MANAGEMENT OF RELIGION IN TURKEY: THE DIYANET AND BEYOND

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Judicial and governmental “neutrality” with regard to matters of faith, ecclesial denomination, religious and theological education, the care for life, marriage, and death, is a condition sine qua non for the flourishing of modern democracies and political liberalism.¹

I. Introduction

This article discusses legal regulations and political issues regarding religion in Turkey, and focuses on the role, historical foundations and legal structure of the Presidency of Religious Affairs (Diyanet İşleri Başkanlığı – hereinafter ‘Diyanet’), an administrative unit founded in 1924 “to organize the religious affairs” in a secular state apparatus. In order to contextualise the issue, concepts of ‘laïcité’, ‘secular’, ‘secularizations’, ‘secularisms’, and ‘post-secular’ are explored. Thus the triangle between state, society and religion, with a special focus on a decade of successive AK Party (Development and Justice Party) governments, is scrutinised in the light of the right to freedom of religion and/or belief in Turkey.

It is a rare blessing to be surrounded by colleagues and friends from different disciplines. I am grateful to those that have presented me with the opportunity to discuss and improve the opinions that I developed during my formal education in law schools over the 30 years that I have been struggling with religion and politics. I am in debt to Professor Şerif Mardin, for helping me in comprehending the phenomenon of religion as a social matter and with my humble endeavor to read/understand the effects of Islam on the cultural operational mechanisms of Turkish society. Similarly, I am also indebted to Professor Talal Asad for the theoretical structuring of my work, primarily, in relation to the formation of secularism/laicism. The case of the Diyanet is a clear illustration of his...
argument that the secular, like religion, has a history and is mutually constitutive with religion, and can not be separated either conceptually or historically. Needless to say, all the mistakes and defects are mine alone.

II. Historical Foundations of Religion and Politics in Turkey

I think that analysing the relations between religion and state in Turkey, just like other structures of Turkey’s Republican era, is not possible without making comparisons with the Ottoman period and determining the points of rupture and continuity between the two eras. Three different approaches appear in the literature of Ottoman studies for matters of state and religion. As for the first approach, if one starts by recognizing a duality in legal norms existing in the Ottoman world it may be proposed that the Ottomans had two separate sources of legitimacy: those depending on Islamic canon law and those on the Sultan’s acts; although apparently this did not constitute a structure that would be called “the secular”. Nevertheless, the system that was established in the Republican era may be traced back to the dual structure of the Ottomans starting from the 15th century when Mehmet II (the Conqueror) had his profane codification.

There also exists a second approach which states that the Ottoman structure did not have such duality as described above; on the contrary, religion and the world, together, had constituted a whole embodied in the person of the Caliph-Sultan. According to this view, the Ottoman state was a theocratic one, and thus, the entire state structure took shape according to the rules stipulated by Islam. This thesis is supported by the fact that the Caliph-Sultan had religious as well as political identities, and both the vizier and the Sheikh ul-Islam, the chief religious official of the Ottoman Empire, were second to the sultan in political and religious matters.

In addition to these two approaches, a third one claims that in the period from the Ottoman Empire to the Republican era, there has always been state control of religion. The Caliph/Sultan had the power to appoint as well as to dismiss the Sheikh ul-Islam; and the Sheikh ul-Islam would attend to religious matters on behalf of the Sultan. In this context a separate institutionalized power, like the Roman Catholic Church in the West, was never permitted to religious authorities in the Ottoman system.

Scrutinizing the institutional dimensions of the relations between state and religion, one may observe that there exist both continuity and ruptures in various institutional bodies from the office of Sheikh ul-Islam to the Şer’iye ve Evkaf Vekâleti (Ministry of Religious Affairs and Pious Foundations) and finally to the Presidency of Religious Affairs. While
Sheikh ul-Islam was responsible for judicial, legal, scholarly, administrative and political duties as well as religious ones, the Şer'iye ve Evkaf Vekâleti founded by the Ankara government on 4 May 1920 was an institution responsible only for religious matters and pious foundations, but this very effective institution was at the ministerial level as far as its place in the administrative hierarchy was concerned. The founding political authority of the Republican era had preferred to configure the institution of Presidency of Religious Affairs as an administrative unit under the Prime Ministry.

It seems that the Turkish Republic’s founding elite designed the new Turkish state as a modernity project and therefore, no means that would satisfy this goal was spared. Actually the radical program of reform and Westernization that the Republican cadres pursued in the 1920s and 1930s had earlier started within the Ottoman Empire in the mid-nineteenth century, especially by the reception of Western codes and political principles. However, the purpose of the new leadership in this period was to secularize and modernize not only the state and the ‘political’, but also to transform society into a modern body. Thus, in my view, the biggest difference between Republican and Ottoman Westernizations was the spectrum of their telos; and laicism was one of the pillars for the Republican founding elite.

III. Laic(ité), the Secular, Secularizations, Secularisms, Post-secular

Laicité/laicism/laic is the term used for the state’s control of religion in the public sphere as opposed to secularism which implies the separation of state and religion, and laiklik (laicité) is the concept that is preferred by Turkey’s Republican decision-making elite in all legislation and other legal regulations which actually shape its substance. I assert that, as a state’s approach to religion, the laicism/secularism distinction is significant. However, since every society has different socio-political circumstances, the interpretation of secularism and laicism in political and thus legal systems exhibits differences as well. Both secularism and laicism are about state politics, law-making, and constitutional principles, but for the most it permeates and establishes the rhythm of a phenomenology of everyday life practices. Neither laicism nor “(s)ecularism is . . . a ‘neutral’, power-free space and a set of abstract principles; (they are) embodied in people’s agencies and imaginaries.” In other words, these concepts are socio-political constructions; thus various secularizations, secularisms, and laicism emerge in different socio-political climates.
example, in the US, it has been preferred to interpret secularity as a state of impartiality towards religions and beliefs. In addition to a principle that bans the introduction of legislative activities designed to prevent the free practice of any religion, the First Amendment to the US Constitution, by means of the establishment clause, prevents the Congress from making a law establishing a religion. The Supreme Court’s formulation regarding the establishment clause in the *Lemon v. Kurtzman* case\(^{14}\) may be a key to a particular understanding of secularism: (i) the purpose of no legislative or administrative procedure may be religious (*secular purpose*); (ii) religion must not be affected, either positively or negatively, by the implementation of the procedure (*primary effect*); and (iii) the state must not show excessive concern for religion because of the procedure (*excessive entanglement*). On the other hand, in the case of France, where the shadow of the Catholic Church is still felt, and with issues that have been emerging by increasing populations of Islam and other faith systems like Sikhism, a harsher interpretation of laicism has been preferred where the *Conseil d’État* has a regulative role.\(^{15}\)

In all countries and in every historical period, secularization has been a coercive process in which the legal powers of the state, the disciplinary powers of family and school, and the persuasive powers of government and media have been used to produce the secular citizen who agrees to keep religion in the private domain. Sometimes this has been done by putting external and forcible constraints on the public political presence of religion, as in the Jacobin tradition of *laïcisme*, or in the Soviet Union and contemporary China, or in Kemalist Turkey.\(^{16}\)

The formations of the secular follow different historical trajectories and have different religious genealogies in different places too, yet they are closely interconnected with hegemonic impositions of Western modernity and colonialism.\(^{17}\) Talal Asad, whom in the religion-secular debate,\(^{18}\) by following the work of Michel Foucault and Edward Said, focuses on genealogies of power, characterises “the secular” as an epistemic category, “secularism” a “political doctrine”, and “secularization” as a historical process.\(^{19}\) Both religion and the secular for Asad are “processual” rather than fixed ideologies.\(^{20}\)

It was Jürgen Habermas who first introduced the term post-secular in the German Peace Prize lecture in 2001, which he further elaborated in his later writings. Habermas labels the present era as “postsecular”, in which he has been increasingly stressing the importance of cultivating a stance that both reckons with the continuing global vitality of religion and emphasizes the importance of ‘translating’ the ethical insights of religious traditions with a view to their incorporation into a ‘postmetaphysical’
perspective, or in other words into a secular idiom. For Habermas, we live in a postsecular society where the classical assumption of the secularization thesis, whereby religion would disappear from the public sphere has been shown to be wrong. Two important elements – within the societal context of Germany and Western Europe – have refuted this theory: first, the appearance of public normative debates, such as abortion, stem cell research, etc., which also involved clerical institutions as legitimate public actors. Second is the visibility of Islam in Europe and its claim for Muslims’ rights within the frame of citizenship based rights.

In his book, *Public Religions in the Modern World* published in 1994, José Casanova states that the core and central thesis of the theory of secularism is the conceptualization of the modernization process with regard to the structure, organization and operation of society, and he points to its three components considered as essential, since Max Weber, in the development of modernity:

(i) the separation of religion from politics, economy, science, etc., because of the increasing structural differentiation between the social areas;
(ii) the privatization of religion within its own field;
(iii) the decreasing social importance of the religious beliefs, attachments and institutions.

According to Casanova, only the first and third elements can be implemented. Even though the privatization of religion within its own field is part of laicism, it is not essential from the perspective of modernization. Casanova’s argument is that whether or not unmaking religion a private matter threatens modernity depends on how religion becomes public. If it advances, as in Poland, the formation of a civil society, or encourages, as in the USA, public debates about liberal values, then the politicized religion and modernity are in perfect harmony with each other. However, on the other hand, if it tries to undermine civil society, as in Egypt, or individual liberties, as in Iran, then the politicized religion really turns into an uprising against modernity and the universal values of the Enlightenment.

Charles Taylor is another prominent scholar to exemplify liberal secularism. In *Secularism and Freedom of Conscience*, Charles Taylor and Joselyn Maclure aim to provide “an adequate conceptual analysis of the constitutive principles of secularism”, by stating that any understanding of secularism must “be approached within the broader problematic of the
state's necessary neutrality toward the multiple values, beliefs, and life plans of citizens in modern societies.”

Ahmet Kuru coins the terms “passive secularism” and “assertive secularism” to imply a state’s neutrality toward various religions by allowing their public visibility in the former; and a state’s confining religion to the private sphere in the latter.

In this context, José Casanova’s related remarks may provide a suitable hint to answer the question, “to what extent has Turkey been a secular country?”: “Turkey is seen as too secular for the Islamists, too Sunni for the Alevi and too Turkish for the Kurds where Turkish values are strongly showed up.” Fuat Keyman adds another statement: “for non-Muslim minorities Turkey is too Muslim.”

IV. “Diyanet”

I think that in order to understand religion, politics and the politics of religion in Turkey, as an initial step, a governmental organization, namely the Diyanet İleri Başkanlığı (Presidency of Religious Affairs—hereinafter Diyanet) should be scrutinized. Diyanet is a secular/laic administrative unit in the Republic of Turkey established in 1924 to execute services regarding Islamic faith and practices; to enlighten society about religion, and to carry out the management of places of prayer.

Diyanet was established by the Act dated 3 March 1340 (1924) no. 429 “on the Abolishment of The Ministries of Şeriye (Religious Affairs) and Evkaf (Pious Foundations).” By abolishing the Şeriye Vekaleti (Ministry of Religious Affairs), a new administrative unit called the Diyanet İleri Reisiği (Presidency of Religious Affairs) was constituted. In other words, the new regulation placed the management of religious affairs in the hands of an administrative bureau, not to a ministry in the cabinet. In terms of administrative law, ministry is hierarchically the highest position in the central administration, and it is a political unit. Not to place the institution of “religion” in a political body was a key part of the overall policy of the founding political decision-making elite of Turkey who wished to establish a secular state and to transform society into a modern one. They did not want to have a unit within the cabinet dealing with religious affairs. Instead, by assigning religious affairs to an administrative unit, the ruling elite both took religion under their control and at the same time tried to break the potentially sacred significance of the Diyanet.

In my opinion, Act no. 429 is very significant in the construction of a secular system in Republican Turkey. The first article of Act no. 429 states that the Presidency of Religious Affairs has been formed as a part of the

Republic to administer all provisions concerning faith, rituals and the institutions of Islam. The article also explicitly pronounces that all other affairs are legislated by the parliament, namely the Grand National Assembly of Turkey and executed by the Cabinet formed by that body. This was an attempt by the decision-making elite of early Republican Turkey to secularise the sources and references of the legal system, an attempt that has mostly been successful.

It is apparent that the temptation to make secularism the equivalent of religion seems generally stronger in countries where secularism came about at the cost of a bitter struggle against a dominant religion; think, for example, of the Catholic church of Restoration France or Islam in the former caliphate of Turkey.31

The purpose of the new leadership in this period was to secularize and modernize not only the state and the ‘political’, but also to transform society into a modern body. In fact, the radical program of reform and Westernization that the Republican cadres pursued in the 1920’s and 1930’s had already started earlier in Ottoman times, namely in the mid-nineteenth century, especially by the reception of Western codes and political principles. Thus, in my view, the biggest difference between Ottoman and Republican westernizations/secularizations was the spectrum of their telos; and laicité was the pillar for the Republican founding elite, which designed the ‘Presidency of Religious Affairs’ as an administrative tool to ‘regulate’ Islam.

Since 1924, the Diyanet has been under the auspices of the Prime Ministry, and the president of the institution has been appointed by the President of the Republic of Turkey upon the proposal of its Prime Minister. This administration regulates the operation of more than 85,000 registered mosques and employs more than 117,000 imams, Quran instructors, muezzins, and other religious workers, all of whom are civil servants with regular salaries. In time, the mission of the Diyanet has been expanded from simply supervising faith and worship.32 Article 154 of the 1961 Constitution of Turkey provided that the Diyanet was incorporated in the general administration to discharge the function prescribed by a special law.33 That particular law was put into power after a long process of debate on 15 August 1965. Act no. 633 on the organization and duties of the Diyanet, redefined its task by Article 1, in terms of “conducting the affairs of belief, worship and enlightening society on religious matters and the moral aspects of the Islamic religion.”

To create an administrative body to offer services to meet the general, daily needs of practicing Islam may be justifiable as ‘public service’ where a majority of the population belongs to Islam; however to assign to this
organization a function such as ‘conducting the affairs of belief, worship and enlightening society on religious matters and the moral aspects of the Islamic religion’ whose content is legally ambiguous, indicates that the state preferred to use the organization as an ideological tool in a manner different from the original intent of the founding elite. Such a wording on an issue as political as the regulation of religion in a secular state reveals that the state's choice of propagating and protecting a particular religion is completely incompatible with the notion of a secular state. However, one may assume that the legislators of the 1961 Constitution aimed to correct the Kemalist mistake of not adequately recognising the role of Islam in the formation of Turkish individuals’ identity. The effort to create a moral order based on Islamic values through the state apparatus was consolidated by Article 136 of the 1982 Constitution that provided the Diyanet to carry out its mission within the framework of the principle of secularism and with the goal of achieving national solidarity and integrity. This actually is a pronouncement of the significant relationship between religion and nationalism which has been going on within the context of the Turkish nation-building process with roots not only in Republican times but in the late Ottoman period as well. In the framework of the coup d'état political climate, legal arrangements to protect the status of the Diyanet were made by Article 89 of the Law of Political Parties, Law 2820 of 22 April 1983. This article, which is still in force, bans political parties that propagate the abolition of the Diyanet.

The absence of a clergy in Islam has been a means of legitimising the state’s intervention in religion, and categorizing it as a public service. Defining public services as activities managed by public legal entities or by private entities supervised by the state for the purpose of meeting a shared and general need which has acquired a certain importance for the people, the state’s involvement in religious affairs, in my opinion, does not conflict with laicist/secularist principles. An assessment of the duties of the Diyanet in this context reveals that duties such as ‘the management of places of prayer’ and ‘providing correct publications of the Koran’ are indeed public services that may be justified as fulfilling a collective need. However, the state makes use of the Diyanet as an administrative tool to indoctrinate and propagate official ideology regarding Islam while fulfilling duties like “enlightening society about religion” and “religious education”. An interesting point here is the differing policies of administrations over time. Certainly institutions are organisms constituted by human agents that process their own dynamics according to their agendas, thus sociologically and anthropologically it is interesting to scrutinize texts produced by various authorities of the Diyanet.
It is agreed by various authorities of the *Diyanet* over the years that production and transmission of religious knowledge is a prominent task of the institution. Religious in this context refers predominantly to Islam. Professor Ali Bardakoğlu, a former president of the institution, has emphasised this mission on many occasions. He states that “the *Diyanet* has a particular role in the production and transmission of religious knowledge.” Bardakoğlu suggests, it “. . . provide(s) sound religious information.”

The *Diyanet* takes religious demands and traditional forms into account when delivering its services. However, if and when there is a departure from the shared and sustained perception, the *Diyanet* then promotes authentic knowledge; it strives to educate people about their religious beliefs and practices in the light of sound knowledge and scholarship. (. . .) Sound knowledge helps in fighting superstitions, ignorance, false ideas, misuses of religion and abuses in the name of religion. “We are trying to understand religion as religion . . . to perceive it through its sources in a true knowledge, and to transmit it to our people in that way.”

A preference for using adjectives like sound, authentic, true, healthy, “objective and true accurate” indicates an essentialist approach that produces categories of legitimate and illegitimate religions. This may be read as a predictable outcome of the legal and political construction of religion in the Republican epoch of Turkey. As for Islam, it has been the task of the *Diyanet* “to define, represent, organize, and regulate its public forms. (. . .) Religious activities outside the oversight of the state are still perceived as a threat.” What is interesting is to observe the state reflexes thereof. There appears to be a lot less difference than may be expected between the early Republican era with its strong Kemalist rhetoric, and the last decade with a series of pro-Islamic AK Party governments, as regards religious activities outside the oversight of the state.

The most important work of the *Diyanet* regarding the Koran was in the first years of the Republic; Elmali’s interpretation titled *Hak Dini Kuran Dili* (Righteous Religion Quranic Language), which has been an important interpretation until the present day, was commissioned by the *Diyanet* and published in 1936.

Elmali indicates that while he was writing his interpretation he followed the Sunni branch of Islam with regard to the creed and the Hanafite sect with regard to the practice. It is likely that he was asked to write his interpretation this way and he obeyed it, because whereas he shows a more dynamic and relaxed attitude in his other works, he shows a more conservative attitude in his interpretation.
When the Association of Turkish Women reacted to the statements given below in the hadith work of the twelve-volume Sahih-i Buhari Muhtasar Tecrid-i Sarih Tercümesi ve Şerhi (Sahih al Bukhari: Translation and Commentary), the Diyanet commented that this book was published solely for commercial purposes:

The testimony of two women is equal to the testimony of one man. The women are deficient in both reason and religion. The women are bad luck. The things that spoil praying are dogs, donkeys, pigs and women. Hand contact with a foreign woman is hand adultery. Most of the people in hell are women.\textsuperscript{47}

In a decision, dated 2 June 2003, about women becoming witnesses in judicial process and on gendered principles of inheritance, the High Council of Religious Affairs stated the following:

According to Islam, ontologically and also with regards to religious responsibility, legal competence, and fundamental rights and freedoms, there is, in principle, no difference between a man and a woman. The difference indicated in the verse about borrowing emerges in the light of the conditions of the period which reflected a passive role for the women in the commercial activities, and does not contain a general arrangement. When the verses regarding this subject are considered as a whole, the testimony of a woman is equal to the testimony of a man; however, on the inheritance law,

a) ( . . .) Women are not usually responsible for providing subsistence for others. However, men are on the contrary obligated to ensure subsistence of their spouses, their daughters, their mothers or sisters in nearly all societies. Therefore, in accordance with the principle of ‘blessing as much as the burden experienced’, a man, who is responsible for ensuring the subsistence of his spouse, daughter and mother or sister, is given twice the share of a woman who does not have such an obligation.

b) A woman has the right to use her financial assets any way she wants. Even if her financial condition is good, she does not have to take part in the family expenses. Therefore, from this perspective, in the case when both a woman and a man take equal shares, since he is under obligation to provide for his family and she is not, this will upset the balance against him.

c) A man is obligated to give \textit{mehir} (some amount of property and goods) to his spouse. However, not only that a woman does not have such an obligation, but she also earns the right to get \textit{mehir} from her spouse.

d) Although during the Islamic waiting period of a divorce process, the man is obligated to cover his wife’s expenses such as housing, food, clothing and medical treatment, the woman does not have such an obligation towards her husband.
As one can see, concerning the financial obligations, far from being equal to a man, in fact, a woman is in an advantageous position. In many areas, the financial obligations are imposed on the man. Therefore, because of the reasons given above, in dividing the inheritance among the siblings, the man receives, in accordance with the weight of his financial obligations, two shares; and having no financial obligations, the woman receives one share. This is the fairest and the most just inheritance division.48

Efforts at balancing gender equality and Islamic principles by the Diyanet through khutbas49 and in expanded services to women under the generic of family guidance within the last decade is an interesting process in order to read especially the continuities and ruptures of patriarchal mentalities of not only the Turkish state over time but also of society.50

A Diyanet publication, entitled ‘21. Yüzyıl Türkiye’sinde Hurafeler’ (Superstitions in Turkey of the 21st Century) pursues the goal of “raising awareness of the people against superstitions” with a list that includes among others the following:51 “to hope for help from places like tombs and holy burials”; lighting a candle at a holy person’s grave and making a wish; believing that getting married between two religious holidays is unlucky; that itching right palm means money will come, itching left palm means money will be gone, and itching under the foot means a trip will be taken; walking under a ladder is bad luck; having a complete Koran reading or Islamic memorial service on the 7th, 40th and 52nd days and the anniversary of the funeral; believing that the pictures drawn on sand or soil by the seaside on the day of the ‘Hudrellez’52 celebration will be owned later on; fortune reading of a drunken coffee cup, going to the fortune tellers and wizards; to believe that whoever (the bride or the groom) steps on the foot of the other one during a marriage ceremony will be the boss in the house; to have an evil eye bead, to carry an amulet. Thus, many practices encountered frequently in the Turkish ‘folk’ Islam culture53 appear to be disapproved by the Diyanet.

Diyanet announced the recruitment of Kurdish Islamic clergymen, called meles by the Kurds, as imams in south-eastern parts of Turkey. A mele is a traditional religious figure of vital importance among the Kurds, and he takes a leadership role in resolving societal issues such as tribal matters, honour crimes and blood feuds. They are highly respected community leaders, who have a great impact on the Kurds.54

Currently, the Diyanet is a significant actor in the Turkish Islamic sphere internationally on account of the Turkish state’s financial and organizational support. Whereas until the military coup of 1980 the Diyanet’s access had been limited to Turkey’s Muslims, after the coup the
Diyanet expanded its activities into countries with Turkish immigrant populations. Since the early 1980’s, the Diyanet has sent imams to Europe to counterbalance the influence of other Islamic communities on Turkish Muslims and to maintain their loyalty to the Turkish state. “To counter undesirable Islamic influences, Diyanet is to propagate the ‘correct’ Sunni Islam through the mosques and compulsory classes on Islam, with a strong emphasis on ethics, human rights, and each citizen’s duties towards state and country.” It seems in this context that the majority of the Diyanet followers do not have a collective identity of being a member of a separate Diyanet community, and consider the Diyanet to be above any Islamic community. However, the Diyanet’s claim in international affairs is not limited to migrants with a Turkish background; but also claims a role as an actor thereof.

Diyanet as an institution has produced its own dynamics in spite of the official ideology which tried to shape it. Thus, it has taken on a meaning and significance that renders virtually meaningless the suggestion that the institution should be abolished and the religious realm left to the religious communities. Moreover, the extensive network of the Diyanet all over Turkey and abroad, which no other administrative body enjoys in the Turkish system, is a great opportunity for all governments, regardless of their positions in the political spectrum. However, the institution should not cling to its status and should be reorganized in accordance with the demands of the interested actors. It is not possible for those who use political power in a contemporary democratic state and present themselves as the representatives of society to ignore the wishes of the social corpus. Thus, those that seek to be represented in the Diyanet should be given the opportunity. Also those that demand to have similar institutions should be legally facilitated.

V. In the Scope of Freedoms of Thought, Conscience and Religion

The principle of equality, construed and applied as ‘equality in blessings and burden’ by the Turkish Constitution of 1982, requires that all persons eligible for a public service should be able to benefit from such service in a free and equitable manner. The first problem that arises when the subject of a public service is religion is that the state is focused on a single religion rather than on services including all religions in the territory. As concerns our present subject matter, this problem is relatively easy to deal with, because Islam is the religion of the majority of the people and services related to other religions are provided by the
respective communities according to the provisions of the Lausanne Treaty. However, problems emerge in services to be offered to other non-Muslim groups that are not recognized by the Lausanne Treaty like the Protestants, Bahai Faith groups, Jehovah’s Witnesses, Yazidis or the Assyrians/Syriacs that belong to churches like the Syriac Orthodox, Syriac Catholic, and Chaldean Catholic, and to other Islamic understandings with different practices like the Alevi.

A draft law prepared in 1963 for defining the organization and duties of the Diyanet proposed the establishment of a “Presidency of Religious Sects.” This proposal, however, was criticized on the grounds that it could “pave the way for official separation” and was never implemented.

The Diyanet claims that Alevi and Sunnites are not subject to discrimination because, except for certain local customs and beliefs, there are no differences between these two interpretations regarding basic religious issues; hence this indicates a denial of a separate ‘Alevi’ religious identity. The fact that Sunnites constitute the majority apparently appears to be justifiable to the Turkish Republican laic elite, as the state disregards other sects. The Diyanet pretending to be unaware of the religious belief of the Alevi population, and its building of mosques in Alevi villages, is a pressure exerted by the state to implant the Sunnite belief in this section of society.

Legal recognition of religious group autonomy and places of worship is a pillar of religious freedom. A state that denies a religious community the very opportunity to establish and operate a place of worship is surely under a severe burden to justify it. The European Court of Human Rights has taken a dim view of such matters. In Manoussakis and others v. Greece, the state was held to be “restricting the activities of faiths outside the Orthodox church.” In Hasan and Chaoush v. Bulgaria, the applicants complained that the state had interfered with their right to organise their faith. The Court maintained that “the personality of the religious ministers is undoubtedly of importance to every member of the community.” In 2001 a similar violation of Article 9 was found by the European Court of Human Rights regarding the Moldavian government’s refusal to recognize and register the Metropolitan Church of Bessarabia. The common theme held by the Court in these cases is no State is capable of arguing against definitions of rituals or places of worship of a faith-group. In Turkey, the state institutions including the Diyanet have continued to be reluctant to accept cemevis (cem houses- gathering houses), that Alevi define as their places of worship. This case has not been taken to the international human rights’ judicial field yet; however, in the light of the above-mentioned
decisions, it is clear that no state is capable of arguing against definitions of rituals or places of worship of a faith-group.

In 2004, a member of the Alevi religious community unsuccessfully applied to the judiciary in Turkey requesting that his identity card feature the word “Alevi” rather than the word “Islam”. It was obligatory in Turkey for the holder’s religion to be indicated on an identity card until 2006, when the option was introduced to request that the entry be left blank. His request was refused on the grounds that the term “Alevi” referred to a sub-group of Islam and that the indication “Islam” on the identity card was thus correct. ECtHR found a violation of Article 9 which had arisen not from the refusal to indicate the applicant’s faith (Alevi) on his identity card but from the fact that his identity card contained an indication of religion, regardless of whether it was obligatory or optional. The Court underlined that the freedom to manifest one’s religion had a negative aspect, namely the right not to be obliged to disclose one’s religion.69

The applicant Hasan Zengin, stating that he was of the Alevi faith, submitted a request to the Provincial Directorate for National Education in Istanbul, seeking to have his daughter exempted from the compulsory religious culture and ethics classes in school. This demand on the part of the applicant was rejected on the grounds of Article 24 of the Constitution, which states ‘Instruction in religious culture and moral education shall be compulsory in the curricula of primary and secondary schools’ and Article 12 of the State Education Act. The applicants alleged in the case before the ECtHR that the classes in religious culture and ethics were not conducted in an objective, critical or pluralist manner, and they claimed that the lessons were taught from a Sunni interpretation of the Islamic faith and tradition.70 The Court concluded that the instruction provided in the school subject “religious culture and ethics” cannot be considered to meet the criteria of objectivity and pluralism and, more particularly in the applicants’ specific case, to respect the religious and philosophical convictions of Eylem Zengin’s father, a follower of the Alevi faith, on the subject of which the syllabus is clearly lacking. In accordance with the ECtHR judgement, the Turkish government has made some improvements in the educational curriculum, though problems still persist.71

In 1999, when Turkey officially began its bid to enter the European Union, relations between the state and religion started to make a democratic turn. “The decision on principles, priorities, and conditions in the Accession Partnership with Turkey includes the requirement that Turkey guarantees ‘in law and practice’ the full enjoyment of human rights and freedoms by all without discrimination on grounds of religion and belief.”72 It also requires Turkey to “adopt and implement provisions
concerning the exercise of freedom of thought, conscience and religion by all individuals and religious communities’ in line with the ECHR, as well as to take into account recommendations of the Commission against Racism and Intolerance, an institution of the Council of Europe.73 Yet another requirement in this context for Turkey is “to establish conditions for the functioning of religious communities, including legal and judicial protection- *inter alia*, through legal personality of the communities, their members, and assets, teaching, appointment and training of clergy, and enjoyment of property rights in line with Protocol 1 ECHR.”74 The EU is thus aiming to secure religious freedom; religious equality; and the autonomy of religious associations.75

**VI. Concluding Remarks: Recent Developments**

States should not make choices as regards what should be for the good of its citizen’s lives, instead leaving that choice to the individuals concerned. The liberal state is not to do anything intended to favour or promote any particular comprehensive doctrine over another, nor to give greater assistance to those who pursue it.76 Nozick’s observation that no one way of living can satisfy the aspirations of all the individuals within a society, is one that is accepted by most and perhaps all liberal states.77

However, the recent practices in particular of the AK Party government reveal that their understanding of the state in Turkey is not a liberal one. For example, Recep Tayyip Erdoğan, the current prime minister of Turkey, on May 25, 2012, in his speech at the closing ceremony of the International Parliamentarians’ Conference on the Implementation of the ICPD (International Conference on Population and Development) Programme of Action (IPCI/ICPD) that took place in Istanbul, Turkey stated that, “I am against C-section and I perceive abortion as a murderous act. Either kill a child in the mother’s womb or kill him/her after the birth. No difference at all.” Thus an intense debate on the issue emerged in Turkey. Indeed, religion and conservatism are constructed, interpreted, reinterpreted, and employed according to contextual and political circumstances. I read current government’s recent policies targeting issues like abortion, artificial insemination, C-section, and others like “three kids for every family” as bricks of a social engineering project aiming to transform the social body of Turkey into one with “conservative” values nourished by religious sentiments. This project of social engineering towards an imagined social corpus where the good has already been designed is very similar to the practices of the early Republican elite of Turkey in the 1920’s and 30’s to achieve their own good for the people.
It is a fact that far from separating the affairs of religion and state from each other, Islam fuses them together. It intends to attach not only the inner worlds of the individuals, but also their behaviours within the state to the sublime rules. Therefore, the steps that were taken by the state of Turkey in the direction of laicism were perceived as a direct attack on Islamic culture. Although some of the reforms of the Atatürk period were seen as directly concerning the religion itself, they were also the legal means the founding cadres of the Republic used to transform society. Intending to restructure the various existing cultural codes of the society, starting with the alphabet, the founding cadres were not content with a project of transforming simply the superstructure institutions as had been done in the Ottoman modernization, but aimed to change the whole of Turkish society. The political cadres that founded the Republic of Turkey tried to push religion into the sphere of personal belief. However, this policy did not produce results especially amongst the rural population and even in a section of the urban population. One can read the continuity of religion in these two groups as the outcome of the fact that Islam is not only a belief for them, but also represents a series of social practices with multi-dimensional functions. Although the dervish lodges were closed, the religious networks and the life styles of the conservative segments were still maintained behind the scenes. Meanwhile, Turkey has experienced an economic development that has included a population increase of 2-3 per cent per year since the 1950s. This has created work opportunities in the cities, attracting the rural population in great numbers and starting the process of the formation of squatter neighbourhoods. In this process, both the state, through channels such as the Diyanet, and some civil society institutions, continued mutually their efforts to fulfil religious needs.

Thus, both with the internal dynamics and changing paradigms in the world, I think that religion should be considered, at the legal level, within the framework of the two higher constitutional principles in the Turkey of the 2000s, which without any doubt has a very different setting from that of 1924. One of these principles is the freedom of conscience and religion, one of the fundamental rights and duties, and the other is laicism.

Article 19 of the 1961 Constitution and Article 24 of the 1982 Constitution provides that belief, whether or not adopted by the majority of people living in that country, would be a subject of freedom. With an amendment made in Articles 115(2) and 216(3) of the Turkish Penal Code, the protection of the freedoms of religious belief and worship has been provided to all religions without any discrimination. On the other hand, freedom of religious belief includes not believing as well. In order to provide a peaceful co-existence to various groups in a society, it is...
imperative that those who do not share a belief have the same right to go on with their own daily routines as those who have the freedom to fulfil the requirements of their own beliefs. Namely, a typical implementation of this should be seen in the fasting ritual of Ramadan, a requirement of Islam. While believers fast during this month in order to fulfil a requirement of their belief, those who are not part of this belief should not be deprived of the means of continuing their daily lives. It is a fact that masses with Islamic sensibilities were oppressed and deprived of their various needs especially during the early Republican era in Turkey. However, another danger nowadays lies in the transformation of religious practices and its ethical rules into legal ones. As Taylor suggests, “the point of state neutrality is precisely to avoid favouring or disfavouring not just religious positions but any basic position, religious or nonreligious.”

Freedom of religion is fundamental, however the same respect should be given to freedom from religion as well. I believe that this balance is the challenge for achieving a society of liberty and equality – but apparently an extremely difficult one indeed.

Notes

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2003), pp. 170-189. Also, for an argument focusing on Cornell Fleischer’s point of view, see Hilmi Yavuz, *Modernleşme, Oryantalizm ve İslam* (İstanbul: Boyut Kitapları, 1999-2nd ed.), pp. 141-143.

İnalçık claims that, contrary to the general view, the Sultan’s authority had not emerged out of his position as the caliph of Islam, but originated from a complex military-administrative formation that only partially overlapped with Islamic institutions. *See the Ottoman Empire: The Classical Age, 1300-1600* translated by Norman Itzkowitz and Colin Imber (London: Weidenfeld and Nicholson, 1973), pp. 70-104, 163-173, 186. *See also* Serif Mardin, ‘Some Notes on Normative Conflicts in Turkey’, in Peter L. Berger (ed.), *The Limits of Social Cohesion: Conflict & Mediation in Pluralist Societies* (Boulder-Colorado and Oxford: Westview Press, 1998), pp. 207-210. E.J. Zürcher and H. van der Linden state that “Sultan did not want to lose the legitimacy the scholars of the Islamic law provided to him, since he claimed that he was not only an Islamic monarch, but also a unique and only Islamic leader. Nonetheless, the Ottoman sultans were much more successful than those who came before them in incorporating *ulema*, the religious scholars into the state apparatus through a strict appointment and control system.”


5 Murat Akgündüz, *Osmanlı Devleti’nde Şeyhülislamlık* (İstanbul: Beyan, 2002), pp. 165-183; 301; Ali Bardakoğlu, *Religion and Society: New Perspectives from Turkey* (Ankara: Publications of Presidency of Religious Affairs, 2006), p. 9. For the sheikh ul-Islam’s duties in the field of politics and for discussions regarding the relations between state and religion, see Esra Yakut, *Şeyhülislamlık*: *Yenileşme Döneminde Devlet ve Din* (İstanbul: Kitap Yayınevi, 2005), pp. 174-204. According to Poulton, “the duty of the leading *ulema*, the religious scholars, especially of sheikh ul-Islam, the highest ranking mufti, was to make sure that the...

Actually in the West, it is only the Roman Catholic Church that has historically been a separate institution from the State apparatus and has existed as a legal person. By contrast, the Protestant/Anglican/Evangelical Churches were created as an officium of ‘the State’ who had adhered to the Reformation. See John T.S. Madeley, ‘A Framework for the Comparative Analysis of Church-State Relations in Europe’, in John T.S. Madeley & Zsolt Enyedi, *Church and State in Contemporary Europe: The Chimera of Neutrality* (London – Portland: Frank Cass, 2003), 23-50; Bryan S. Turner, *The Religious and the Political* (Cambridge: Cambridge University Press, 2013), especially pp. 55-100.

Murat Akgündüz, *Osmanlı Devleti’nde Seyhüislamlık* (İstanbul: Beyan, 2002), pp. 219-314.


20 Hent de Vries reads Asad as, “He follows Wittgenstein’s recommendation to look for ‘use’, not for ‘meaning’, steering clear of all attempts to essentialize either ‘religion’ or its supposed counterpart, ‘the secular’, and insisting instead on seeing both as something ‘processual’ rather than, say, a ‘fixed ideology’ (even less that of a ‘particular class’)”: in Political Theologies: Public Religions in a Post-Secular World (New York: Fordham University Press, 2006), p. 69.


30 Translations used for Diyanet İşleri Başkanlığı vary in literature, including terms such as the Department of the Affairs of Piety, Directorate-General of Religious Affairs, General Directorate of Religious Affairs, Religious Affairs Department, Directorate of Religious Affairs, Office of Religious Affairs, and Religious Affairs Directorate. For the English term I prefer to use “The Presidency of Religious Affairs”, since that happens to be the term used by the institution on various occasions (like the Diyanet’s official website) and in translation of the current constitution of the Republic of Turkey: see <http://global.tbmm.gov.tr/>, accessed 17 February 2014. However, in another official website of Türkiye Büyük Millet
Meclisi, Turkey’s parliament, the term “Department of Religious Affairs” has been used. See <http://www.anayasa.gov.tr/images.loaded/pdf_dosyalari/THE_CONSTITUTION_OF_THE_REPUBLIC_OF_TURKEY.pdf>, accessed 17 February 2014. However, currently on the official website of Diyanet just the term “Religious Affairs” is used in many texts. See also <http://www.diyanet.gov.tr/tr/icerik/news>, accessed 17 February 2014.


34 Kemalist policy on religion and state affairs was to remove religion from social realm and “to confine it to the conscience of people,” and make it a set of beliefs that would not go beyond the personal lives of people. Thus the aim was to reduce religion to a matter of faith and prayer, and the principle of freedom of religion and conscience was to protect only individualised religion and prayers. Religion was to remain in the personal domain and to necessitate state intervention to the extent that it concerns and objectifies the social order. For detailed account of this policy and outcomes see İştir Gözaydın, ‘Religion, Politics and the Politics of Religion in Turkey’, in Dietrich Jung & Catharina Raudvere (ed.), *Religion, Politics and Turkey’s EU Accession* (New York: Palgrave-Macmillan, 2008), pp. 159-176.


37 Prof. Ali Bardakoğlu, a former president of the Diyanet, states that, “. . . the Diyanet emerged as a response to a social need for the organization of religious affairs and in order to provide religious services. The establishment of the Diyanet can also be seen as a response to the problem of sustaining public stability in the area of religious affairs and as a way to meet the public demand for satisfactory religious services.” See Ali Bardakoğlu, “Moderate Perception of Islam’ and the Turkish Model of the Diyanet: The President’s Statement”, 24:2 *Journal of Muslim Minority Affairs* (2004), p. 368.

38 Ibid., p.367.
Ibid., p. 369.

Ibid., p. 371.


TV interview, Channel 7: Ters Köşе hosted by Akif Beki & Fehmi Koru on 21 December 2003. For the text see Bardakoğlu, supra note 37, p. 117.

TV interview, Channel 7: İskеle Sancak hosted by Ahmet Hakan Coşkun on 16 January 2004. For the text see Bardakoğlu, supra note 37, p. 128.


I should note as well that nearly one-third of Turkey’s current official preaching workforce are women. For the role of women and their influence on altering the male-gendered spatiality of Turkish mosques as well as regarding perceptions and mentality see Mona Hassan, ‘Women Preaching For the Secular State: Official Female Preachers (Bayan Vaizeler) in Contemporary Turkey’, 43 International Journal of Middle East Studies (2011), pp. 451-473.

“In the introduction of the book, it is pointed out that beliefs and practices which lack a logical basis and have no relation to real life can be found in every religion and that ignorance, loneliness, helplessness, desperation, fear, sadness, sickness, stress and disasters push people towards the trap of superstitions. The book stresses that it paves the way for the taking root, in the world of ideas, of ignorance, superstitions, baseless interpretations and awry understandings.” See Taraf Gazetesi, ‘Bunların Hepsini Hurafeymiş’, 10 December 2008, p. 4. For emphasis on
Hidirellez is the Turkish version of an ancient tradition, a celebration of the first day of spring, the awakening of nature. There are several theories about the etymology and the origin of Hidirellez. However, according to the most popular belief, Hz(d)r is a prophet who aids people in difficulty and distributes plenty and health. For further information see <http://www.kultur.gov.tr/EN,35115/hidirellez.html>, accessed 20 February 2014.

See Şerif Mardin, Din ve Ideoloji (Ankara: Ankara Üniversitesi Siyasal Bilgiler Fakültesi Yayınları, 1969), p. 115 and on. For a work that calls these kinds of beliefs “superstitious” and “fallacious” and proposes the matter be solved through education, see Fatma Yılmaz, Din Eğitimi İşığında Kadınlar Arasında Yaşayan Hurafeler (İstanbul: Cihan Yayınları, 2008).


For the role of the Diyanet to be evaluated as a preferring to be “a prestigious referee position instead of taking sides” see Mehmet Görmez, ‘Religion and Secularism in the Modern World: A Turkish Perspective’, 2 Turkish Policy Brief Series (2012), p. 7.

“In the Netherlands, the local host association of the Diyanet was established in 1982 and was soon running more than 140 mosques, becoming the largest Muslim association in the country. In Germany, the Diyanet Foundation was founded around the same time and now has more than 800 mosques in its fold. In all cases, it is the Presidency in Ankara that appoints imams for service abroad (usually for three years); these imams are coordinated by an attaché for religious affairs in the respective embassy. The attaché is a member of the presidency, and not of the foreign office staff.” Kerem Öktem, ‘New Islamic actors after the Wahhabi intermezzo: Turkey’s return to the Muslim Balkans’, European Studies Centre: University of Oxford, December 2010, balkanmuslims.com/pdf/Oktem-Balkan-Muslims.pdf, accessed 28 June 2013, p. 32.


Ahmet Yükleyen, Localizing Islam in Europe: Turkish Islamic Communities in Germany and the Netherlands (Syracuse, New York: Syracuse University Press, 2012), pp. 21-23.

Prof. Mehmet Görmez, the current head of the Diyanet, states that “it has institutions, establishments, and workers not only in Turkey but in Central Asia,


62 It should also be noted that, whereas the Lausanne Treaty has recognized a number of rights for certain non-Muslim communities and individuals that have been defined in the Treaty as “the minorities”, such legal provisions have largely remained unapplied. Thus, in practice, non-Muslim communities may not provide some religious services to their members as will be mentioned later in this article.

63 For a detailed account of Alevi identity see Dressler, supra note 45, pp. 187-208.


69 Sinan Işık v. Turkey, 2 February 2010, European Court of Human Rights, No. 21924/05.

70 Hasan and Eylem Zengin v. Turkey, 9 October 2007, European Court of Human Rights, Application no: 1448/04.


Doe, supra note 72, pp. 237-258.
For an overall account of Turkish politics and economy see Kerem Öktem, Angry Nation (London and New York: Zedbooks, 2011), especially pp. 40-55.