort to learn Turkish. But large numbers of English simply do not learn Turkish and this is a huge obstacle. You’re coming to country where you are deaf, dumb, and illiterate. It’s disgraceful.

Another British woman, married to a Turkish café owner who caters mainly to English tourists and residents, explained some of the influences that reduced the incentive to learn Turkish:

Here all summer one can get by without speaking Turkish. Foreigners generally came in the hot months. In the last few years they might stay in winter also. I would speak English all summer. Now in winter in the post office they [the staff] will speak English even if I speak in Turkish. English people will have English-speaking Turkish friends so they do not learn. For Turkish people language is not an issue to them mentally. They can communicate. The English are the ones with the barriers.

The British retired accountant agreed with part of this assessment when asked to what extent he knew Turkish:

Speaking is limited, reading and writing is even more limited. It’s not easy to learn because when you try to speak, people speak back to you in English. Others who have to speak because their interlocutors do not speak English end up learning more. This is a tourist town so people are not forced to speak Turkish.

As our respondents note, a general inability to communicate in Turkish means that British people's interaction with Turkish society is limited. They cannot access services without the help of Turkish-speaking friends who are most often Turkish themselves. This is a severe disadvantage in accessing legal help because, although interpreting services might be available, they are not generally of a high standard and are not provided through an official mechanism despite the level of foreign settlement in parts of western Turkey. Most contact with official authorities does not take the form of legal action, however, but involves raising matters of concern or complaining about offences such as burglaries, which are not infrequent. In these contexts, British people were not only severely disadvantaged in communicating their problems, but also often could not find out the applicable rules or procedures, again reinforcing their reliance on Turkish-speaking friends. In fact, a lack of Turkish language ability meant that the social circle of many British people was limited to those who could speak English.

Not knowing enough Turkish also means that access to Turkish citizenship is restricted. A language test is compulsory for citizenship and can be administered according to criteria decided by officials at the relevant local level which thus also vary widely—from being able to make basic conversation to reading a newspaper and being able to respond to questions about its contents. Those few who are keen to acquire Turkish citizenship complained about the lack of a standardised benchmark for this test and the discretionary and varied manner in which it is implemented. As one retired woman who lives in Muğla with her British husband who would like to work in Turkey noted:

For citizenship, language would be an obstacle for my husband who is not so hot on Turkish. We know one lady who has done all the formalities, and then at the panel in Muğla she was told that she would not pass because her Turkish was not good enough. There were five people on the panel. She was asked to read from different newspapers and asked questions on what she'd read. Another person in another part of Turkey was asked very basic personal details and innocuous questions and got citizenship. There is a certain amount of imbalance between different places. There should be standard questions and one should know them in advance.

The kinds of disadvantages to which language inability gives rise are at least partly responsible for the often expressed view among British people that the Turkish legal system is too complicated, bureaucratic, slow, and even unfair. General ignorance and inability to find out about Turkish legal rules also leads to information being passed around the circle of British people who know each other either personally or through internet chat-rooms. This sort

of “grapevine” transmission of information may not always be so reliable, although it remains one way of responding to the legal information gap, and an important indicator that there are concerns about many subjects of how best to negotiate the official legal system. More generally, these disadvantages are not simply restricted to language, but also extend to the larger questions of differences in legal cultures. It may be observed that what British people experience in Turkey in terms of having to deal with an alien legal order seems to parallel what immigrant communities go through in Western countries, although members of either community are rarely aware of this.

Turkish interviewees frequently made mention of their culture of *misafirperverlik* (fondness for visitors, hospitality) and cited instances of when they had helped out British people in negotiating life in Turkey. But several also observed that, as customers, British people were extremely demanding and insisted on wanting things to be done their own way. This was somewhat balanced by those Turkish people who declared that “we can learn things from the British” such as timekeeping and observance of technical standards, for example in building, in their care for animals, and concern for environmental protection. Conversely, some British people admired Turkey precisely because of the absence of too many rules and regulations which, unlike in Britain, did not constrain the freedom of the individual. The European Union often came out as responsible for having laid down too many rules on British life, and several British interviewees considered that Turkey therefore ought not to join the European Union and instead pursue its own independent course.

Some respondents did comment that there was not as much freedom of speech as one might find in Britain, a charge which might not appear unjustified, given the prosecution of the British cartoonist, Michael Dickinson, for example, who drew caricatures of the Turkish Prime Minister, Recep Tayyip Erdoğan.<sup>23</sup> One might also consider that the fine levied against Dickinson and its eventual waiver by an Istanbul judge on the condition that he does not draw Recep Tayyip Erdoğan’s caricature for five years, was on account of his British status, saving the Turkish state some embarrassment. Turkish citizens engaging in similar satirical commentary would probably have faced much harsher punishment. Indeed, the targeting by prosecution of journalists, politicians, and activists for criticism of the government occurs on a regular basis in Turkey. This may indicate that, in some instances at least, British or European people are treated with more flexibility and leniency by the legal system. The village school head teacher quoted above was not unique among the Turkish respondents in

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23 See “Artist defiant despite fine for Turkish PM ‘mockery’,” <http://news.bbc.co.uk/1/hi/uk/8558805.stm>, last accessed 13 January 2012.

thinking that, in practice, many accommodative gestures are made towards foreigners by Turkish officialdom and by ordinary people.

### **Environment, property, and economy**

At a broader level, it is apparent that the Aegean and Mediterranean coasts of Turkey have been transformed by the tourism economy in the last few decades. New developments of hotels, villas, restaurants, bars, and shops are now a common feature of the coastal urban settlements which were previously hamlets, the population of which were largely engaged in the farming and fishing economy. The changes brought by Turkish and foreign tourism to Bodrum, as portrayed in the legal anthropological work of June Starr (1992, 82-87), now seem a more generalised phenomenon. Tourism has had significant consequences for the environment and lifestyles of local people and, as noted, also attracted migrants from other areas of Turkey and the diaspora to locate themselves within the new economic system. This echoes findings by Kozak and Tasci (2005, 265) that up to forty-five percent of tourism service providers in Fethiye had been residing there for less than five years. Our research also reveals that many of those who come from other parts of Turkey to work within the tourism economy are seasonal migrants who move elsewhere during the winter months. The British people who have chosen to settle were also once mostly short-term sojourners as tourists, who then decided to live in Turkey. Evidently, their presence cannot be neatly distinguished from the continuing and expanding levels of tourism from Britain and other source countries, which in turn contributes to further settlement.

This ambiguous situation has many ramifications. For one, the opinions and stereotypes held by Turkish people of Europeans can often flit between the “tourists” and “settlers,” and some British people who have settled feel that they are still treated like tourists who do not understand the local environment and codes of conduct. Many of the British respondents were vocally critical of the dress of some tourists, thus demonstrating their sharpened sensitivity to local expectations, and perhaps also showing their consciousness of the fact that stereotypes were already built up by Turkish people about the “looseness” of European women. British interviewees would often make remarks to the effect that “one would not walk around half-naked in a British city, so why do so here?”

Experiencing what could be described as a form of discrimination, British interviewees also told us that they, like tourists, were charged higher rates in situations where there are no fixed prices. Sometimes, as foreign residents who had come to know the local traders, they would be charged the middle



of the three applicable prices. Significantly, as they settle, the British and other foreigners contribute to the further development of the areas which came to prominence because of the tourism economy in the first place. For example, many will either purchase ready-made villas or have them built in accordance with their design preferences, further transforming areas which were previously fields or marshlands, and contributing to further urbanisation and the overall rise in real property values. These developments have led to a counter movement by a coalition of European and Turkish people to safeguard against overdevelopment which they believe neglects the ecological balance, biodiversity, and beauty of this part of Turkey. In a unique account, Haimoff (2006) documents her longstanding familiarity with these changes in the areas we visited, and her concerns about environmental and wildlife protection have been taken on by a motley group of European and Turkish people, including scientists and local and national politicians.

Purchases of real property are a potentially large minefield of legal problems. Many will find the process straightforward and there are even some guidebooks in English (e.g. Howell and Locke 2007) which warn purchasers to beware of potential pitfalls, although they are not always so clear in providing precise details of the legal situation in Turkey. To start with, there are many restrictions under Turkish law on where one can buy property as a foreigner since certain areas, such as those close to military sites, are out of bounds. There are official restrictions on the total amount of property one can own and the total area of land that can be owned by foreigners in any particular area.<sup>24</sup> The liberalising reforms introduced in the late 1980s were contested several times before the Constitutional Court of Turkey, and have led to much uncertainty about the validity of titles to property that foreigners have acquired since then.<sup>25</sup> Although the actual process of purchase is much simpler than in Britain, one hears many stories of things going wrong. No lawyer is required as an intermediary in the process of purchase and, if buyer and seller agree, then all that has to be done is for both to go to the local property register office and authorise the change of ownership. Even where lawyers are consulted, we found that they do not always advise well and sometimes even act against the interests of the buyer since they might, at the same time, know and act in the interests of the seller. For foreigners, there is also the matter of waiting for clearance after a military check which can take months.

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24 See article 35 of the Deed Law (Tapu Kanunu, Law no. 2644, of 22.12.1934, RG: 2892-20.12.1934).

25 The consequent changes in the legal situation for foreigners buying property are detailed in Turkish by Fendoğlu (2008).

Patently, however, not all follow the procedures. Some will trust local people who take them into their confidence and persuade them to part with their money. The “sellers” may either be genuine persons who simply want the money to start building, or they may be crooks who just want take the money and run, never intending to change the ownership of the property. Even when builders have provided the purchase price, the buyer may not get the title to the property until much later and, in some cases, the “seller” uses his property title to raise further funds, perhaps by mortgaging the property to further their business. In all such instances, it is virtually impossible to obtain the title to the property through a court process and the British people we spoke to would not have been in a position to apply extra-legal pressure unless they know someone of influence locally. We often heard the question “Would you buy a property from a waiter?” as a kind of cautionary lesson, which appears to form part of the local wisdom about what not to do when purchasing property. Those who have partners among Turkish citizens might also face legal problems with respect to real property, which often represents much of their life savings, in case the partnership breaks up and they realise that they do not have the title to the property. In such cases, again, court action might not produce a result which favours them, even if they had provided part of or the entire purchase price. We interviewed one British woman whose Turkish partner was deceased and who is embroiled in a legal dispute with the deceased’s son over the property. Court action seems more prohibitive the higher the amount claimed because foreigners are expected to provide for the court a security deposit for legal expenses and costs (*cautio judicatum solvi*) before making any legal claim.<sup>26</sup> The amount to be paid is at the court’s discretion in each case. We were told that British citizens are also required to pay this deposit, although this practice would seem to be against the 1932 bilateral agreement between Turkey and the United Kingdom whereby both countries reciprocally promised to treat the other country’s citizens as equal to their own.<sup>27</sup>

In other cases, a buyer may not wish to wait for the military check because they may lose a property by the time the clearance comes through, or they may wish to acquire property in a locality otherwise available only to Turkish citizens. In these cases they might choose a local Turkish person they think is trustworthy enough and use his name to purchase the property with the expectation of a future transfer of title. We spoke to one Turkish shop owner

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26 Article 48 of the International Private Law (Milletlerarası Özel Hukuk Ve Usul Hukuku Hakkında Kanun, Law no. 5718, of 27.11.2007, RG: 26728- 12.12.2007).

27 Convention on Subvention for Civil Procedure (Mün’akit Müzaheretü Adliye Mukavelenamesi), passed by the Turkish Parliament with Law no. 2045 on 28.06.1932, RG: 2142 -05.07. 1932, in force 13.07.1933.

who had done precisely this for up to three British people even though he spoke little English. Asked why he had gone through such trouble for people he hardly knew, he said that as a Muslim it was his duty to help someone in need. He would rather act as an example—a Muslim is a trustworthy person who keeps to his word. It appears that engaging a Turkish citizen to purchase property is not an unusual practice, but despite what our trustworthy interviewee said, it might not always end up with goodwill on all sides, as an estate agent told us.<sup>28</sup> The negative experience of foreign property buyers has led to some concerted action among estate agents' associations to lay down standards of good practice out of concern that the reputation of their profession was being affected.

British people are also engaging in the economy not only as customers, but also as potential players who seek to profit from the increased attractiveness of the areas in which they live or invest in real property. Although Turkish people have welcomed the foreigner presence because of the benefits of rising incomes from the business generated, higher prices, and sales of land, economic participation by non-Turks often provokes the ire of some Turkish people, as the foreigners are then perceived as direct competitors for the trade brought by tourists. The costs and benefits of the European presence in the study region are therefore experienced differently by differently-placed Turkish people. For example, those British people who purchase villas might not live in them but instead rent them out to other foreigners from their country of origin, creating a marketing advantage and charging higher rates for rental. Although their income is earned out of property owned in Turkey, they may not pay local taxes and can therefore retain a much larger share than those Turkish people who own villas or hotels and who have to pay taxes as well as other charges at higher business rates, thus making them less competitive. It seems that this way of "playing the system" is difficult to police although its occurrence is well known. During our stay in Turkey, we came across one report of a British citizen who had been deported for unlawful engagement in the real estate agency business in the study area after his actions had been communicated to the British consular authorities, while three other such persons were also to have action taken against them.<sup>29</sup> This event shows that economic competition which manifests itself in terms

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28 The practice is also referred to by another estate agent in "Reciprocity proves sticking point for real estate acquisition in Turkey," in *Sunday's Zaman*, 8 August 2010. See <http://www.todayszaman.com/news-218452-reciprocity-proves-sticking-point-for-real-estate-acquisition-in-turkey.html>, last accessed 13 January 2012.

29 "Turkey deports UK citizen for illegal activity," *Hürriyet Daily News*, 7-8 August 2010. Meanwhile, the account by Nudrali and O'Reilly (2009) shows that, despite the legal restrictions, in Didim, the involvement of British people as estate agents or workers in such agencies is prevalent.

of low-level ethnic tensions can eventually result in firm official action being taken.

While not of direct concern to our study, we found other tensions that criss-cross the type already mentioned. They too contain a mix of economic and ethnic factors which sometimes bubble up into outright conflict and result in the involvement of official legal actors such as the *jandarma* and the courts. One instance that was revealed to us involved a local Kurdish businessman married to a British woman. The man runs a restaurant which became the target of a spontaneous demonstration and attack during a televised football match being watched mainly by foreign customers. The attack came when other locals who were nearby mistakenly suspected the audience to be cheering against the Turkey team. This probably cannot be dismissed as an isolated case and we were told of other such incidents where Kurdish people had experienced attacks or harassment. This may be part of the wider phenomenon of sharper, ethnically-based competition which has come about since the fairly large scale Kurdish migration to the urban areas of western Turkey (Saraçoğlu 2010). There is some evidence that when such incidents erupt the official authorities tend to side against Kurdish people. Attacks against Kurdish people in other cities have been prominently reported in the national media in recent years, showing continuous tensions.<sup>30</sup>

State policy remains fairly tight with respect to allowing foreigners to work lawfully. While a foreigner may set up a business, he may not manage it. An exception to the no-working rule is afforded to holiday reps, which signifies the economic importance of holiday companies. Several among our interviewees, even those who were already retired, said that they would like to be able to use their skills to contribute to the economy in a positive manner but were prohibited from doing so. The British people we spoke to often have longstanding professional experiences and artisanal skills to offer, which some consider wasted. Even voluntary work is not easy to perform legitimately since it also requires official permission from the authorities<sup>31</sup> and charitable activities, such as raising money for school activities, while they do take place, are kept at a low profile because they do not comply with official rules. Unofficial working does take place although we were reminded

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30 In fact, as Bayır (2013) shows, economic factors have often been a key element of ethnic violence against minority groups in the history of the Turkish Republic.

31 See article 7(e) of the Regulation on Voluntary Work in Special Provincial Administration and Municipalities (İl Özel İdaresi ve Belediye Hizmetlerine Gönüllü Katılım Yönetmeliği, RG: 25961009.10.2005).

repeatedly that that is not allowed.<sup>32</sup> Those who do work will do so away from the public eye and the report cited above of the British citizen being deported shows the potential consequences of not doing so. There are some official rules under which EU nationals and their non-EU citizen spouses and spouses<sup>33</sup> of Turkish citizens<sup>34</sup> may be granted permission to work, but we heard from a local lawyer, who had tried to apply according to those rules, that applications were never successful. Eventually he had given up trying.<sup>35</sup> The local police representative in charge of foreigners' affairs confirmed this by reading to us decision letters which cite the labour market situation as the standard reason for refusal. The pattern appears to show that in this region, at any rate, the policy is not to allow foreigners to work. The problem of being unable to work lawfully causes particular strains for spouses of Turkish citizens. The same lawyer mentioned above stated that his colleagues in Istanbul had had some successes in making applications for work permits for foreigners, showing that the region of application may make a difference to the outcome, and there may well be some protectionism in favour of Turkish citizens working in the tourism sector.

### Concluding observations

British people have been settling in Turkey relatively recently. The organisation of the contemporary world is premised on regimes of law that operate as an aspect of sovereignty exercised by nation states, which occasionally come together to formulate some common rules, the European Union being a case of "deep" legal harmonisation in this sense. Often states unilaterally formulate the rules that regulate the legal status foreigners. None of this avoids the necessity of those foreigners having to negotiate their own way through the complex of rules, official and unofficial, that accompanies their sojourn in a country. Many Turkish respondents referred to British and other European people as *misafirler* (visitors), while some British respondents also referred to themselves in a similar way. This recalls the conceptualisation of Turkish people as guestworkers (*gastarbeiter*) in different countries of Western Europe

32 Articles 18, 19, and 21 of the Law on Foreigners' Work Permit (Yabancıların Çalışma İzinleri Hakkında Kanununun, Law no. 4817, of 27.02.2003, RG: 25040-06.03.2003).

33 Article 8(e) of the Law on Foreigners' Work Permit and article 50 of Regulation of the Law on Foreigners' Work Permit (Yabancıların Çalışma İzinleri Hakkında Kanununun Yönetmeliği, RG: 25214-29.08.2003). Also see Regulation on Employing Foreign Nationality Personnel in Foreign Enterprises (Doğrudan Yabancı Yatırımlarda Yabancı Uyruklu Personel İstihdamı Hakkında Yönetmelik, RG: 25214-29.08.2003).

34 Article 8 (a) of the Law on Foreigners Work Permit and article 44 of the Regulation of the Law on Foreigners' Work Permit.

35 For official statistics on work permit issues since 2003, see <http://www.csgeb.gov.tr/csgebPortal/ShowProperty/WLP%20Repository/csgeb/dosyalar/istatistikler/yizin>, accessed 17 January 2012.

although, contrary to expectations, they remained in the host countries giving rise to all kinds of legal and other consequences which those societies were not prepared to face. Although their situations are not entirely similar, the psychological treatment of immigrants as guests betrays the fact that the Turkish state and society have not yet come to terms with the fact that these people are there to stay as long as there is no severe disturbance. As such, their presence is only now beginning to be taken notice of in academic circles although their local impact, including in the legal field, is already prevalent. This underlines the importance of conducting a locally-based study as we have tried to do. We have found some clues about how British people are responding to their new legal environment. British people appear to be developing a distinct legal presence in Turkey in the regions they are settling within, influencing and changing local ways. In some ways, they remain excluded from accessing their full official legal rights and facilities because of their cultural and linguistic differences, and because they have come from a different legal environment. However, they have begun to navigate through Turkey's legal order, using some rules to their advantage, and also going around those rules which are not necessarily convenient for them. Thus it may be possible to suggest that some kind of unofficial legal reconstruction of a British common law is taking place in the shadow of the Turkish legal order. Many legal issues remain unresolved, although they will become more important as time goes on and will require careful navigation on all sides. Thus it will be important to track the process of further socio-legal adaptation of British people in Turkey. It may also be worthwhile to study closely the trajectory of other similarly-situated European citizens.

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