

RELIGIOUS MINORITIES OF TURKEY

An evaluation from the perspective of human rights

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Ankara, 2020

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Cover Photo: Cathedral of the Holy Cross on Ahtamar Island,
Van Province by Kadri Salaz

To the memory of my dear friend Tahir Elçi...
With love, respect and longing...

PREFACE

The study you hold in your hands is an attempt to explain the most pressing problems of Turkey's religious minorities within the historical, political, and legal framework that gave rise to them.

The main premise at work is that each of the various problems experienced by these minorities today has discernable roots in a longstanding mindset and ideology.

Although from time to time cracks have appeared in this mindset, in my opinion Turkey has never made a radical break from its policies targeting religious minorities.

In the opening chapter of this study, I present portions of Turkey's history that are critical to understanding the events and policies of today. In this section, you will find brief accounts of the Thrace Pogroms, the Wealth Tax, the Events of September 6–7, the Maraş Massacre, and the murders of the Roman Catholic Priest Andrea Santoro, Hrant Dink, and the Protestant Christians in Malatya's Zirve Publishing House.

The second chapter of the study addresses Turkey's failure to confront its past. Here, I offer an explanation for why the events in the first chapter have never receded into history, why and how those events affect the present day, and how the past and the present of Turkey's treatment of religious minorities are intertwined.

The third chapter, on Turkey's failure to recognize minority religious congregations and institutions, examines how Turkish law and institutions have contributed to today's problems.

Chapter Four is reserved for the question of places of worship. In this section I analyze the current barriers to opening a place of worship and the historical background of these barriers, as well as the practice of converting historical minority places of worship into museums or mosques.

The fifth chapter covers discrimination and hate speech targeting religious minorities.

Chapter Six addresses the situation of "hidden" Armenian and Greek citizens of the Republic of Turkey and the challenges they face in recovering their identities. This group includes both the persons who were forced to hide their religious and cultural identities, and their descendants.

The seventh chapter, titled "Foreigners," analyzes the problems experienced by Iraqi Yazidis seeking refuge in Turkey and the practice, recently become widespread, of deporting noncitizen Christians.

This work is not an academic study in the usual sense of the word. Neither is it merely a periodic report describing current issues. It is an effort to examine the problems facing religious minorities within the historical, legal, and ideological context that has created and that perpetuates those problems, because only such a comprehensive approach can reveal their true dimensions.

Reflected in this study are my experiences and observations from decades of litigating on behalf of religious minorities in Turkey. I have supplemented this knowledge by surveying the current literature on the condition of religious minorities in Turkey, including books, theses, articles, and court decisions, and I provide the reader many excerpts from these sources.

Nearly 30 religious minority community representatives, researchers, writers, politicians, and intellectuals from different parts of Turkey have also contributed to this study as interviewees. Their rich knowledge and experience repeatedly appear in these pages in quotes and as background information.

Because the vast majority of these interviewees wished to remain anonymous, I made the decision to anonymize all of their contributions. This is why, when citing the content of a specific interview, I give only minimal information about the interview and interviewee such as the date of the interview or the interviewee's location, religious identity, or profession.

Although their names are confidential, I would like to express my gratitude to each of these people who devoted their time to enrich this work with their perspectives. Without their contributions, this work could not have been carried out.

I would also like to thank the European Endowment for Democracy for supporting this work financially.

I would like to thank Amy Grupp for editing the English version of this report and giving it a voice similar to that found in the Turkish version.

Finally, many thanks to my dear friends Sema Kılıçer, Günel Kurşun, and Bican Şahin for reading this report and providing invaluable feedback.

Any flaws or shortcomings are mine alone.

It is my hope that this study will provide new information, perspectives, and inspiration to all who seek to understand the problems of religious minorities in Turkey, or conditions in Turkey more generally.

Sincerely,

Orhan Kemal Cengiz

December 2019, Ankara

ABBREVIATIONS

AFAD: Afet ve Acil Durum Yönetimi Başkanlığı (Disaster and Emergency Management Presidency)

AKP: Adalet ve Kalkınma Partisi (Justice and Development Party)

A.N.: Author's note

CC: Constitutional Court

CHP: Cumhuriyet Halk Partisi (Republican People's Party)

ECHR: European Convention on Human Rights

ECtHR: European Court of Human Rights

HDP: Halkların Demokratik Partisi (Peoples' Democratic Party)

HTS: Halki Theological School

MİT: Milli İstihbarat Teşkilatı (National Intelligence Service)

OSCE: Organization for Security and Co-operation in Europe

P.: Page

Para.: Paragraph

SSK: Sosyal Sigortalar Kurumu (Social Security Institution)

TBMM: Türkiye Büyük Millet Meclisi (Grand National Assembly of Turkey)

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INTRODUCTION

Why can't Christians open a legally recognized place of worship? Why are Alevi cemevis not recognized by the State?

Why are historical churches and monasteries owned by the State rather than by religious communities?

Why must a State regulation be issued before a handful of non-Muslims can elect administrators for their foundations? Why can't these minorities choose foundation directors in any manner they wish?

Why does the government interfere in patriarchal elections when these should be, at every step, an internal matter for the religious community?

Why is Turkey's legal framework for religious minorities confined to the Lausanne Agreement and a few Ottoman Era regulations?

Why does hate speech targeting religious minorities go unpunished?

Why have there never been any non-Muslim government officials?

Why can't religious minority groups commemorate their members who have been killed in massacres?

In order to understand the current situation of religious minorities in today's Turkey, we must ask these questions and many others like them. Reports and news articles with titles such as "Non-Muslim Foundations Unable to Choose Directors for Yet Another Year," "Third Attempt to Designate Land for Church Fails," and "Government Interferes in Patriarchal Elections Again" undoubtedly give information about the momentary situation, but they offer next to nothing on how and why these events and situations occur.

A great continuity in policies targeting religious minorities is discernable throughout the history of the Turkish Republic. The nature of these policies has never changed despite the rise and fall of various political parties.

During the period when Turkey sought to join the European Union, Justice and Development Party (AKP) governments took unprecedented steps on the subject of religious minorities. For example, these administrations returned the confiscated property of religious minority foundations, allowed religious communities to form associations, and were far less active in preventing discussion of the Armenian Genocide in comparison to previous administrations.

However, as this study seeks to explain, even the early AKP governments never took steps to solve the fundamental problems of religious minorities. No reforms were undertaken to provide real legal guarantees to minority communities.

And when we look at developments in recent years, we can see that in regard to certain issues, Turkey has continued to use the Republic's default settings for treatment of minorities.

So where do these default settings come from?

In my opinion, two historical realities form the basis for Turkey's relationship with its religious minorities.

One of them is the Armenian Genocide, which profoundly changed Turkey's demographics and social fabric.

Historian Ayhan Aktar provides what I find to be the most accurate assessment of the experience of Anatolian Armenians in 1915. Addressing whether what happened in 1915 was "relocation" (Turkey's official position on the events) or "genocide", Aktar writes:

"Actually it's difficult to draw lines to separate these. As far as I'm concerned, what happened in Bursa, Eskişehir, and Adapazarı was relocation. That is, people were loaded into wagons and forced to leave their places of birth. However, I cannot say the same for Erzurum, Muş and Diyarbakır. There it was genocide. They left their homes, set out in convoys, and then were slaughtered by members of the Ramanlı Tribe—organized by Governor of Diyarbakır Dr. Reşit Bey—and local elements. Therefore, what happened in the West is not the same as what happened in the East."¹

A careful reading of Article 2 of the 1948 Convention on the Prevention and Punishment of Genocide, combined with additional historical information, shows that both situations described by Aktar fall within the definition of "genocide."

One of these pieces of historical information is from a speech made by Talat Pasha at the Ottoman Parliament 10 months before the "relocation" started. In response to a question on why Muslim migrants had been relocated to areas where ethnic Greeks had lived rather than to the region between Üsküdar and Basra, Talat Pasha answered, "If we had sent these migrants there as they say, and scattered them in the deserts, they would have all died of hunger."² But the same Talat Pasha saw nothing wrong in sending Armenians to the desert region of Deir ez-Zor in what is now Syria.

Article 2 of the 1948 Convention on the Prevention and Punishment of Genocide reads:

"In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

[...]

1 T24, "Prof. Ayhan Aktar: Hem tehcir, hem soykırım", <https://t24.com.tr/haber/prof-ayhan-aktar-hem-tehcir-hem-soykirim,294516>, 24 April 2015

2 Fuat Dündar, "Modern Türkiye'nin Şifresi, İttihat ve Terakki'nin Etnisite Mühendisliği", (1913-1918), İletişim, 2008, p.256-257

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part”

Ayhan Aktar’s description of events in Erzurum, Muş, and Diyarbakır place them within subparagraph a, whereas his description of events in Bursa, Eskişehir, and Adapazarı place them within subparagraph c.

Talat Pasha’s statement that if Muslim migrants had been sent to the deserts between Üsküdar on the eastern shore of the Bosphorus and Basra in modern-day Iraq, “they would have all died of hunger” also means that sending Armenians to Deir ez-Zor, a desert region within that expanse, was an act in conformity with Article 2 subparagraph c of the Convention.

But it is ridiculous to debate whether what happened to the Armenians in 1915 was genocide according to the Convention, because the very definition of genocide in the Convention is modeled on the experiences of Armenians in 1915.

Yale University Professor of Law Raphael Lemkin, who coined the term “genocide,” was one of the drafters of the 1948 Convention. In a 1949 television interview he explained that he became interested in the concept of genocide “because it happened to the Armenians, and after the Armenians, Hitler took action.”³

As I attempt to show in various parts of this study, Turkey has not fully confronted the Armenian Genocide, and this failure to confront underlies many of the problems we see today.

Academic Barış Ünlü describes the impact of the Armenian Genocide on Turkey in this way:⁴

“Regardless of the number one accepts, Armenians, who made up at least 10% of Anatolia in 1915, were cleared from Anatolia. The magnitude, the gravity, and the impact of this after 1915 can be better understood if one imagines what would happen if out of an estimated population of eighty million in present day Turkey, eight or ten million were annihilated in various ways and in a very short time. An aspect of the Armenian Genocide vital to understanding the Republic of Turkey’s social structure is the transfer of massive wealth. Hundreds of thousands of Armenians’ immovable and movable property was seized by Muslims, Armenian [...] business sites (for mining, agriculture, trade, craft, etc.) passed into Muslim hands, and Muslims owing debts to Armenians had those debts zeroed out. Meanwhile, the Ottoman State euphemistically called this looting and extortion “emval-i metruke,” that is, “abandoned property,”—a term that would later be adopted by the Republic of Turkey—and with the Laws of Emval-i Metruke legitimized, or in other words normalized, this crime.”

As Ünlü goes on to explain, in today’s Turkey this enormous change in population and the huge transfer of wealth that accompanied it are treated as a made-up story that never happened. Unfortunately, this utter amnesia toward the past has a profound effect on today’s Turkey, seriously impacting democracy and human rights.

The second major historical factor impacting Turkey’s religious minorities today is the national identity developed during the establishment of the Republic of Turkey. Cemal Salman describes this national identity as follows:

3 <https://www.youtube.com/watch?v=moByGLA7FDc>

4 Barış Ünlü, “**Türklük Sözleşmesi, Oluşumu, İşleyişi ve Krizi**”, Dipnot Yayınları, 2018, p.134–135

“The nationalism that is the basis of the construction of national identity of the Republic’s elites is on the one hand a definition of a political-legal identity based on the bond of homeland and citizenship, and on the other hand contains an essentialist definition of identity based on ethnicism and consecrated by uniqueness. This view, based on the denial of ethnic and cultural diversity, will limit the acceptable citizens and the essential element of the state along the Turkish and (Sunni) Muslim axis; thus, a gap will arise between the state’s official and actual citizens.”⁵

Ünlü and Salman are both speaking of Turkey’s default settings. These settings continue to prescribe the State’s relationship with religious minorities.

These default settings dictate that religious minorities must not be recognized, that they must be given no legal guarantees, and that they must be weakened economically. In Chapter 1, you will read a brief history of religious minorities during the Republican period. Only when we have in mind both this history and the events of 1915 can we begin to understand the full dimensions of Turkey’s current treatment of religious minorities.

5 Cemal Salman, “**Lamekandan Cihana Göç Kimlik Alevilik**”, DİPNOT, 2018, p.108

PART 1

A HISTORICAL PERSPECTIVE ON THE PROBLEMS OF RELIGIOUS MINORITIES⁶

1A) THE 1934 “THRACE EVENTS”: INTIMIDATION AND FORCED MIGRATION

For about two weeks in June and July of 1934, Jews living in Turkey’s Thrace region suffered large-scale attacks. While there were no fatalities, many Jewish-owned businesses were looted, Jewish men were severely beaten, and Jewish women were raped.

These attacks are referred to in Turkey as the “Thrace Events,” but the term “events” is too mild a description for the dramatic developments in the region at that time. As a result of these “events,” an ancient people of the region left the land of their ancestors and Thrace was cleansed of Jews.

As has often occurred before other attacks on religious minorities in Turkey, much news and commentary targeting the victims appeared in the Turkish media before the “Thrace Events.” For example, Nihal Atsız, considered one of the ideologues of Turkish nationalism, wrote in the *Journal Milli İnkılap* (National Revolution) before the attacks, “The Jews have become a model of abasement, cowardice, evil, and characterlessness. If we get angry, we will not only exterminate the Jews like the Germans did, we will go further. We will scare them. For you know, scaring a Jew is the same as killing one.”⁷

Indeed, as Nihal Atsız threatened, the coming events would frighten and terrify the Thracian Jews.

First, prominent members of the Thracian Jewish community, including those in Edirne, Kırklareli, Keşan, and Çanakkale, received letters containing death threats, and declarations calling for a boycott of Jewish merchants appeared.⁸

The “events” themselves began in Çanakkale on 21 June 1934. According to researcher Rifat N. Bali, approximately 1500 Jews living in this city were terrorized. Large groups attacked Jews, looted their homes and shops, and extorted property and money from them with threats.⁹

In Edirne, news indicating Jews would be attacked was in circulation before the attacks began.

6 A.N.: This brief history cannot cover the multitude of traumatic events suffered by religious minorities in Turkey. Instead, I chose, from among the prominent incidents, those I believed would be most useful for understanding present-day Turkey and its treatment of religious minorities.

7 Işıl Demirel, “**81. Yılında Trakya Olaylarını anlamak**”, Evrensel Gazetesi, 21 June 2015, <https://www.evrensel.net/haber/254153/81-yilinda-trakya-olaylarini-anlamak>

8 Ayşe Hür, “**Trakya Olayları**”, Avlaremöz, 21 June 2016, <https://www.avlaremöz.com/2016/06/21/1934-trakya-olaylari-ayse-hur>

9 Rifat N. Bali, “**1934 Trakya Olayları**”, Kitabevi, İstanbul, 2008, p.122

The “events” in Edirne began just after a boycott targeting Jewish tradesmen.¹⁰

On 2 July, groups bearing sticks and stones attacked Jewish neighborhoods while crying “Death to Jews!” They looted shops and houses, beat up the Jews they captured, and demanded they depart to Istanbul.¹¹

On 5 July, villagers armed with knives and guns began coming to the city at night to attack Jews, but this ended with an announcement from Prime Minister İsmet İnönü that necessary measures would be taken to address these events.¹²

In Kırklareli on 3 July, students and locals, along with some soldiers, stoned houses belonging to Jews. For three or four hours, the looters used all kinds of violence—beating Jews, threatening them with death, and raping Jewish women.¹³ On the nights of 3 and 4 July, the houses of the Jews in Kırklareli were raided and the attacks reached the level of a pogrom.¹⁴

Following these “events,” Jews in Thrace left the region in a state of terror and panic. After selling their goods well below value, they migrated to Istanbul and abroad.

The organized structure of the Thrace Events and the State’s role in them have long been debated. Sources quoted by historians such as Ayhan Aktar suggest the government had decided to rid Thrace of the Jews and that local authorities had been given “verbal” instructions to this end.¹⁵

Details quoted by other authors show the events were preplanned and the consequences foreseen. For example, during the events on 3 July, eyewitnesses reported the police station had been abandoned and no policemen were in sight.¹⁶

Examining the attitudes and actions of public authorities also provides clues that the events were State-organized. Shortly before the attacks in Edirne, the Revenue Office of Edirne required Jewish merchants and tradesmen in the city to pay their taxes.¹⁷ The office must have known it would be unable to collect these taxes after the attacks. Likewise, local authorities in Çanakkale brought many ferries from Istanbul to facilitate the transfer of local Jews to Istanbul.¹⁸ A train that provided service from Kırklareli that normally operated with 3 passenger cars had 15 cars on the morning of July 4.¹⁹ And yet the governor of Edirne told Jewish representatives who met with him during the attacks that “the actions were not initiated by the official authorities, [but] it was the wish of the people that the Jews leave Edirne and Thrace.”²⁰

We know these shameful pages of 1934 history were not isolated incidents, but would be repeated

10 Rıfat N. Bali, *ibid*, p.137

11 Rıfat N. Bali, *ibid*, p.138

12 Rıfat N. Bali, *ibid*, p.140

13 Rıfat N. Bali, *ibid*, p.184-185

14 Hatice Bayraktar, “**The anti-Jewish pogrom in Eastern Thrace in 1934: new evidence for the responsibility of the Turkish government**”, *Patterns of Prejudice*, Vol. 40, No. 2, 2006, p.95

15 Ayhan Aktar, “**Trakya Yahudi Olaylarını ‘Doğru’ Yorumlamak**”, *Tarih ve Toplum Dergisi*, November 1996, sayı 155, p.50

16 Hatice Bayraktar, *ibid*, p.97

17 Rıfat N. Bali, *ibid*, p.137

18 Rıfat N. Bali, *ibid*, p.123

19 Rıfat N. Bali, *ibid*, p.87

20 Rıfat N. Bali, *ibid*, p.137

years later with the targeting of religious minorities living in Istanbul and Izmir.

1B) THE 1942 “WEALTH TAX”: ECONOMIC DEVASTATION

In 1942, using the pretext of economic need created by World War II, Turkey instituted a special “Wealth Tax” aimed at bringing down non-Muslims economically.

As has happened in many other worrying developments, the road to this tax was paved by the Turkish media. In the summer of 1942, many articles were published targeting Turkey’s non-Muslim citizens, portraying them as thieves, robbers, profiteers, and traders in the illicit market.²¹

After this psychological preparation, a coordinated effort to gather information on non-Muslims began. On 12 September 1942, the Ministry of Finance sent a letter to the regional revenue offices asking that the assets of minorities be identified and shown on a ledger. Tax authorities, working in accordance with the circular, listed minorities and their assets by name and address. In addition, banks were asked to report non-Muslims’ accounts. CHP provincial and district organizations were asked for information about the property of non-Muslims and this was compiled. Likewise, “reliable” merchants and the Intelligence Agency were asked for information on non-Muslims’ business activities and income. When all this information was assembled, the filing process was completed.²²

The official justification of the Wealth Tax Law was to “tax the high profits created by extraordinary conditions of war.”²³ In his speech to parliament, Prime Minister Şükrü Saraçoğlu told lawmakers the law targeted the war-rich and minority profiteers.²⁴

However, the Wealth Tax was clearly an anti-minority financial practice that caused great trauma to those subjected to it. As I explain briefly below, this tax was first of all openly discriminatory as it targeted a specific group.

Who must pay the Wealth Tax and how much they were required to pay was determined by regional commissions established for this purpose. For example, three commissions were established for Istanbul.²⁵

A picture of the discriminatory impact of the Wealth Tax can be seen in these figures: 83 percent of the taxes levied were paid by non-Muslims, 7 percent by Muslims, and 10 percent by other groups.²⁶ The total amount levied upon non-Muslims was 10 times the total Muslims were told to pay.²⁷ In addition, while the Muslim payers of this tax were all wealthy, the non-Muslims payers were people at all income levels, including about 26,000 people with jobs such as driver, bargeman, secretary, laborer, and janitor.²⁸

There was no legal avenue to challenge this tax imposed disproportionately on non-Muslims.²⁹

21 Ayhan Aktar, **Varlık Vergisi ve ‘Türkleştirme’ Politikaları**, İletişim, 2000, p.143

22 Rıdvan Akar, “**Aşkale Yolcuları, Varlık Vergisi ve Çalışma Kampları**”, Doğan Kitap, 1999, p.58-59

23 A.N.: This refers to conditions created by World War II. Turkey did not ultimately enter this war but had mustered approximately one million men.

24 Rıdvan Akar, *ibid*, p.60

25 Ayhan Aktar, *ibid*, p.221

26 Rıdvan Akar, *ibid*, p.74

27 Ayhan Aktar, *ibid*, p.221

28 Ayhan Aktar, *ibid*, p.224

29 Rıdvan Akar, *ibid*, p.72

Once this unchallengeable tax was levied, the taxpayer had to pay it within 15 days. The homes and businesses of those who did not pay on time were seized and sold, and if the proceeds did not fully cover the tax, the taxpayers were sent to labor camps.³⁰ It is unnecessary to conduct extensive or deep research to understand that a tax so high people could not pay it by selling everything they owned was in its nature devastating and punitive.

Estimates of the number of people who failed to pay their “debts” and were sent to labor camps vary from 1,400 to 8,000 people, but sources agree that not a single Muslim was among them. The residents of the camps, without exception, were non-Muslim Turkish citizens. It is understood that these camps bore an intentional resemblance to the Nazi concentration camps for Jews and were thus a means to pressure and frighten the taxpayers.³¹

Sadly, this tool of fear seems to have worked. On 27 January 1943, when the first group of taxpayers in default were shipped to the Aşkale Labor Camp, the general journals of the Land Registry Directorates showed a spike in the sales of homes, offices, apartments, land, and inns owned by non-Muslims all over Istanbul.³²

“Work camps” were concentrated in two districts—Erzurum’s Aşkale District and Eskişehir’s Sivrihisar District. Taxpayers who were unable to pay their “debts” after foreclosure were sent to these concentration camps. Apart from the difficult work, the non-Muslims from Istanbul and other parts of Turkey suffered from the poor living conditions in the camps.

Physical conditions in the camps were extremely poor and, to add to their difficulties, residents were forced to travel long distances by foot or on the backs of animals. The camps also had no specific work programs. For example, Aşkale residents were made to clean the streets of Erzurum. Non-Muslims were often humiliated by locals while doing these kind of “jobs.”³³

These difficult living and working conditions were deliberately created. It was hoped that to escape these conditions “taxpayers” would bring out money they had hidden or entrusted to someone else to pay the tax they “owed.”³⁴

Although after a while the harsh working and living conditions in the camps improved, the taxpayers’ lives, along with those of their families and loved ones, had become nightmares. This tax, purportedly levied to address Turkey’s financial difficulties during World War II, turned out to be instrumental in bringing non-Muslims citizens of the country to their knees. The Wealth Tax was also an important step toward the Turkification of capital, as many non-Muslims were forced to sell all their possessions.

Given the focus of this report, the Wealth Tax is also a striking example of how actions could be taken to affect non-Muslims without an obvious paper trail. Neither the law itself nor the correspondence between State agencies on its implementation indicated non-Muslims would be targeted. However, that the commissions made non-Muslims the overwhelming majority of taxpayers, that non-Muslims paid much more tax in total than Muslims, and that without exception all those sent to forced labor camps were Greek, Jewish, or Armenian presents a remarkable example of how fascist

30 Ayhan Aktar, *ibid*, p.149

31 **Rıdvan Akar**, *ibid*, p.90

32 Ayhan Aktar, *ibid*, p.228

33 Ayhan Aktar, “**Yorgo Hacıdimitriadis’in** Aşkale-Erzurum günlüğü (1943)”, *İletişim*, 2011, p.166

34 Ayhan Aktar, *ibid*, p.167

practices could target non-Muslims in Turkey even without the support of written rules.

1C) THE “EVENTS OF 6–7 SEPTEMBER 1955”: AN ORGANIZED BARBARISM

On 6–7 September 1955, thousands of homes and businesses belonging to non-Muslim citizens of Turkey, especially those of ethnic Greeks, were destroyed. Hundreds of people were injured, and there was a state of collective insanity. The “6–7 September Events” have been defined in many ways. They can be called “organized barbarism” created in cooperation with the State and nation by looking at the organized side of these “events.” As I will try to explain briefly below, a defiant, uninhibited aggression was prepared and channeled in a highly organized way. But if we look at the “events” only from this angle, the horrible portrait remains incomprehensible.

From another perspective, 6–7 September manifested a terrible state of lawlessness that stripped certain Turkish citizens of their protections and rights as citizens, leaving them at the mercy of their attackers. In the face of organized looting, the State vanished from the streets of Istanbul for two days. Overnight, non-Muslim citizens of Turkey living in Istanbul and Izmir were transformed into people whose property and bodily integrity could be violated, who had no recourse to State protection no matter what happened to them.

6–7 September was not a “madness” in which a few thousand marauders plundered the property of non-Muslims, as many people think. Rather, “the number of participants in the events reached hundreds of thousands.”³⁵ These horrific attacks occurred in large swathes of Istanbul from Taksim to the Islands. The events constituted a horrific example of vandalism that terrified those who witnessed it.

Non-Muslim shops were systematically broken into, houses were attacked, and places of worship burned. Not even cemeteries were spared. Even the official figures for the attacks (which are probably lower than the actual numbers) reflect widespread destruction. According to these “official figures,” during 6–7 September 1955, 4,214 homes, 1,004 business premises, 73 churches, 1 synagogue, 2 monasteries, 26 schools and 5,317 other buildings such as factories, hotels, and taverns were damaged in Turkey.³⁶

While the extent of material damage is itself shocking, the loss of life and the physical attacks on non-Muslim persons are more appalling. According to Turkish media, 11 people were killed in these attacks, while Greek sources put the deaths at 15.³⁷ The injured numbered about 30 according to official figures and 300 according to an unofficial count.³⁸ Hundreds of women are estimated to have been raped. In Balıklı Greek Hospital alone, 60 Greek women were treated for sexual assault.³⁹

As had happened before and would happen again in Turkey’s history, the press laid the groundwork for the 6–7 September Events. Hürriyet (Freedom) and Yeni Sabah (New Morning) in Istanbul, as well as Gece Postası (Evening Post) in Izmir, had been publishing articles targeting Turkish

35 Dilek Güven, “Cumhuriyet Dönemi Azınlık Politikaları ve Stratejileri bağlamında 6-7 Eylül Olayları”, İletişim, 2006, p.26

36 Dilek Güven, “Riots against the Non-Muslims of Turkey: 6-7 September 1955 in the context of demographic engineering”, European Journal of Turkish Studies, 12.2011, p.5

37 Bianet, “6-7 Eylül’de Ne oldu?”, <https://m.bianet.org/bianet/azinliklar/116904-6-7-eylul-de-ne-oldu>

38 Ayşe Hür, “6-7 Eylül 1955 yağması ve 1964 sürgünleri”, Radikal, 6.9.2015, <http://www.radikal.com.tr/yazarlar/ayse-hur/6-7-eylul-1955-yagmasi-ve-1964-surgunleri-1428641/>

39 Melike Çapan, “6-7 Eylül’ün üzerinden 63 yıl geçti; dönemin tanıkları anlatıyor: Adnan bu muydu yapacağını!”, T24, 6 Eylül 2018, <https://t24.com.tr/haber/6-7-eylulun-uzerinden-63-yil-gecti-donemin-taniklari-anlatiyor-adnan-bu-muydu-yapacagin,693642>

Greeks, linking them to negative developments in Cyprus.⁴⁰

On 6 September, a news report from Greece set ablaze the latent anger planted by the Turkish press. A bomb had been thrown at the house where Mustafa Kemal Atatürk was born in Thessaloniki. The bombing was later shown to be part of a conspiracy involving an employee of the Turkish Consulate in the city and a law student of Turkish descent with connections to Turkish intelligence, but it was clear even on 6 September that it was a provocation to mobilize the masses.

The news reached all of Istanbul via a second printing of the *Istanbul Ekspres*, a newspaper with a normal daily circulation of 20,000–30,000. On 6 September, the paper ran 300,000 copies. It was later discovered that the owners also had a close relationship with Turkish intelligence. Only because the newspaper knew beforehand of the Thessaloniki bombing could it have had the paper stock ready to print such a large run for immediate distribution.⁴¹

The aftermath was horrific. Houses and business premises belonging to non-Muslims were ransacked, with most attacks taking place in Istanbul's Beyoğlu District. If you look at the photographs available online you can see the extent of the destruction. The miles-long İstiklal street in the center of Beyoğlu is filled with fabric, broken glass, and smashed tools and equipment taken from shops and thrown into the street. It looks as if thousands of shops, simultaneously bombed from the inside, spewed all of their contents out onto the street.

For anyone with a conscience who witnessed the “events” of 6–7 September, the two days are ones of terror and shame for Turkey, showing what kinds of things collective madness is capable of doing. Everything from the atmosphere created beforehand, to the preparation of the provocation, to the results are important for understanding the environment of fear and pressure that surrounded non-Muslims.

As an eyewitness has commented, it is difficult for those who did not see the barbarism of 6–7 September with their own eyes to comprehend it.⁴² The words of journalist Mehmet Ali Birand, who witnessed these events as a teenager, show that the attackers consistently discriminated the houses and workplaces of non-Muslims from those of Muslims. Birand writes:

“What I saw in Beyoğlu on the morning of 7 September 1955 is still before my eyes. I was 14 years old and had to go to Galatasaray High School to write the preparatory exam. With a thousand difficulties, I managed to get to Beyoğlu. As I went up from Karaköy to Tünel I was astonished. The scene was horrifying. The great street seemed like a war zone, with windows of the shops on both sides shattered and goods strewn on the ground. Heaps of clothes, books, stationery, stoves, chandeliers and much more [...] The stores had been completely turned upside down. Material for curtains was drifting across the ground and people were taking away whatever they could find [...] It was like Judgement Day [...] I was a child and I really didn't understand what had happened. The most interesting thing I noticed was that while some shops had been broken into and plundered, others were not even touched. I looked and saw the untouched shopfronts had Turkish flags hanging in them. On all the doors of the broken ones were Greek names.”⁴³

40 Ayşe Hür, “6-7 Eylül'de devletin ‘muhteşem örgütlenmesi’”, <https://www.haksozhaber.net/6-7-eylulde-devletin-muhteşem-orgutlenmesi-7252yy.htm>

41 Ayşe Hür, *ibid*

42 Rıfat N. Bali, *6-7 Eylül Olayları, Tanıklar-Hatıralar*, Libra yayıncılık, 2010, p.330

43 Rıfat N. Bali, *ibid*, p.73

The destruction was terrible, but it was also very organized. Wild-eyed mobs appeared to take to the streets spontaneously, but many among them had tools for prying open metal shutters. They knew which targets to attack and in every neighborhood they used the same methods.

I will briefly draw attention to a few details that illustrate the organized character of the events. First, on 6–7 September, the rioters uniformly attacked only the homes and businesses of non-Muslims. How were they able to distinguish their targets so perfectly? A few weeks earlier, neighborhood officials had been asked to provide the addresses of homes and businesses in their districts. Night watchmen asked some residents and business owners to make the address numbers on their properties more visible. In addition, some non-Muslim homes and businesses were marked with crosses or the initials “GMR,” standing for “Gayrimüslim Rum,” or non-Muslim Greek.⁴⁴

A second element showing the planned nature of the attacks was that many different groups in different neighborhoods of Istanbul used the same methods. They cut iron bars protecting shop windows with welding equipment or bolt cutters, shattered the storefront windows with stones, and then destroyed the contents of the shops immediately or after throwing them into the street.⁴⁵

The attitude of the police throughout Istanbul during those two days is a third detail. Apart from a very few exceptional cases, nowhere did the police act to disperse the rioters.⁴⁶ Finally, despite easy access to valuable merchandise and the prevailing lawlessness, the mobs did not become looters. Their focus was destruction rather than theft, suggesting their leaders had received special instructions.⁴⁷

Many years later, a comment from a military officer would provide the most damning evidence that the 6–7 September Events were planned and carried out by the State. In a 1991 interview with journalist Fatih Güllüoğlu, retired General Sabri Yirmibeşoğlu, head of the Special Warfare Department, head of General Staff Intelligence, and a senior member of the National Security Council, said, “6–7 September was the work of Special Warfare and magnificently organized. It achieved its objective.”⁴⁸

Thanks to these “magnificently organized” events, anguish and terror descended on Turkey’s non-Muslim citizens, and thousands of them, especially Greeks, fled the country.

1D) THE 1978 MARAŞ MASSACRE: A HORRIFIC SLAUGHTER

During 19–26 December 1978, Alevis in the Turkish city of Maraş, Turkey’s 18th largest city, became the targets of a horrific massacre. Alevis are a religious minority in Turkey with a strong history of participation in leftist political movements.

According to official figures, more than 100 people—mostly Alevis—were murdered, hundreds of people were injured, and 210 homes and businesses were destroyed. According to unofficial figures, however, the death toll was about 500.⁴⁹

44 Dilek Güven, “Cumhuriyet Dönemi Azınlık Politikaları, ibid.p.28

45 Dilek Güven, “Cumhuriyet Dönemi Azınlık Politikaları, ibid.p.30

46 Dilek Güven, “Cumhuriyet Dönemi Azınlık Politikaları, ibid.p.33

47 Dilek Güven, **Riots against Non-Muslims**, ibid.p.5

48 NTV, “‘Karakutu’ yine ağzından kaçırdı”, <https://www.ntv.com.tr/turkiye/karakutu-yine-agzindan-kacirdi,3Q-5dK4I350OStXhyyXNcJg>

49 <https://tr.euronews.com/2018/12/19/maras-katliam-nedir-olaylar-nasil-basladi-neler-yasandi>

The violence that would become the Maraş Massacre began with a low-impact bomb thrown into the Çiçek Theater on 19 December 1978,⁵⁰ where a crowd of young ultranationalists, known as Grey Wolves, were watching the nationalist film “When Will the Sun Rise.” Later investigations would show it was a member of the Grey Wolves who had lobbed the bomb.

The next day, a coffee house frequented by Alevis was bombed. On 21 December, two left-wing teachers were murdered. On 22 December, the Grey Wolves attacked the funeral held for the teachers,⁵¹ then spread out to menace Maraş’s Alevi neighborhoods. On 23 December, mosque and municipal loudspeakers broadcast provocative messages such as, “Alevi communists have poisoned the water,” “Alevis in Yörük Selim [District] are slaughtering our coreligionists; let the Muslims who love God be ready,” and “All our nationalist and Muslim brothers into formation.” Masked men led mobs in a massacre that lasted three days.⁵²

Thousands of people armed with everything from shotguns, rifles, and pistols to gas cans and dynamite attacked the predominately Alevi Yörük Selim District, breaking through military barricades and entering the district from all sides. The mobs, encountering nothing that could stop them, worked their way through Yörük Selim, burning and destroying everything in their path and killing every resident they encountered. By the evening of 23 December, most of the district’s homes were in flames. On 24 December, Yörük Selim was a ghost town.⁵³

The same violence was repeated in every part of the city with a high density of Alevis. It was later revealed that the homes of Alevis had been marked in advance so the attackers could easily find their victims.

The stories from the survivors are terrifying. The attackers poured gas on young children and the elderly and set them on fire,⁵⁴ cut off women’s breasts,⁵⁵ killed infants and children by shooting them,⁵⁶ cut off other victims’ heads with axes,⁵⁷ raped women, and slit open the bellies of pregnant women, nailing the bodies of their unborn children to trees.⁵⁸

The Maraş Massacre is one of the most horrific massacres of the 20th century. Its lower number of casualties is the only reason it is not regularly mentioned alongside Rwanda, Cambodia, and Yugoslavia when crimes against humanity are discussed. However, the number of casualties is not a factor in determining crimes against humanity.

In Turkey, the Maraş Massacre is often discussed as if it was a tragedy in which two groups of civilians fought and killed each other. However, the imbalance of power between the parties was so great that this view is disingenuous.

Given the horrific atrocities committed in the Maraş Massacre and the systematic targeting of one group, it is obvious that what happened in Maraş in 1978 was a crime against humanity under

50 Orhan Tüleylioğlu, “**Kahraman Maraş Katliamı**”, Um:ag Vakfı yayınları, 2009, p.33

51 Feza Kürkçüoğlu, “**Tarih Bu Katliamı Unutmayacak**”, <http://bianet.org/biamag/insan-haklari/134999-tarih-bu-katliami-unutmayacak>

52 Orhan Tüleylioğlu, *ibid*, p.35

53 Orhan Tüleylioğlu, *ibid*, p.49

54 Orhan Tüleylioğlu, *ibid*, p.76

55 Orhan Tüleylioğlu, *ibid*, p.83

56 Orhan Tüleylioğlu, *ibid*, p.84

57 Orhan Tüleylioğlu, *ibid*, p.89

58 Orhan Tüleylioğlu, *ibid*, p.90

international human rights law. In fact, if we focus on the “intention” and “purpose” of the perpetrators rather than the number of casualties, we see the Maraş Massacre was committed with “the intent to destroy, in whole or in part, [...] a national [...] or religious group” as described in Article 2 of the 1948 Convention on Genocide. There is therefore no question that, legally, the intention of the perpetrators was genocide.

I emphasize genocide and crimes against humanity for two reasons. First, this massacre, which in Turkey has been downplayed as an “incident,” a “conflict,” and so on, is actually a horrific crime against humanity in its commission, its objectives, and its consequences.

Second, many Alevis retain the view that the massacre has never been properly and diligently investigated. That the Maraş Massacre was undoubtedly a crime committed against humanity opens the possibility of investigation even now because there is no statute of limitations on such crimes. Although some perpetrators of the massacre were convicted and given lengthy sentences, they were released early, and all the prime suspects were acquitted. It is also worth noting that the perpetrators were not tried within the normal legal system but by military courts operating after Turkey’s 12 September 1980 military coup. Additionally, three lawyers participating in the trials on the victims’ behalf are known to have been murdered.⁵⁹

Even today, we do not know where the victims of this horrific massacre are buried. As I will discuss in a later section on Turkey’s failure to confront its past, each year Turkey bans commemorations of the Maraş Massacre.

Acknowledging that the events in Maraş in 1978 were a crime against humanity will not resurrect the murdered victims, but it would be at least a small step toward alleviating the suffering of the massacre’s survivors, who continue to bear its terror. Acknowledgement would allow these victims to see the perpetrators give account for their actions in court and would open the door to possible redress.

Many years later, “secret” documents in the case file against the generals who carried out the 12 September 1980 coup revealed new information about the Maraş Massacre. Among these documents was a National Intelligence Organization (MİT) report on the “Maraş Events” that contained striking material on their preparation.

According to the 17 January 1979 MİT report,⁶⁰ right-wing extremists—“Grey Wolves”—planned the massacre. The MİT report summarizes their planning meeting:

“At the meeting it was stated that as Alevis and the left group in Maraş had recently increased their pressure on nationalists and Sunnis, the time to teach them a lesson had come. First the neighborhoods of leftist Alevis and the addresses of their leaders were identified, and then the individuals who would take action at these addresses. After these procedures were completed, a consensus was reached for the execution of the action under suitable circumstances.”

The Maraş Massacre was a milestone along the path to Turkey’s 12 September 1980 coup. Al-

59 Euronews, “**Maraş Katliamı’nın 41. yılı: Olaylar nasıl başladı, neler yaşandı?**”, <https://tr.euronews.com/2019/12/19/maras-katliam-nedir-olaylar-nasil-basladi-neler-yasandi>, 19 December 2019

60 Kemal Göktaş, “**MİT raporlarında Maraş katliamı: Ülkü Ocağı’nda planlandı, polis de öldürdü**”, 20 December 2018, <http://www.diken.com.tr/mit-raporlarinda-maras-katliami-ulku-ocaginda-planlandi-alevileri-polis-de-oldurdu%EF%BB%BF/>

though the State's specific role in planning and executing the massacre has been debated, it is worth noting that, as in the case of other major attacks on minorities in Turkey, the State seemed to vanish from the streets of Maraş during 19–26 December. It is clear that both the State and certain segments of society played significant roles in the massacre.

The Maraş Massacre has left deep traces in the Alevi collective memory and caused lasting trauma to the Alevi community.

1E) THE SIVAS MASSACRE: HYSTERIA AND INFERNO

A terrible massacre occurred in 1993 in Sivas, a provincial capital in central Anatolia and home to about 350,000 people.

The events that took place in Sivas in 1993 are often treated as a link in a chain of international events that began with novelist Salman Rushdie's 1988 publication of *The Satanic Verses*. The novel was protested around the world as anti-Islamic, and Iran's Supreme Leader Ayatollah Ruhollah Khomeini issued a fatwa directing Muslims to kill Rushdie.

In 1993, an announcement by Turkish author Aziz Nesin that he had translated the book into Turkish and it would be published in installments in *Aydınlık*, a left-leaning nationalist daily paper, triggered national outrage and controversy. Given this background, it is possible to view the Sivas massacre as a particularly barbaric and terrifying instance of a global trend that began with the worldwide reaction to Rushdie's novel.

However, if we examine how this massacre has been recorded in the social memory, the global context becomes irrelevant. For Turkish Alevis, this was a massacre like other massacres, committed under a mentality that targets Alevis and tries to destroy them.

Indeed, Aziz Nesin and *The Satanic Verses* were used as symbols to provoke the crowds and incite them to violence, but the context in which the massacre occurred and the targets at which the mobs were directed make this event yet another Alevi massacre.

The killings in Sivas on 2 July 1993 are often called the "Madımak Massacre" after the Madımak Hotel where the victims lost their lives. At this time Sivas was hosting events to commemorate Pir Sultan Abdal, a famous Alevi poet born near Sivas in 1480, who was executed for rebellion against the Ottoman State.

Many poets, intellectuals, writers, and musicians had been invited to the city for the Pir Sultan events. As we have noted regarding other massacres in Turkey, local newspapers and the distribution of leaflets once again played an important role in provoking the masses and directing them toward specific targets.

Bizim Sivas (Our Sivas) newspaper targeted Aziz Nesin's speech at the opening of the Pir Sultan Abdal Festival with the headline "Snails Are Being Sold in a Muslim Neighborhood...!"—a Turkish saying used to highlight inappropriateness since Muslims do not eat snails. And *Hakikat* (Truth) newspaper asked "whether the Pir Sultan Abdal festivities were organized to spread irreligious propaganda."⁶¹

61 Orhan Tüleylioğlu, "Yüreklerimiz Hala Yangın Yeri, Sivas 2 Temmuz 1993", Um:ag, p.29

The provocative tone of the communique titled “To the Muslim Public,” distributed in Sivas three days before the massacre, is clear: “Aziz Nesin, the willing servant of world imperialism [...] he has slandered the preserved structure of the Qur’an.”⁶²

In a statement titled “To Our Muslim People” distributed on 1 July and on 2 July, the day of the massacre, participants in the Pir Sultan Abdal commemorations and Aziz Nesin himself were clearly targeted: “The one who slanders the Prophet Muhammad (PBUH), traitor, apostate [...] ‘Satanic Verses’ by Salman Rushdie started to be published as installments in Aydınlık newspaper on 26 May [...] traitors never go unpunished.”

The unhindered distribution of these statements, the utterly insufficient presence of police and soldiers at the most critical junctures leading to the massacre, and, afterward, the protection given to those accused of the massacre show that some circles within the State were willing, at a minimum, to pretend not to see what was happening.

However, putting all the blame for embarrassing massacres and incitements on the “Deep State” or on “some segments of the State” as has become fashionable in Turkey in recent years is, I believe, a psychological strategy to avoid confronting an important reality.

No matter which secret circles gave the green light to plan and execute the Sivas Massacre, the foot soldiers of this terrible atrocity were average people who readily became a crazed mob. As I explain below, this massacre, in which the victims choked to death on smoke or were burned alive, was carried out by the stubborn, insistent, and tireless efforts of the masses.

While signing books on 2 July, Aziz Nesin was approached by a reporter from a news agency who heckled him with comments and questions.⁶³ For example, the reporter said “In Salman Rushdie’s book there is slander against our Prophet’s wives.”

These inflammatory words had their desired effect as some of those present began to insult and curse Aziz Nesin. His bodyguards then took him back to the Madımak Hotel where he was staying. Meanwhile, people gathered in the streets to protest both Nesin and Alevis, chanting slogans such as “Let the hands that move against Islam be broken” and “Aziz the devil.”

A large group of protestors headed to the Cultural Center, where about 1,500 people were attending a concert that was part of the Pir Sultan festivities. The protestors pelted the Cultural Center with stones. Inside the center was a large group of men and women, while outside was a steadily growing mob of aggressive men. The mob broke the windows and doors of the Cultural Center.⁶⁴ At this point someone told the mob that Aziz Nesin could be found at the Madımak Hotel.⁶⁵

The growing crowd then besieged Madımak Hotel at 14:00.⁶⁶ They were joined by people leaving the mosques after Friday prayers, and the mob swelled from thousands to tens of thousands.

A desperate, anxious wait began for the writers and musicians inside. Some photographs tak-

62 Orhan Tüleylioğlu, *ibid*, p.38

63 Sivas Katliamına ilişkin çarpıcı görüntülerin de yer aldığı iyi bir anlatı için bkz. Mehmet Ali Birand’ın hazırladığı mini belgesel: “**Sivas katliamı**”, https://www.youtube.com/watch?v=Ixs_7E2Vrvo

64 Orhan Tüleylioğlu, *ibid*, p.47

65 Mehmet Ali Birand, *ibid*

66 Orhan Tüleylioğlu, *ibid*, p.49

en during the wait were later circulated, and the images from them have been burned into many of our minds: a vast and terrible crowd is gathered outside, while those inside sit on the stairs, holding brooms to defend themselves. The hotel was stoned for hours.

By 20:00, a chant of “Burn them, burn them!” began to rise from the mob outside.⁶⁷ The hotel, already like a scene from a horror film with its windows broken by stones, was set on fire. Various sources report the crowd surrounding the Madımak Hotel then numbered between 15,000 and 20,000 people. Inside were 51 people.⁶⁸ The horror of the massacre and the insatiable anger of its perpetrators are partly captured by the fact that this huge crowd remained at the hotel for six or seven hours. Chanting and stoning the hotel all afternoon did not suffice for them; when the fire began to spread through the hotel, some among the crowd screamed “O God, this is your fire!”, “Send it in!”, and “This is Hellfire!” Victims who tried to escape into the next building were forced back into the flames and smoke by assailants holding sticks.

Outside the hotel, a fire truck placed a ladder against the building. As Aziz Nesin began to descend it, a firefighter pushed him so that he fell to the ground. Rioters and firefighters surrounded and attacked him. Nesin was rescued by the solitary act of a police commissioner who entered the crowd, pulled Nesin from his attackers, and drove him to the hospital.⁶⁹

In this horrific massacre, 37 people, mostly Alevi writers and musicians, were killed.⁷⁰ Two of the dead were siblings Menekşe Kaya and Koray Kaya, aged 14 and 12, whose charred bodies were found holding each other.

1F) THE SANTORO AND DINK MURDERS, AND THE MALATYA MASSACRE

Around 2005, a serious anti-Christian wave began sweeping across Turkey. The National Security Council had referred to missionary activities as a national threat in 2001,⁷¹ and by the middle of the decade, nationalist groups were constantly discussing this issue at conferences and on television programs. According to newspaper headlines and television reports, every part of Turkey was being overrun by “illegal” churches.

However, there was no legal avenue for opening a church in Turkey or securing property in a

67 Orhan Tüleylioğlu, *ibid*, p.55

68 Sertaç Aktan, “Çeyrek Asırlık Acı: Sivas Katliamı”, <https://tr.euronews.com/2018/07/02/ceyrek-asirlik-aci-sivas-katliami>

69 Mehmet Ali Brand, “Sivas katliamı”, https://www.youtube.com/watch?v=Ixs_7E2Vrvo

70 <http://m.bianet.org/bianet/siyaset/108025-sivas-olenler-yaralananlar-kurtulanlar> The victims of the massacre were: **Muhibe Akarsu** (35 years old, guest), **Muhlis Akarsu** (45, musician), **Gülender Akça** (25, musician), **Metin Altıok** (52, poet, author), **Ahmet Alan** (22, musician), **Mehmet Atay** (25, journalist), **Sehergül Ateş** (30, musician), **Behçet Aysan** (44, poet), **Erdal Ayrancı** (35, director), **Asım Bezirci** (66, researcher, author), **Belkıs Çakır** (18, musician), **Serpil Canik** (19, musician), **Muammer Çiçek** (26, actor), **Nesimi Çimen** (67, poet, musician), **Carina Cuanna** (23, Dutch journalist), **Serkan Doğan** (19, musician), **Hasret Gültekin** (23, poet, musician), **Murat Gündüz** (22, musician), **Gülsüm Karababa** (22, musician), **Uğur Kaynar** (37, poet), **Asaf Koçak** (35, cartoonist), **Koray Kaya** (12, child), **Menekşe Kaya** (17, musician), **Handan Metin** (20, musician), **Sait Metin** (23, musician), **Huriye Özkan** (22, musician), **Yeşim Özkan** (20, musician), **Ahmet Öztürk** (21, hotel employee), **Ahmet Özyurt** (21, musician), **Nurcan Şahin** (18, musician), **Özlem Şahin** (17, musician), **Asuman Sivri** (16, musician), **Yasemin Sivri** (19, musician), **Edibe Sulari** (40, musician), **İnci Türk** (22, musician), **Kenan Yılmaz** (21, hotel employee). A.N.: As other sources make clear, Menekşe Kaya was actually 14 years old. See an interview with the mother of the Kaya children here: <http://www.hurriyet.com.tr/iki-evladini-yitirmis-bir-annenin-hazin-oykusu-9302528>

71 Ekin Karaca, “Rahip santoro Cinayeti’ndeki ‘Sessizlik’”, *Bianet*, 6 February 2012, <http://m.bianet.org/biamag/azinliklar/135926-rahip-santoro-cinayeti-ndeki-sessizlik>

church's name. Individuals from religious groups with no traditional places of worship in Turkey, such as Protestants or Jehovah's Witnesses, rented or purchased space under their own names, meeting in houses and shops to pray. These unofficial locations were painted by the Turkish media and nationalist groups as places where people with sinister connections gathered to further an anti-Turkey agenda.

This wave of hatred soon bore fruit, as Christians were murdered one after the other. The first murder took place on 5 February 2006, when the Roman Catholic priest Andrea Santoro was gunned down by a 16-year-old boy during mass at a church in Trabzon. At the time, Turkey's human rights community thought the murder was an isolated incident and therefore did not give the case the attention it deserved. The defendant was convicted of premeditated murder,⁷² but there was no investigation into his connections or whether any other individuals or groups were involved in the crime.

About 11 months later, on 19 January 2007, the Turkish-Armenian journalist Hrant Dink, editor-in-chief of Agos newspaper, was shot and killed in broad daylight in front of the Agos office. The killer was 17-year-old Ogün Samast. This time, Turkish human rights lawyers quickly pushed for a full investigation into Samast's connections, working to uncover the network behind the murder.

Three months after Dink's murder, news of a horrific massacre came from Malatya in eastern Anatolia. Turkish citizens Uğur Yüksel and Necati Aydın together with German national Tilman Geske were held captive in Zirve Yayınevi, the Christian publishing house they ran. Their captors tortured them for hours, then killed them by slitting their throats. Five youths from Malatya, aged 18 to 19, were arrested shortly thereafter and confessed to the crimes.

In his initial statement, the lead perpetrator Emre Günaydın said there were 50 churches in Malatya, that missionaries were trying to cause the extinction of Turks, and that the missionaries planned to kill the children of anyone who did not believe their message.⁷³

The Santoro, Dink, and Malatya murders are what come to mind when anyone mentions attacks on Christians in Turkey. However, during those years other attacks were either stopped by security forces before they could be carried out, or were not fully executed. For example, on 16 December 2007, Adriano Franchini, a priest at Saint Antoine Church in İzmir, was stabbed with a knife by a 19-year-old R.B. Franchini suffered a wound to the abdomen, but did not die.⁷⁴ In the wake of the Malatya massacre, young nationalists preparing to attack Christians in Samsun, Diyarbakir, Mersin, and İzmir⁷⁵ were captured by the police before anyone was harmed.

The perpetrators and would-be perpetrators of these attacks shared many traits. Not only were they all between 16 and 19 years old, they had a common worldview and common networks. All were ultranationalists and were members of the youth branches of Turkish right-wing extremist parties.

In contrast to the Santoro case, the murder of Hrant Dink and the massacre in Malatya garnered significant attention. Competent human rights lawyers involved themselves in those cases for many years. Although the lawyers' work brought to light many things about the networks targeting Chris-

72 Ekin Karaca, *ibid*

73 Faili Belli, "Zirve Yayınevi Davası", <https://failibelli.org/dava/zirve-yayinevi-davasi/>

74 CNN Türk, "İzmir'de Rahibe bıçaklı saldırı düzenlendi", <https://www.cnnturk.com/2007/turkiye/12/16/izmirde.rahibe.bicakli.saldiri.duzenlendi/412292.0/index.html>

75 Orhan Kemal Cengiz, "Hrant Dink Davasındaki Temel Yanlış", *Radikal*, 23 September 2011, <http://www.radikal.com.tr/yazarlar/orhan-kemal-cengiz/hrant-dink-davasindaki-temel-yanlis-1064177/>

tians in Turkey, the investigations remained incomplete because of State internal conflicts involving the Gülen Congregation, an organization that once held significant power within the State. At the time of the murders and during their investigations, the Congregation had members at all levels of police intelligence, including in JITEM, an illegal extension of Turkey's Gendarmerie. Back then, JITEM appeared to be the only body that investigated police responsibility.

When the State declared the Gülen Congregation its enemy, it shifted the whole responsibility for the murders onto that organization. However, these murders could not have been committed without at least the consent, and likely the support and approval, of a large segment of the State, including the police, national intelligence, and Gendarmerie intelligence. Since the Santoro case was closed before a full investigation, it was impossible to get an idea of the network behind that murder. However, we know from the process of litigating Hrant Dink's murder and the massacre in Malatya that both were committed after extensive and lengthy preparations.

We know, for example, that those behind Hrant Dink's murder had been planning to kill him for years, and that State intelligence was aware of such a plan by September or October of 2005.⁷⁶ As revealed during the Malatya massacre trial, the defendants had planned for at least six or seven months to attack the Christian publishing house and kill everyone there. It is inconceivable that police intelligence would not have become aware of a plan so long in the making. Furthermore, as it would later be revealed, both Hrant Dink and the victims of the Malatya Massacre were closely monitored by multiple intelligence services in the months and years leading up to their deaths. It would have been impossible for those intelligence services, as carefully as they were monitoring the victims, not to have also noticed the activities of those who would later kill them.

Furthermore, the court files and evidence in both cases reflected that the intelligence services had prior knowledge of the perpetrators. As of February 2006, officers in the Istanbul and Trabzon Provincial Police Departments as well as officers in the General Directorate of Security had specific knowledge of preparatory actions by Hrant Dink's killers, yet they assigned Dink no protection.⁷⁷ The officers demonstrating this negligence, with few exceptions, have not been prosecuted. In the case of the massacre at Zirve Yayinevi, the Christian publishing house, the court convicting the defendants itself commented that it was against all normal expectations that such a crime would be committed by only the five defendants it had tried. After delivering its judgment, the court referred the file to the prosecutor's office for investigation into the attack's instigators or the networks behind it.⁷⁸

Unfortunately, the development of the case file showed from the very beginning that these instigators and networks would not be revealed. At the opening of the trial, only 7 or 8 of the 32 folders shared with the victims' lawyers were related to the investigation of the crime. The others were on "missionary" activities in Malatya and Turkey, as if the victims were on trial rather than their murderers.⁷⁹ As one of the lawyers of the victims, I myself encountered an intense campaign of threats and intimidation as soon as I began work on the case.⁸⁰

76 Hakan Bakırcıoğlu, "Hrant Dink cinayetinden önce neler yaşandı?", Duvar, 19 January 2019, <https://www.gazeteduvar.com.tr/forum/2019/01/19/hrant-dink-cinayetinden-once-neler-yasandi/>

77 Yetivart Danzıkyan, "MİT boyutunun soruşturulması bütünlüklü yargılama için gerekli", Agos, 18 January 2019, <http://www.agos.com.tr/tr/yazi/21903/mit-boyutunun-sorusturulmasi-butunluklu-yargilama-icin-gerekli>

78 Gözde Kazaz, "Biz bu kararı bir yerden hatırlıyoruz", Agos, 29 September 2016", <http://www.agos.com.tr/tr/yazi/16617/biz-bu-karari-bir-yerden-hatirliyoruz>

79 Faili Belli, "Zirve Yayinevi Davası", <https://failibelli.org/dava/zirve-yayinevi-davasi/>

80 <https://www.amnesty.org/en/documents/EUR44/002/2008/en/>

The perpetrators behind the five young men have not been revealed, nor have the networks that sought to intimidate the victims' lawyers.

Given all this, we cannot say we know all individuals and groups behind the murders of Christians in 2007–2008.

PART 2:

THE FAILURE TO CONFRONT THE PAST

The inability to confront the past in Turkey, especially the atrocities inflicted on ethnic and religious minorities, is a common denominator across almost all Turkish political factions. Every faction has many skeletons in the closet, but none are willing to open the closet and look inside.

In Part 2, I will first give some examples that represent general trends and the dominant mentality. Then I will try to outline the manifestations of nonconfrontation today.

The first example comes from the Armenian Genocide that began in 1915. Events in the province of Ankara provide an interesting case study. The vast majority of Armenians in Ankara, unlike in the rest of Turkey, were Catholic rather than Eastern Orthodox.⁸¹

Because they were Catholic, the reasons offered repeatedly to try to legitimize the relocation and massacre of Armenians—wartime conditions and Armenian cooperation with Eastern Orthodox Russia—could not be used in regard to them.

In fact, Ankara Governor Mazhar Bey, who opposed the relocation of Armenians, pointed to this mismatch when he refused to follow the orders given him.⁸² The Committee of Union and Progress then appointed Atif Bey Deputy Governor of Ankara in order to have him carry out the relocation.

Following the appointment of Atif Bey, 50 of the Armenian intellectuals who had been exiled from Istanbul on 24 April and imprisoned in Ankara, together with Armenians from Ankara, were taken by convoy to areas outside the city. There, prisoners who had been released for this purpose killed them with shovels, pickaxes, and large knives.⁸³

“The fates of the Armenians in the Ankara-Ayaş-Çankırı triangle were bound together in one place. The directors of this evil fate were Ankara Deputy Governor Atif Bey and those he commanded. In the areas of exile and massacre, Atif Bey came to the fore as a highly skilled manager.”⁸⁴

So what happened later to Mr. Atif? In 1935, Mr. Atif became an Istanbul deputy in the CHP—a left-leaning party that is Turkey’s main opposition party today. He continued as a CHP parliamentarian uninterrupted until 1946.⁸⁵

I think this singular story offers a shocking and eye-opening revelation about Turkey. Could a

81 Nesim Ovadya İzrail, “24 Nisan 1915-İstanbul, Çankırı, Ayaş, Ankara”, İletişim, 2013, p.162

82 Nesim Ovadya İzrail, *ibid*, p.162

83 Nesim Ovadya İzrail, *ibid*, p.169-170

84 Nesim Ovadya İzrail, *ibid*, p.186

85 Nesim Ovadya İzrail, *ibid*, p.187

political party that does not face such a past, that does not face its Mr. Atıfs, be a social democratic party in the sense that this term is understood in the rest of the world?

The 6–7 September Events, covered earlier in this study, occurred when Adnan Menderes, an icon of the Turkish right, was prime minister. All available data show that both Prime Minister Menderes and President Celal Bayar were aware of everything involved in the 6–7 September Events as they unfolded, and even took part in directing them.⁸⁶ Can the Turkish right be said to maintain either a liberal or a conservative democratic position without facing 6–7 September?

Almost all those charged with committing crimes during the Maraş Massacre, covered in Chapter 2, were Grey Wolves, an extension of the Nationalist Movement Party (MHP), an ultranationalist party that is a de facto partner of the Turkish government in 2019. Has the Grey Wolf movement ever confronted its role in the Maraş massacre? Of course the answer is no.

When it comes to facing the past, the Kurdish political movement is in its own category. The pro-Kurdish Peoples' Democratic Party (HDP) calls the events of 1915 a “genocide of ethnicity and faith.”⁸⁷ On the other hand, the highest leaders of the PKK, an armed Kurdish insurgency group, have expressed a different view by using rhetoric such as “the Armenian lobby.” It is not possible to say that the Kurds of eastern and southeastern Anatolia, where Armenian massacres were carried out on a large scale, have confronted the Armenian Genocide. Researcher Emre Can Dağlıoğlu gives a striking example of this. According to Dağlıoğlu “In everyday life, the practice of discrimination against Armenians, Assyrians, and Islamized Armenians unfortunately continues...For example, Armenians are still referred to as fileh. The word fileh comes from fellah, meaning one who works the land. But however much its origin means laborer, in everyday life it usually has a degrading meaning.”⁸⁸

The “Armenian Question” was first publicly discussed in Turkey in 2005 at a meeting titled the “Armenian Conference.” This meeting met with intense protests.⁸⁹ The text “I apologize to the Armenians,”⁹⁰ signed by hundreds of intellectuals in 2008, can be seen as an important development in recognizing the Armenian Genocide. It read: “My conscience does not accept the insensitivity to or the denial of the ‘Great Catastrophe’ suffered by Ottoman Armenians in 1915. I reject this injustice. On my part, I share the feelings and pains of my Armenian brothers and sisters, and I apologize to them.”

A key indicator that the taboos surrounding the Armenian Genocide are beginning to be broken is the annual 24 April commemoration of the genocide’s victims. The commemoration, previously held in Istanbul’s Taksim Square, in 2019 was moved to Şişhane because the governor’s office had banned all demonstrations and meetings in Taksim.⁹¹

Just a glance at the shelves of Turkish bookstores shows the serious steps taken toward discussing

86 Yılmaz Murat Bilican, “6-7 Eylül Olayları ve devletin faş olması”, T24, 10 September 2013, <https://t24.com.tr/yazarlar/yilmaz-murat-bilican/6-7-eylul-olaylari-ve-devletin-fas-olmasi,7387>

87 Bianet, “Ermeni Soykırımı’nın Yıldönümünde HDP’den Yüzleşme Çağrısı”, 24 April 2018, <https://bianet.org/bianet/tarih/196469-ermeni-soykirimi-nin-yildonumunde-hdp-den-yuzlesme-cagrisi>

88 Emre Can Dağlıoğlu, “Kürt hareketi 1915 konusunda resmi tarihin şablonculuğundan sıyrılamadı”, Agos, 30 January 2015, <http://www.agos.com.tr/tr/yazi/10413/kurt-hareketi-1915-konusunda-resm-tarih-in-sablonculugundan-siyrilamadi>

89 Sabah, “Ermeni Konferansı tartışmalı başladı”, <http://arsiv.sabah.com.tr/2005/09/25/gnd102.html>

90 T24, “Ermenilerden özür diliyorum”, 15 December 2008, <https://t24.com.tr/haber/ermenilerden-ozur-diliyorum,20737>

91 Bianet, “24 Nisan Anmasına İstiklal’de İzin Yok, Anma Şişhane’de”, 24 April 2019, <https://bianet.org/bianet/insan-haklari/207802-24-nisan-anmasina-istiklal-de-izin-yok-anma-sishane-de>

the “Armenian Question.” On these shelves you can see dozens of books titled “The Armenian Genocide.” However, one cannot say the same liberal approach has reached the Turkish academy. For example, when you look at the theses coming out of Turkish universities, only a very few have addressed the Armenian Genocide.⁹²

In the same vein, all of the theses that touch on the genocide are written in such a way that they support the official line on Turkish history, using titles such as “Armenian Genocide Claims” or “The So-called Armenian Genocide.” It appears that Turkish academics cannot freely research this issue.

Since 2014, the Turkish president has issued annual messages regarding 24 April 1915. These messages are addressed to the Armenian Patriarchate. In recent years, they have been published in both Armenian and Turkish. On the surface, these facts appear to show progress toward confronting the past. However, the content of these messages tells a different story. In them, the whole responsibility for what happened in 1915 is shifted to World War I.

These messages, which assiduously avoid words like “genocide,” “massacre,” or “slaughter,” discuss a tragedy for which no one is responsible. They use phrases like “Armenians who lost their lives in conditions existing at the beginning of the 20th century,”⁹³ “all Ottoman Armenians who lost their lives under the circumstances of World War I,”⁹⁴ “Ottoman Armenians who died in the difficult and troubled conditions of the First World War,”⁹⁵ and—in the 2019 message—“Ottoman Armenians who died in the difficult conditions of the First World War.”⁹⁶ The words change, but the message remains the same.

In fact, these messages are just a repetition of the official Turkish line on the Armenian Genocide that has been in continuous use for a century. According to this take on history, Armenians had to be “relocated” because of conditions during World War I, with the undesirable side effect that many of them lost their lives. Although in 2018 President Erdoğan additionally offered “condolences” and mentioned the “suffering of our Armenian citizens,” he never departed from the official history that views Armenians who died in 1915 as being among “millions of Ottoman citizens lost to epidemics, migrations, wars and conflicts in the same period.”⁹⁷

If we really believe that hundreds of thousands of Armenians lost their lives tragically under wartime conditions, why don’t we see monuments erected to honor these Armenians? Why don’t the history books given to schoolchildren in Turkey mention these people who lost their lives in these “tragic” conditions? And why are there no official commemorations for these people who lost their lives on such a massive scale?

Why don’t we have monuments to Anatolian Armenians like those we built for the Anzacs—the Australian and New Zealand Army Corps troops—who lost their lives fighting against Turkey during

92 <https://tez.yok.gov.tr/UlusalTezMerkezi/tezSorguSonucYeni.jsp>

93 Deutsche Welle, “**Erdoğan’dan 24 Nisan mesajı**”, 23 April 2014, <https://www.dw.com/tr/erdogandan-24-nisan-mesaji/a-17587530>

94 Hürriyet, “**Cumhurbaşkanı Erdoğan’ın 24 Nisan mesajı**”, 24 April 2015, <http://www.hurriyet.com.tr/gundem/cumhurbaskani-erdoganin-24-nisan-mesaji-28825872>

95 Hürriyet, “**Erdoğan’dan Ermeni Patrikhanesi’nde düzenlenen törene mesaj**”, 24 April 2018, <http://www.hurriyet.com.tr/gundem/erdogandan-ermeni-patrikhanesinde-duzenlenen-torene-mesaj-40815152>

96 CNN Türk, “**Cumhurbaşkanı Erdoğan’dan Türkiye Ermenileri Patrik Genel Vekili’ne mektup**”, 24 April 2019, <https://www.cnnturk.com/turkiye/cumhurbaskani-erdogandan-turkiye-ermenileri-patrik-genel-vekiline-mektup>

97 Hürriyet, “**Erdoğan’dan Ermeni Patrikhanesi’nde düzenlenen törene mesaj**”, 24 April 2018, <http://www.hurriyet.com.tr/gundem/erdogandan-ermeni-patrikhanesinde-duzenlenen-torene-mesaj-40815152>

World War I?

It is because Turkey's relatively softer approach to the Armenian Question today seems to be based on a strategic change of attitude toward the outside world rather than a sincere reckoning with the past. The intended messages are that Turkey allows free debate on the Armenian issue, 1915 can be discussed in Turkey, Turkey has opened its archives, and historians should continue to discuss this issue.

The Armenian Genocide began on 24 April 1915 with the arrest of Armenian intellectuals in Istanbul. They were sent to Ayaş and Çankırı and then transferred to the locations where they would be massacred. Along with them perished Armenians from the four corners of Turkey, some massacred in a highly planned and organized manner and others simply allowed to be killed by hunger, thirst, and disease while being "relocated." They died as the victims of a project meant to end the existence of the Armenian ethnic and religious minority in Turkey, and this is a matter Turkey has not fully faced.

In recent years, rather than confronting, a trend has begun of making others confront. The most obvious example of this trend relates to the massacres that occurred in 1937 and 1938 in today's Tunceli, which was called Dersim at the time. In 2011, when he was prime minister, Erdogan said regarding the massacres, "If an apology is to be made in the name of the state, if there is such a genre, I apologize," but indicated that the one who really ought to apologize was CHP leader Kemal Kılıçdaroğlu.⁹⁸

The Dersim massacre is one of the most painful pages in Turkey's history. Women, children, and the elderly were slaughtered indiscriminately. According to eyewitness accounts, victims were crowded into caves and poisoned or lined up along the river and shot. Children were torn from their families. Using a rebellion as an excuse, "crimes against humanity"—a phrase that is legally correct but fails to reflect the extent of the atrocities—were committed.

However, what happened in Dersim in 1937 cannot be considered apart from the incidents that occurred throughout Anatolia in 1915. First of all, the Armenian Genocide and the Dersim Massacre are the product of the same ethnic cleansing and Turkification policies. Secondly, one of the important developments that made the State suspicious of Dersim was that Armenians fleeing the 1915 genocide found a safe haven there.

The people of Dersim opened their arms to the Armenians who had fled the genocide, a phenomenon the State found unnatural and disconcerting. Although "rebellion in Dersim" is the usual reason given for the Dersim Massacre, the massacre's true motivation was the fierce resistance to assimilation shown by the diverse peoples living there. Those slaughtered in the massacre were native inhabitants of the territory—Kurds, Zaza, Kizilbash/Alawites, and Armenians.

That Erdoğan and his AKP government "recognized" the Dersim massacre cannot be regarded as a real confrontation, given the continuity between different chains of events. How can you argue that you've recognized the Dersim Massacre of 1937-1938 without recognizing the 1915 Armenian Genocide, given that Dersim was a repetition of 1915 on a smaller scale? What was really happening was not an engagement with the historical massacre, but an effort to discredit a political rival—the CHP. The AKP political Islamist government used its "apology" to generate debate on the role of the

⁹⁸ Milliyet, "Erdoğan Dersim için özür diledi", 23 November 2011, <http://www.milliyet.com.tr/erdogan-dersim-icin-ozur-diledi-siyaset-1466430/>

CHP and its founder Atatürk in the Dersim massacre, linking the CHP secular political tradition to despotism and slaughter.

Not only has Turkey never truly confronted the Armenian Genocide—it has never engaged with any of the shameful events in its history. In today’s Turkey, hate speech can still very easily be used against vulnerable groups. Turkey’s failure to confront forms the historical, social, and cultural background that makes lynching targeted groups (verbally or physically) very easy, and it is why Turkey’s far-right, racist discourses are treated as mainstream.

For example, could the 21 April 2019 attempt to lynch CHP leader Kemal Kılıçdaroğlu have occurred in a Turkey that had faced its 1993 Sivas massacre? Kılıçdaroğlu was in a village in Ankara Province attending a funeral for Turkish soldiers killed by the PKK when a mob booed and assaulted him, then threatened to set fire to the house where he took refuge. By the time he was rescued by the head of Turkey’s General Security, the mob surrounding the house numbered more than 1,000 people. The attempted lynching was driven mainly by the contentious local election campaign and organized provocations by ultranationalist groups.⁹⁹ But that Kılıçdaroğlu’s identity as an Alevi with roots in Dersim is often used in political polemics to present him to Sunnis as disreputable was also undoubtedly a factor.

For everyone who knows Turkey’s history, the details of this attempt to lynch the head of the main opposition party—that he was manhandled for half an hour, that the mob stoned his minivan and surrounded the house to which he fled, his being trapped in that house for an hour, and that some from the mob shouted, “Set the house on fire!”—bring to mind the Sivas Massacre. Even Kılıçdaroğlu’s attackers were handled with an eerily familiar judicial tolerance; not one was held pending trial.¹⁰⁰

An important indicator that the past is not being faced is that massacres are not called massacres. Instead, euphemisms are used to deny that terrible atrocities occurred. For example, both conservatives and the ultranationalist Grey Wolves call the Maraş and Sivas Massacres “events.”¹⁰¹ As explained in earlier sections, the “1978 Maraş Events” and the “1993 Sivas Events” were clearly massacres.

Although unseen actors may have planned these massacres and laid the groundwork for them with provocations, average people became their perpetrators. The widespread public reference to these massacres as “events” is nothing less than an attempt to dilute and blur reality to avoid confronting the truth. The use of “events” also sometimes functions to present the massacres as conflicts between two groups, and the massacres’ victims as provocateurs.

The refusal to confront these historical massacres plays out in many ways. We can find some examples of this in the Alevi workshops, meetings that were organized and held by the AKP in 2009 and 2010 as part of a broader outreach to minority communities in Turkey. Some AKP invitations to

99 Gazete Manifesto, “**CHP Genel Başkan Yardımcısı Kaya: Saldırının organizasyonunda Ülkü Ocakları var**”, 22 April 2019, <https://gazetemanifesto.com/2019/chp-genel-baskan-yardimcisi-kaya-saldirinin-organizasyonunda-ulkü-ocaklari-var-258538/>

100 Orhan Kemal Cengiz, “**Why did the Turkish judiciary take the lynch attempt so lightly?**”, Al Monitor, 29 April 2019, <https://www.al-monitor.com/pulse/originals/2019/04/turkey-why-judiciary-take-the-lynch-attempt-so-lightly.html#ixzz5mkQJ9MuV>

101 Akit, “**Maraş Olaylarının yıl dönümü**”, 21 December 2018, <https://www.yeniakit.com.tr/haber/maras-olaylari-nin-yil-donumu-571599.html>; Yeni Şafak, “**Maraş olaylarının yıldönümü de gergin**”, 24 December 2012, <https://www.yenisafak.com/gundem/maras-olaylarinin-yildonumu-de-gergin-438092>; Yeniçağ

these workshops demonstrated an utter disregard for massacre victims and survivors. For example, The AKP invited Ökkeş Şendiller, the lead defendant in the 1978 Malatya Massacre case who later became an MP, to participate in the 6th Alevi workshop.¹⁰²

Şendiller ultimately chose not to attend because of the strong objections lodged by intellectuals participating in the workshop and by Alevis in general.¹⁰³ However, he successfully sued the heads of Alevi institutions and five Alevi activists for defamation, winning compensation for their use of the slogan “Shall Hitler Be Invited to the Jewish Conference?” to protest his invitation.¹⁰⁴

For many years, the victims of the 1978 Maraş Massacre could not be publicly commemorated in Maraş. When a commemoration was finally allowed in 2010, Alevis who arrived in Maraş for the gathering faced a counterdemonstration by a Grey Wolf group that chanted “This is Maraş, there is no way out of here!”¹⁰⁵

This slogan is not merely a threat to those who came to the city to commemorate the victims; by its reference to the massacre it shows the same murderous spirit that animated the Maraş Massacre is still alive. In the face of those who want to remember and mourn the past, those who embrace this past appear and proudly claim its horror.

During the 2012 anniversary of the Maraş Massacre, all vehicles entering Maraş from outside the city were stopped and searched by security forces.¹⁰⁶ This shows that not only some right-wing extremist groups, but also the State, were uncomfortable with these commemorations and suspicious of those coming from outside Maraş to observe them. While the 2013 commemoration was not marred by State searches or violent counterdemonstration slogans, out-of-towners were not allowed to attend.¹⁰⁷

Commemorations of the Maraş Massacre began to be banned again in 2014. Although right-wing nationalist counterdemonstrators had been the only aggressive and threatening elements at these commemorations, and although those gathering to remember the victims had exercised their right of assembly in a very peaceful manner, the Maraş Governor’s Office offered this reason for the ban: “those who organized the demanded meeting and march could go beyond their good intention, which, out of control, could evolve into crime.”¹⁰⁸

In 2017, the commemoration continued to be banned but was held anyway at the insistence of participants. This was the last year the commemoration was held publicly.¹⁰⁹ In 2018, the 40th an-

102 Ali Balkız, “**31 Yıl Sonra Maraş Katliamı Dosyaları Yeniden Açılsın**”, Biahaber, 24 December 2009, <http://bianet.org/bianet/siyaset/119074-31-yil-sonra-maras-katliami-dosyalari-yeniden-acilsin>

103 Alevi Haber, “**Ökkeş Şendiller Alevi Çalıştayı’na katılmayacak**”, 16 December 2009, <http://www.alevihaber.com/okkes-sendiller-alevi-calistayina-katilmayacak-18891h.htm>

104 Demokrat Haber, “**Aleviler’e Ökkeş Şendiller’e hakaretten ceza**”, 16 April 2013, <https://www.demokrathaber.org/guncel/alevilere-okkes-sendillere-hakaretten-ceza-h17505.html>

105 Kaya Akyıldız, “**Eğer bunlar insansa**”, Birikim, 6 January 2011, http://www.birikimdergisi.com/guncel-yazilar/967/eger-bunlar-insansa#.XMwy5C_BLPA

106 Kazete, “**Maraş Katliamını Anmak Yasak**”, 23 December 2012, <https://kazete.com.tr/haber/maras-katliamini-anmak-yasak-380>

107 Haberler.com, “**Kahramanmaraş’ta yoğun güvenlik önlemleri**”, 21 December 2013, <https://www.haberler.com/kahramanmaras-ta-yogun-guvenlik-onlemleri-2-5452647-haberi/>

108 Agos, “**Maraş Katliamı anması yasaklandı**”, 19 December 2014, <http://www.agos.com.tr/tr/yazi/9990/maras-katliami-anmasi-yasaklandi>

109 Evrensel, “**Maraş Katliamı anması engellemeye rağmen yapıldı**”, 23 December 2017, <https://www.evrensel.net/haber/341418/maras-katliami-anmasi-engellemeye-ragmen-yapildi>

niversary of the massacre, its commemoration was forbidden. All meetings and demonstrations in Maraş from 12–31 December were banned¹¹⁰ “in order to maintain national security and public order with peace and safety, to protect the rights and freedoms of others, and to prevent crime.” Although the announcement of the ban referred neither to the 19–26 December 1978 massacre nor its commemoration, and although it was written as if a general security measure had been introduced in the city, it was obvious that the ban’s sole purpose was to prevent commemorative activities.

After lengthy negotiations with the Governor’s Office, a 2018 commemorative meeting was permitted at the Narlı Cemevi in Maraş.¹¹¹ The commemoration was thus made to withdraw from the streets of the city into a cemevi, an Alevi house of worship. It is clear the meeting was not treated as a commemoration of victims of a horrific massacre, an event everyone ought to respect.

The State behaved instead as if the commemoration were an outburst that could be tolerated only with difficulty. That it was the State’s duty to ensure security and to protect such commemorations from counterdemonstrator threats and aggression was forgotten. Remembrance of the victims of 1978 was removed from the public sphere and confined within the walls of the cemevi as an Alevi “domestic matter.”

Another dimension of the refusal to face history is the tolerance and solidarity that perpetrators of massacres enjoy from both the State and society.

Some of those convicted of the 1993 Sivas Massacre went into hiding and received sentences in absentia that they never served. While they were supposedly being sought by police, many got municipal jobs, married, had children, continued to receive government pensions, or completed their mandatory military service and returned to Sivas.¹¹²

The perpetrators could not possibly live normal lives in this way without a certain support and protection from the State and society.

The political positions attained by the Sivas Massacre defense lawyers are also remarkable and thought-provoking. For example, Şevket Kazan became minister of justice and visited his former clients in prison while holding that office.¹¹³

Twenty-six of the Sivas Massacre defense lawyers have been made ministers, deputies, and important bureaucrats under the AKP government.¹¹⁴ Of course legal defense in criminal cases is a human right, but it is thought-provoking that this many Sivas massacre defense lawyers attained such high positions in the State and bureaucracy during the rule of a certain political movement.

A separate chapter on confrontation could be written for the Turkish media. Before each massacre or pogrom in Turkey, the media worked to demonize and target the intended victims. For example,

110 Diken, “**Maraş Katliamının 40’inci yılında kentte anma yasaklandı**”, 21 December 2018, <http://www.diken.com.tr/maras-katliaminin-40inci-yilinda-kentte-anma-yasaklandi/>

111 Birgün, “**Maraş Katliamı, valilik yasağına rağmen anıldı**”, 22 December 2018, <https://www.birgun.net/haber-detay/maras-katliami-valilik-yasagina-ragmen-anildi-241079.html>

112 Ali Balkız, “**31 Yıl Sonra Maraş Katliamı Dosyaları Yeniden Açılsın**”, 24 December 2009, <http://bianet.org/bianet/siyaset/119074-31-yil-sonra-maras-katliami-dosyalari-yeniden-acilsin>

113 Evrensel, “**Doğan: Yüreklerdeki Madımak ateşi sönmedi**”, 1 July 2016, <https://www.evrensel.net/haber/284072/dogan-yureklerdeki-madimak-atesi-sonmedi>

114 Mesut Karip, “**Sivas Katliamında sanıkları savunan avukatlar şimdi ne yapıyor?**”, 14 March 2012, <http://blog.milliyet.com.tr/sivas-katliami-nda-saniklari-savunan-avukatlar-simdi-ne-yapiyor-/Blog/?BlogNo=353491>

before the events of 6–7 September 1955, the Turkish media repeatedly published reports targeting non-Muslims.¹¹⁵

In the case of the Sivas Massacre, not only were numerous provocative pieces published beforehand, articles written after the massacre downplayed its atrocity and blamed attendees of the Pir Sultan Abdal festival, especially Aziz Nesin, for the deaths. For example, right-wing newspaper *Tercüman* ran an editorial titled “Satan Aziz,”¹¹⁶ referring to Salman Rushdie’s book *The Satanic Verses* that Nesin had translated into Turkish. *Hürriyet* newspaper, considered a major mainstream publication, reported the Sivas Massacre with the headline “Aziz Nesin Rebellion in Sivas: 35 Dead.”¹¹⁷

Hrant Dink was shot and killed after being demonized by the Turkish mainstream media. The Turkish media has never questioned its shameful role as the instigator of physical lynchings or as the perpetrator of psychological violence to victims.

Recently, there have been some worrying developments regarding the freedom to discuss the Armenian Genocide. Once again we are seeing the infamous Article 301 of the Turkish Penal Code on “insulting Turkishness” used to suppress opinions deemed unfavorable.

After Hrant Dink was killed in 2007, the widespread view was that his conviction under Article 301 had greatly contributed to his becoming a target. The Article 301 charge had distorted Dink’s remark urging diaspora Armenians to free themselves from their painful feelings toward Turks that “poisoned their blood,” alleging that Dink had instead called Turks themselves poisonous. As a result of this distortion, Hrant Dink was sentenced to prison under Article 301 and, as someone who had allegedly insulted Turkishness, he became a target of Turkish nationalists.

The murder of Hrant Dink sparked intense discussions of Article 301. These discussions, together with the influence of the European Union, resulted in the article being amended to require the permission of the minister of justice before it could be used to open an investigation.

This permit mechanism was an effective filter for some years as most requests by prosecutors for investigative permission were denied. In recent years, however, the Article 301 investigations permitted by Turkey’s Ministry of Justice against human rights defenders,¹¹⁸ the Diyarbakir Bar Association,¹¹⁹ and HDP MP Garo Paylan¹²⁰ are pointing to a new and worrying trend.

MP Paylan’s words have so far been the subject of two separate investigations. After the Ministry of Justice approved investigation of Paylan under Article 301, the prosecutor sent a “request of inquiry” to Parliament. These are the words of Garo Paylan that were approved for investigation, taken

115 Elif Akgül, “6-7 Eylül olaylarında basın”, *Bianet*, 6 September 2013, <https://m.bianet.org/bianet/toplum/149700-6-7-eylul-olaylarinda-basinin-rolu>

116 Ümit Alan, “Sivas katliamı zamanasına giderken medya”, *Birgün*, 7 March 2012, <https://www.birgun.net/haber-detay/sivas-katliami-zamanasimina-giderken-medya-19746.html>

117 Biamag, “18 Yıl Önce Gazetelerde ‘Madımak’”, <https://m.bianet.org/biamag/diger/131199-18-yil-once-gazetelerde-madimak>

118 *Bianet*, “İnsan Hakları Örgütlerine 301 Soruşturması”, 4 January 2017, <https://m.bianet.org/bianet/insan-haklari/182381-insan-haklari-orgutlerine-301-sorusturmasi>

119 Ayça Söylemez, “Diyarbakır Barosunun Basın Açıklamalarına ‘301 Soruşturması’”, *Bianet*, 2 January 2019, <https://bianet.org/bianet/insan-haklari/204091-diyarbakir-barosunun-basin-aciklamalarina-301-sorusturmasi>

120 *Bianet*, “HDP Vekili Paylan: 301. Madde Geri Dönüyor”, 16 January 2019, <http://bianet.org/bianet/siyaset/204509-hdp-vekili-paylan-301-madde-geri-donuyor>

from an interview he gave in English to a Canadian-Armenian publication:¹²¹

“After Hrant Dink, after the democratization, after the Justice and Development Party (AKP) was established, people finally had the courage to admit they had Armenian roots. I was in the committee responsible for renovating an Armenian church in Dikrankert. As we were renovating, people suddenly came up to us and spoke about their lost heritage. Hundreds of non-Armenians attended the opening of the church, which was a very important step for our community. Still, there are many biased thoughts about these hidden Armenians.

Our deputy patriarch says, ‘who is not Christian cannot be Armenian.’ This is not correct.

I tell Armenians that we must welcome these Islamized Armenians into our community because it is not so easy for those who were converted to Islam four generations ago to suddenly become Christian overnight.

For three generations, Turkey’s Armenians remained silent. My own grandmother who survived the genocide, suggested I stay silent as well. She didn’t want to talk about the genocide. One day, Hrant Dink appeared and stated that a terrible thing had happened and that Turks and Armenians needed to be healed. He had the sympathy of the Turkish people, and unfortunately they killed him. Following Dink’s assassination, the new generation of Armenians found the courage to continue his ideology. We took advantage of the democratization of Turkey and had the courage to make our voices heard. Sadly, in these past two years, with this nationalist coalition, there is a new normal that has been created—which is the old normal—forcing the non-Turks to be silent. Otherwise, they are threatened with imprisonment or death. The fear factor is on the table. And for the Armenians, along with the other ethnic minorities, it is understandable that this fear factor is tripled—and due to that, they choose silence. Some Armenians, such as myself, try to raise some sound. I try to tell the people that remaining silent is not safe. I give the examples of Hrant Dink, who was courageous enough to speak out, and got killed, but also the case of Sevag Balıkcı, a silent young man who had no political background and hadn’t mentioned anything about the Armenian issue—and was also killed. Many victims of the genocide were also silent.

That is why I am in politics. This is my party’s goal: to recognize the Armenian Genocide, and to apologize to the grandchildren of the genocide’s victims. We are still very far away from achieving that.”

The fact that these words were investigated for insulting Turkishness in 2018 and that the Ministry of Justice allowed this investigation poses a serious threat to any statement of opinion regarding the Armenian Genocide. If there is a crime in Garo Paylan’s words, then the authors of hundreds of Turkish books and articles with “Armenian Genocide” in their titles are also threatened by investigations and imprisonment, not to mention the author of the report you are reading right now.

In its 2012 ruling on the Article 301 investigation of historian Taner Akçam for his assertions regarding the Armenian Genocide, the European Court of Human Rights wrote:¹²²

“[E]ven though the Ministry of Justice carries out a prior control in criminal investigations under

121 Horizon Weekly, “**Genocide in Turkey is taking place every single day**”: Interview with Garo Paylan”, 10 May 2017, <https://horizonweekly.ca/en/genocide-in-turkey-is-taking-place-every-single-day-interview-with-garo-paylan/>

122 ECtHR, Case of Altuğ Taner Akçam v. Turkey, Application No. 27520/07, para.78 [https://hudoc.echr.coe.int/en-g#{"itemid":\["001-107206"\]}](https://hudoc.echr.coe.int/en-g#{)

Article 301 and the provision has not been applied in this particular type of case for a considerable time, it may be applied again in such cases at any time in the future, if for example there is a change of political will by the current Government or change of policy by a newly formed Government. [...] Accordingly, the applicant can be said to run the risk of being directly affected by the provision in question.”

As the European Court of Human Rights foresaw, through “a change of political will” Article 301 has indeed returned to Turkey’s agenda in a dangerous way. The sword of Damocles hangs over the heads of those who dare to state opinions that contradict the official line, for example, stating that there was indeed an Armenian Genocide in Turkey in 1915.

PART 3

THE FAILURE TO RECOGNIZE RELIGIOUS CONGREGATIONS AND INSTITUTIONS

3A) THE MATTER OF LEGISLATION

When we talk about religious minorities in Turkey, the Treaty of Lausanne immediately comes to mind. However, since signing the Treaty of Lausanne in 1923, Turkey has become a member of the Council of Europe, accepted the jurisdiction of the European Court of Human Rights, and signed and ratified several fairly important United Nations treaties, including the Convention on Civil and Political Rights. Article 90 of the Turkish Constitution¹²³ dictates that when a conflict arises between Turkish law on the one hand and these international agreements concerning fundamental rights and freedoms on the other, the provisions of international agreements shall prevail.

Since the Turkish Constitution makes no exception here regarding minorities, it is indisputable that when there is a contradiction between Turkish law and international conventions on matters concerning religious minorities, the international law of those conventions must be followed.

However, both in practice and in court rulings, it is as if Article 90 of the Turkish Constitution and Turkey's various memberships and ratifications do not exist. The law concerning minorities seems frozen in time at 1923, with Turkish institutions almost always citing the Treaty of Lausanne and ignoring everything else.

In fact, references to the Treaty of Lausanne are used to hide a large gap in the legal system and create the impression that Turkey has developed legislation concerning minorities, while the provisions in Articles 37–43¹²⁴ of the Treaty of Lausanne, which regulate the rights of minorities, have

¹²³ **Article 90:** The ratification of treaties concluded with foreign states and international organizations on behalf of the Republic of Turkey shall be subject to adoption by the Grand National Assembly of Turkey by a law approving the ratification. Agreements regulating economic, commercial, or technical relations, and covering a period of no more than one year, may be put into effect through promulgation, provided they do not entail any financial commitment by the State, and provided they do not interfere with the status of individuals or with the property rights of Turks abroad. In such cases, these agreements shall be brought to the knowledge of the Grand National Assembly of Turkey within two months of their promulgation. Implementation agreements based on an international treaty, and economic, commercial, technical, or administrative agreements, which are concluded depending on the authorization as stated in the law, shall not require approval of the Grand National Assembly of Turkey. However, economic, commercial agreements or agreements relating to the rights of individuals concluded under the provision of this paragraph shall not be put into effect unless promulgated. Agreements resulting in amendments to Turkish laws shall be subject to the provisions of the first paragraph. **International agreements duly put into effect have the force of law. No appeal to the Constitutional Court shall be made with regard to these agreements, on the grounds that they are unconstitutional. (Sentence added on May 7, 2004; Act No. 5170) In the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail.**

¹²⁴ **Article 37:** Turkey undertakes that the stipulations contained in Article 38 to 44 shall be recognised as fundamental laws, and that no law, regulation, or official action shall conflict or interfere with these stipulations, nor shall any law,

never been properly implemented in Turkey.

regulation, nor official action prevail over them. **Article 38:** The Turkish Government undertakes to assure full and complete protection of life and liberty to all inhabitants of Turkey without distinction of birth, nationality, language, race, or religion. All inhabitants of Turkey shall be entitled to free exercise whether in public or private, of any creed, religion, or belief, the observance of which shall not be incompatible with public order and good morals. Non-Moslem minorities will enjoy full freedom of movement and of emigration, subject to the measures applied, on the whole or on part of the territory, to all Turkish nationals, and which may be taken by the Turkish Government for national defence, or for the maintenance of public order. **Article 39:** Turkish nationals belonging to non-Moslem minorities will enjoy the same civil and political rights as Moslems. All the inhabitants of Turkey, without distinction of religion, shall be equal before the law. Differences of religion, creed, or confession shall not prejudice any Turkish national in matters relating to the enjoyment of civil or political rights, as, for instance, admission to public employments, functions and honours, or the exercise of professions and industries. No restrictions shall be imposed on the free use by any Turkish national of any language in private intercourse, in commerce, religion, in the press, or in publications of any kind or at public meetings. Notwithstanding the existence of the official language, adequate facilities shall be given to Turkish nationals of non-Turkish speech for the oral use of their own language before the Courts. **Article 40:** Turkish nationals belonging to non-Moslem minorities shall enjoy the same treatment and security in law and in fact as other Turkish nationals. In particular, they shall have an equal right to establish, manage, and control at their own expense, any charitable, religious, and social institutions, any schools and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein. **Article 41:** As regards public instruction, the Turkish Government will grant in those towns and districts, where a considerable proportion of non-Moslem nationals are resident, adequate facilities for ensuring that in the primary schools the instruction shall be given to the children of such Turkish nationals through the medium of their own language. This provision will not prevent the Turkish Government from making the teaching of the Turkish language obligatory in the said schools. In towns and districts where there is a considerable proportion of Turkish nationals belonging to non-Moslem minorities, these minorities shall be assured an equitable share in the enjoyment and application of the sums which may be provided out of public funds under the State, municipal or other budgets for educational, religious, or charitable purposes. The sums in question shall be paid to the qualified representatives of the establishments and institutions concerned. **Article 42:** The Turkish Government undertakes to take, as regards non-Moslem minorities, in so far as concerns their family law or personal status, measures permitting the settlement of these questions in accordance with the customs of those minorities. These measures will be elaborated by special Commissions composed of representatives of the Turkish Government and of representatives of each of the minorities concerned in equal number. In case of divergence, the Turkish Government and the Council of the League of Nations will appoint in agreement an umpire chosen from amongst European lawyers. The Turkish Government undertakes to grant full protection to the churches, synagogues, cemeteries, and other religious establishments of the above-mentioned minorities. All facilities and authorisation will be granted to the pious foundations, and to the religious and charitable institutions of the said minorities at present existing in Turkey, and the Turkish Government will not refuse, for the formation of new religious and charitable institutions, any of the necessary facilities which are granted to other private institutions of that nature. **Article 43:** Turkish nationals belonging to non-Moslem minorities shall not be compelled to perform any act which constitutes a violation of their faith or religions observances, and shall not be placed under any disability by reason of their refusal to attend Courts of Law or to perform any legal business on their weekly day of rest. This provision, however, shall not exempt such Turkish nationals from such obligations as shall be imposed upon all other Turkish nationals for the preservation of public order. **Article 44:** Turkey agrees that, in so far as the preceding Articles of this Section affect non-Moslem nationals of Turkey, these provisions constitute obligations of international concern and shall be placed under the guarantee of the League of Nations. They shall not be modified without the assent of the majority of the Council of the League of Nations. The British Empire, France, Italy and Japan hereby agree not to withhold their assent to any modification in these Articles which is in due form assented to by a majority of the Council of the League of Nations. Turkey agrees that any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction or danger of infraction of any of these obligations, and that the Council may thereupon take such action and give such directions as it may deem proper and effective in the circumstances. Turkey further agrees that any difference of opinion as to questions of law or of fact arising out of these Articles between the Turkish Government and any one of the other Signatory Powers or any other Power, a member of the Council of the League of Nations, shall be held to be a dispute of an international character under Article 14 of the Covenant of the League of Nations. The Turkish Government hereby consents that any such dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice. The decision of the Permanent Court shall be final and shall have the same force and effect as an award under Article 13 of the Covenant. **Article 45:** The rights conferred by the provisions of the present Section on the non-Moslem minorities of Turkey will be similarly conferred by Greece on the Moslem minority in her territory.

First, Turkey has arbitrarily narrowed the scope of the Treaty of Lausanne. The official view in Turkey is that the treaty applies only to Greeks, Armenians, and Jews rather than to all non-Muslims.

This narrowing of scope means that Turkey's smaller non-Muslim communities, such as the Assyrians, Chaldeans, and Nestorians, have never benefited from the "right to establish, manage, and control [...] schools and establishments for instruction and education" found in the treaty. Also for this reason, Turkey refused to recognize Assyrian foundations until 2003.¹²⁵

The Turkish Republic has further never fulfilled its Article 37 obligation to recognize the rights stipulated in the Treaty of Lausanne as fundamental rights. If it had, we would be able to point to Turkish laws and regulations implementing the treaty's provisions. Instead, we mostly find abstract references to the agreement.

Turkey has never had the kind of religious freedom that is stipulated under Article 38 of the Treaty. There has never been equality between Muslims and non-Muslims as required by Article 39. Equality in public employment, which is particularly mentioned in Article 39, has never existed at any time in Turkey's history. Even today, a non-Muslim Turkish citizen serving as a policeman or soldier is unimaginable.

As I will try to explain in detail in the following pages, Turkey's religious minorities have never enjoyed the right "to establish [...] charitable, religious, and social institutions, [...] schools and other establishments" or "to exercise their own religion freely" as stipulated under Article 40 of the Treaty of Lausanne.

Article 41 of the treaty imposes a duty on Turkey to provide financial support to minority schools. Accordingly, minorities should receive a fair share of State and municipal budgets, but Turkey has never established a stable policy that complies with this requirement. Sometimes minority schools have been excluded from government budgets and sometimes they have received very limited amounts.¹²⁶ As of 2019, financial aid to minority foundations has been cut off altogether.¹²⁷

According to Article 42 of the Treaty, "The Turkish Government undertakes to take, as regards non-Moslem minorities, in so far as concerns their family law or personal status, measures permitting the settlement of these questions in accordance with the customs of those minorities." This article commits the government to providing minorities access to private law that is in accordance with their religious rules.

But as researcher Rıfat Bali has pointed out, after the introduction of the Civil Code in 1926, "Minorities, ostensibly of their own free will, but actually at the suggestion of the political authorities, gave up their rights under Article 42."¹²⁸ Setting aside that a right established by an international treaty arguably cannot be waived through a declaration, the practical result is clear: non-Muslims living in Turkey have become subject to the same private law as all other Turkish citizens.

Despite the Lausanne Treaty and the other relevant international agreements signed and ratified in the last quarter century, religious minorities in Turkey have never had a legal framework with clear

125 Baskın Oran, "Etnik ve Dinsel Azınlıklar-Tarih, Teori, Hukuk", Literatür, 2018, p.236

126 Uygur Gültekin, "Azınlık okullarında teşvik dibe vurdu", <http://www.agos.com.tr/tr/yazi/16571/azinlik-okullarinda-tesvik-dibe-vurdu>

127 11 April 2019 telephone conversation with a leader of the Greek Orthodox community.

128 Rıfat N. Bali, "Cumhuriyet döneminde Azınlık Politikaları", Birikim, No. 115, 1998, p.81

boundaries. As I mention in various sections of this study, in the last two decades a certain degree of progress has undoubtedly been made regarding the rights of religious minorities, especially as a result of relations with the European Union.

However, these advances have not amounted to a clear break with Turkey's past. As I will explain in detail below, the legal personality problems of religious institutions persist, there is no legislation to allow community foundations to elect their own directors, the State continues to intervene in the elections of patriarchs and of the chief rabbi, and there is no established legal basis for non-Muslims and Alevi to open places of worship.

All these problems stem from the fact that the rights of religious minorities are not truly recognized. Loopholes and legislation devoid of legal certainty are used to keep religious minorities in a precarious situation, always dependent on the good will of the State.

The situation of the Alevi requires a separate discussion. A first impression might be that the human rights problems faced by Alevi directly result from the conflict between Alevi beliefs and values and those possessed by the government, but this is a superficial conclusion. The problem has deeper and more complex historical roots. As Cemal Salman has pointed out, the establishment of the Directorate of Religious Affairs in 1924 and the Closure of Dervish Monasteries and Tombs¹²⁹ in 1925 did "not indicate an ideal practice of secularism in which religious provisions and institutions are not involved in state affairs and the state is not involved in the regulation of the religious field, but rather a model in which the area of organized religion is under state control."¹³⁰

Cemal Salman further points out the particularly devastating effects the prohibition of Dervish titles, lodges, and shrines had on the Alevi religious community. He writes that Alevi lodges and *dedelik*—the titled Alevi religious leaders—had functions in Alevism that were different and more important than in other mystical orders. The *dedelik* was what made it possible to conduct *cem*—Alevi worship ceremonies, and the heart of Alevism—so that the prohibition of the title was "equivalent to cutting the carotid arteries of Alevism."¹³¹

This 1925 law is still used as an excuse for not recognizing *cem* houses, Alevi houses of worship.

3B) THE QUESTION OF LEGAL PERSONALITY

In Turkey, the Patriarchates and the Chief Rabbinate have no legal personality. Likewise, foundations belonging to minorities are put in a different category from "ordinary" foundations and do not enjoy the same rights. For example, unlike other foundations, those established by minorities may

129 Section 1 of Law no. 677 of 30 November 1925 on the Closure of Dervish Monasteries and Tombs, the Abolition of the Office of Keeper of Shrines and the Abolition and Prohibition of Certain Titles reads:

"Throughout the territories of the Turkish Republic, all *tekk*es and *zaviye*s [Dervish lodges, large and small] established either as a foundation, or as the property of a sheikh or in any other way, shall be completely closed, subject to the owner's right of possession. Those which are still being used as mosques or prayer rooms in accordance with the statutory procedure shall remain operational. In particular, the use of certain religious titles such as *Sheyhlik*, *Dervichlik*, *Murilik*, *Dedelik*, *Sheyitlik*, *Celebilik*, *Babalık* [...] shall be prohibited. Throughout the territories of the Republic of Turkey, shrines belonging [...] to a Sufi order [*tarik*a] or used for purposes of interest, and other shrines, shall be closed [...] Anyone who opens *tekk*es and *zaviye*s or shrines and begins carrying on these activities again, or anyone who provides religious premises, even temporarily, for Sufi practices and rituals, and who bears one of the above-mentioned titles or carries on the associated activities, shall be sentenced to a minimum term of imprisonment of three months and to a fine."

130 Cemal Salman, "**Lamekandan Cihana Göç Kimlik Alevilik**", Dipnot, 2018, p.109

131 Cemal Salman, "**Lamekandan Cihana Göç Kimlik Alevilik**", Dipnot, 2018, p.110

not select their own directors. Although the laws changed in 2004 to allow congregations to set up associations, they still may not set up foundations, and the associations cannot be said to have solved the problem of legal personality.

This lack of legal personality impacts the activities and operations of religious congregations, including their ability to worship, train clergy, and open and maintain cemeteries, as these congregations must resort to laws and regulations that were not designed to handle their organizational needs.¹³²

These 2008 European Commission findings on Turkey remain valid in 2019, when this report was written:

“Non-Muslim communities—as organised structures of religious groups—still face problems due to lack of legal personality. Restrictions on the training of clergy remain. Turkish legislation does not provide for private higher religious education for these communities and there are no such opportunities in the public education system. The Halki (Heybeliada) Greek Orthodox seminary remains closed. There have been reports of foreign clergy who wish to work in Turkey facing difficulties in obtaining work permits. The Ecumenical Patriarch is not free to use the ecclesiastical title Ecumenical on all occasions. In January 2008, Prime Minister Erdogan declared that use of the title “ecumenical” should not be a matter on which the State should rule.

[...]

A legal framework in line with the ECHR [the European Convention on Human Rights] has yet to be established, so that all non-Muslim religious communities and Alevis can function without undue constraints. Turkey needs to make further efforts to create an environment conducive to full respect for freedom of religion in practice and to carry out consistent initiatives aimed at improving dialogue with the various religious communities.”¹³³

In the intervening 11 years, no progress has been made on the problems and shortcomings described by the European Commission. The main reason for this is the ongoing view that non-Muslims are not quite citizens of Turkey and that they represent a threat to national security. In regards to Alevis, the State continues not to recognize differences among its citizens, refusing to allow religious communities to define their own beliefs and practices and instead insisting on defining these things itself.

In the excerpt above, the European Commission mentions the need for a legal framework in Turkey in line with the ECHR. What is meant by legislation in accordance with the ECHR? I will answer this question using a few basic decisions of the European Court of Human Rights (ECtHR) on the subject. The first is the court’s decision in the case of Hasan and Chaush v. Bulgaria (emphasis added):

“The Court recalls that religious communities traditionally and universally exist in the form of organized structures. They abide by rules which are often seen by followers as being of a divine origin [...]. Where the organization of the religious community is at issue, **Article 9 of the Convention must be interpreted in the light of Article 11, which safeguards associative life against unjustified State interference.** Seen in this perspective, the believers’ right to freedom

132 Orhan Kemal Cengiz, “**Türkiye’nin Dini Azınlıkları**”, Radikal, aktaran İnsan Hakları Gündemi Derneği, <http://rightsagenda.org/turkiyenin-dini-azinliklari/>

133 Commission Staff Working Document, “**Turkey 2008 Progress Report**”, Brussels, 5 November 2008, SEC(2008) 2699 final, p.19

of religion encompasses the expectation that the community will be allowed to function peacefully, free from arbitrary State intervention. **Indeed, the autonomous existence of religious communities is indispensable for pluralism in a democratic society** and is thus an issue at the very heart of the protection which Article 9 affords. It directly concerns not only the organization of the community as such but also the effective enjoyment of the right to freedom of religion by all its active members. Were the organizational life of the community not protected by Article 9 of the Convention, all other aspects of the individual's freedom of religion would become vulnerable."¹³⁴

As seen in this decision, the ECtHR considers the organization of religious communities to fall under Article 11¹³⁵ of the European Convention of Human Rights on the right to organize. For this reason, State intervention affecting religious communities' freedom of organization must be evaluated in light of ECtHR jurisprudence on Article 11 of the Convention, which employs a three-stage test. First, the intervention must occur through clear and foreseeable rules in domestic law. A decree is not sufficient to meet this requirement; instead, duly enacted laws or duly promulgated regulations must create clarity and foreseeability. Second, an intervention based on law must also have a legitimate aim, i.e., an aim that falls into the categories listed in Article 11. Finally, any intervention based in law and with a legitimate aim must also be necessary and proportionate in a democratic society.

Taking these criteria into account, Turkey's interventions in the election of patriarchs and the inability of religious community foundations to elect their directors due to "regulations" that have never been promulgated are problematic. Has the Republic of Turkey established any basis in law for intervening in the internal affairs of religious communities? Even if the regulations on patriarchal elections issued many years ago and the regulations not yet promulgated for community foundations were to pass the "clear and foreseeable" test, would it be possible to say these interventions have one of the legitimate purposes found in Article 11 of the European Convention on Human Rights?

It is clear that the current situation in Turkey is also quite problematic in regards to the "autonomous existence" mentioned in *Hasan and Chaush v. Bulgaria*. Neither Turkey's religious minorities nor any branches of Islam, not even Sunni sects, enjoy the "autonomous existence" the Court calls indispensable to pluralism. However, for the Sunni Muslim majority, the lack of autonomy is balanced somewhat by the enormous financial support the Directorate of Religious Affairs receives from the State budget, while Alevis and non-Muslims experience only an unmitigated disadvantage. Indeed, while all mosques and imams assigned to them are financed by the State, non-Muslims and Alevis must use their own resources to cover the costs of their clergy and their places of worship.

As for the Alevis, even the question of whether their beliefs constitute a separate religion is assigned to the State's Directorate of Religious Affairs (Diyamet), which employs only Sunni Muslim clergy. As the UN High Commissioner for Human Rights has pointed out, the intervention of states in human rights cannot be carried out in a discriminatory manner or in any way contrary to the princi-

¹³⁴ ECtHR, *Hasan and Chaush v. Bulgaria* (Application no. 30985/96), para.62

¹³⁵ Article 11 of the European Convention of Human Rights reads:

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

ple of equality.¹³⁶ Allowing a Sunni institution to determine whether Alevism is a valid belief clearly violates this principle.

The ECtHR decision *Case of Metropolitan Church*, in which the Court criticizes Moldova over issues of legal personality and recognition, also sets criteria that can be used to test Turkey's compliance with the European Convention on Human Rights:

“In the present case the Court observes that, not being recognized, the applicant Church cannot operate. In particular, its priests may not conduct divine service, its members may not meet to practice their religion and, not having legal personality, it is not entitled to judicial protection of its assets.

The Court therefore considers that the government's refusal to recognize the applicant Church [...] constituted interference with the right of the applicant Church and the other applicants to freedom of religion, as guaranteed by Article 9/1 of the Convention.”¹³⁷

It is apparent that the various religious minority entities in Turkey—from the Patriarchates that lack legal personality, to congregations trapped in such a weak legal personality that they cannot even appoint their own leaders while they wait for applicable laws to be passed, to religious organizations formed according to Turkish associations and foundations law, a legal framework not designed or suitable for them—suffer hardship at every turn as they attempt to carry out their daily functions.

In contrast to the situation in Turkey, across most of Europe, religious entities are not forced to organize indirectly as foundations or associations. Churches or congregations can instead register as religious organizations that have legal standing to appear before the courts, the right to own and manage property, and the ability to hire employees. In short, they are free to perform all the activities they require to function as religious institutions.¹³⁸

As the Venice Commission emphasizes, “The basic problem in Turkish law as regards religious communities is that they cannot register and obtain legal personality as such. There is no clear arrangement in the legal system for this, and no religious community has so far obtained legal personality. Instead they have to operate indirectly through foundations or associations.”¹³⁹

The Venice Commission report I am referring to, a report prepared by taking into account ECtHR jurisprudence, concluded that under Article 9 in conjunction with Article 11 of the ECHR, the present Turkish system impermissibly interferes with the rights of non-Muslim religious communities by not allowing them to obtain legal personality as religious communities.¹⁴⁰

In other words, the Venice Commission says that the legal system in Turkey as a whole has failed when it comes to the right of religious communities to organize. It is impossible not to agree with this conclusion. However, why is there such limited ECtHR jurisprudence on this issue, given that

136 Office of the High Commissioner for Human Rights, General Comment 22, <https://www.equalrightstrust.org/ert-documentbank/general%20comment%2022.pdf>, para 8.

137 ECtHR, *Case of Metropolitan Church of Bessarabia and Others v. Moldavia*, Application no. 45701/99, 13 December 2001, para.105

138 Venice Commission, *Opinion on the legal Status of Religious Communities in Turkey and the Right of the Orthodox Patriarchate of Istanbul to use the adjective “Ecumenical”*, 15 March, para.16

139 Venice Commission, para.32

140 Venice Commission, para.58

the ECtHR has itself reached similar conclusions? Of course when there is no concrete issue before the ECtHR, it is not possible to predict the Court's exact approach, but Turkey's religious minority communities have experienced these problems for a very long time. How is there so little ECtHR case law on their lack of legal personality and associated problems?

The European Court of Human Rights first ruled on the issue of legal personality of religious minorities in Turkey in 2010. Turkey had refused to register a foundation set up by Salvation Church (Kurtuluş Kilisesi) on the grounds that "a foundation supporting a religious congregation cannot be established." The author of this report represented the applicants. The ECtHR ruled against Turkey, stating that Article 11 of the Convention also included the right to establish a foundation and finding that the interference of the government in this right had exceeded its margin of appreciation and was therefore not necessary in a democratic society.¹⁴¹

ECtHR decisions on the legal personality of religious communities in Turkey are very limited, and none of the applications for which these decisions have been rendered have been brought by the "Lausanne minorities." Interestingly, in several cases on "property losses" brought by Turkey's Greek and Armenian communities, the ECtHR ruled in favor of the minorities, but the applications in these cases did not bring up the root cause of many problems, the issue of legal personality. The only exception is a case I will discuss later that some members of the Armenian community filed with Turkey's Constitutional Court using the "individual application" mechanism.

Although the lack of legal personality is a crucial problem for Turkey's religious minorities, I believe the reason these minorities have not, until recently, undertaken legal efforts to solve this problem is a learned helplessness. When religious minorities apply to Turkish courts, they avoid bringing to the judiciary those issues they are concerned might anger the State. The Lausanne minorities have thus declined to litigate many significant issues—from the difficulties the Ecumenical Patriarchate faces in using the title "Ecumenical" and Turkey's refusal to reopen the Halki Seminary, to State intervention in the election of patriarchs and the inability of community foundations to elect directors because of laws that have yet to be passed. It is as if the Lausanne minorities have hit an invisible wall and cannot go any further.

We are talking about a deeply engraved, paralyzing fear. By the action of this fear, the relationship between the minority communities and the establishment—an establishment that never willingly gives rights but rather uses every opportunity to suddenly revoke existing ones—becomes a harmonious dance.

Minorities have fought only to hold on to the latest rights being taken from them rather than working strategically to lift restrictions or obtain new rights. Thus, after many years of squeezing the rights of minorities into the imaginary walls of the Lausanne Treaty, the State finds itself dealing with religious communities that automatically respect those imaginary walls and make no attempt to go beyond them.

I do not mean to belittle those fears. It is understandable and expected that groups that have faced such frequent and severe persecution in the past would reflexively avoid certain encounters. However, these attitudes remain a serious obstacle to the advancement of the rights of minorities in Turkey.

Specifically, the lack of legal personality seriously limits the daily activities and functions of

141 ECtHR, *Affaire Özbek et Autres c. Turquie*, Requête no 35570/02

Turkey's minority religious communities. Among the consequences listed by the Venice Commission is that religious communities in Turkey cannot access the court system as such, but only indirectly through foundations acting on their behalf or by the members of the community acting as private citizens.¹⁴²

The Venice Commission further comments that the “most problematic issue appears to be that religious communities have been losing properties that have historically belonged to them. One of the reasons for this is that under the foundation system the property is held by the foundation and not by the religious community itself, although in practice and from ancient times in reality it is clearly the property of the community (the church, rabbinate, etcetera). The problem is that in situations where the foundation falls away (the members die and the requirements for upholding the foundation [are] no longer met), the properties have been transferred to the state. This may be seen as confiscation, which is a matter under Article 1 of Protocol No. 1, and has been seen as an infringement by the ECtHR.”¹⁴³

As I mentioned above, the Venice Commission concludes that in order to comply with European Court of Human Rights jurisprudence, Turkish law must be reformed and religious communities must be given legal personality.

In the Commission's view, there are multiple ways religious communities in Turkey could gain legal personality. The first would be to have a separate statute on legal personality for religious communities, following the model of such statutes in many European countries. Another would be to add a special section or chapter to the law on associations, creating a category of associations that allows religious communities the right to register as such, and corresponding to their nature and characteristics. Either way, the Venice Commission insists that rather than religious communities having to create a separate vehicle to achieve legal status, they should be able to apply for such status on their own, a status that grants them direct access to the courts and allows them to hold their own property.¹⁴⁴

Laki Vingas represented non-Muslim foundations in the Council of Foundations for many years. As someone who knows the issue from the inside, he points out different facets of the legal personality problem:

“When we speak of ‘legal personality,’ the first thing that comes to mind are the needs of the Greek and Armenian Patriarchates and the Chief Rabbinate for personality [...] However, the Assyrian Patriarchates, the Latin Catholic Churches and institutions, the seized foundations,¹⁴⁵ and the Protestant churches—societies and institutions that have existed in this country for cen-

142 Venice Commission, para.68

143 Venice Commission, para.69

144 Venice Commission, para.75

145 These are the foundations governed by the General Directorate of Foundations (VGM). “The principal way the VGM has restricted the self-management of non-Muslim communities has been the practice of ‘seized foundations’ (*mazbut vakıf*), whereby the VGM takes over the management of foundations deemed to ‘no longer to be of charitable or practical use.’ Through this practice, the VGM particularly targeted foundations that have lost their communities over time due to the sharp decline in the non-Muslim population in Turkey since 1960s. The migration (forced or otherwise) of non-Muslims has left the vast majority of their schools, hospitals, and churches non-functioning. Instead of allowing non-Muslim communities to make use of their real estate in other ways based on their needs and preferences, the state seized control over the foundations responsible for running these institutions. Since the 1970s, the VGM has seized 16 Greek Orthodox foundations and 24 Jewish foundations, taking over their management and confiscating hundreds of properties belonging to them.” See. Dilek Kurban and Konstantinos Tsitselikis, “**A Tale of Reciprocity, Minority Foundations in Greece and Turkey,**” <https://www.files.ethz.ch/isn/120116/vakiflar-eng.pdf>

turies—are also deprived of the recognition of their legal personalities.”¹⁴⁶

Sebu Aslangil, one of the lawyers of the Armenian community, sheds light on the relationship between the problem of legal personality and other issues. Here he discusses the government’s practice of seizing district-based foundations when the district’s minority population dwindles, despite the potential for minority members from other districts to serve as foundation officers:

“Upon close examination of the seizure of community foundations, we see the problem of legal personality and the intervention in property rights go hand in hand [...] However many non-Muslim foundations are created, and although, in terms of the law of foundations, they are organized by district or [local] church, the reality is that an Armenian, wherever he happens to live, needs these foundations. Therefore, the fact that an Armenian foundation is seized on the grounds that it has no director should be considered through and through a violation of the right to own property.”¹⁴⁷

3C) LIMITED RECOGNITION OF THE PATRIARCHATES AND THE CHIEF RABBINATE

The most striking examples of religious minorities being deprived of legal personality in Turkey are found in the situations of the Patriarchates and the Chief Rabbinate. Religious communities can acquire legal personality by forming associations or foundations, though associations and foundations under Turkish law do not fully meet the needs of these communities and are structurally not entirely compatible with them. However, in the case of the Patriarchates and the Chief Rabbinate—religious offices with extremely complex internal structures and centuries of history—the woeful inadequacy of associations and foundations as vehicles for legal personality becomes clear.

Can a patriarchate organize as an association, for example, and hold a general assembly to elect a board of directors and a supervisory board? Or is it possible for a patriarchate to organize as a foundation and establish its legal existence via a court order? These examples show how serious the lack of legal personality is for these offices. The legal devices of foundations and associations, which are artificial even at the congregational level, lose all meaning when we imagine applying them to the highest religious institutions. They are completely out of the question.

The Patriarchates and the Chief Rabbinate, therefore, are not able to even acquire a makeshift legal personality in Turkey. Turkey does not recognize these institutions in any real way but rather merely endures their existence. All legal proceedings that might give the impression these institutions are recognized under Turkish law are in fact only instances of State interference in their internal affairs.

Turkey’s refusal to recognize patriarchal and rabbinical authorities has many consequences in everyday life. One result is that these higher institutions have no property rights, and are unable to register ownership of real estate. Even the cemeteries where previous patriarchs have been buried do not legally belong to them. Instead, all church property is held by independently operating minority foundations.¹⁴⁸

146 Laki Vingas, “‘**Yok hükmünde’ olmamak adına,**” *Yok Hükmünde, Müslüman olmayan cemaatlerin tüzel kişilik ve temsil sorunu*, Aras, 2016, p.14

147 Sebu Aslangil, “**Her cemaatın bir iç yönetmeliği olmalı,**” *Yok Hükmünde, Müslüman olmayan cemaatlerin tüzel kişilik ve temsil sorunu*, Aras, 2016, p.130

148 Order of Saint Andrew, Archons of the Ecumenical Patriarchate, “**The Status of the Ecumenical Patriarchate of**

Lawyer Ali Elbeyoğlu describes the consequences of the Patriarchates' lack of legal personality:

“The Patriarchates' buildings do not belong to them. They do not have the right to fundraise or to pay the salaries of their own religious and administrative staff. They may not organize any official program, conference, or seminar. They may not create religious or social organizations. They are in the hearts of millions, but despite the reputation they have warranted outside the country, they do not exist in Turkey.

These great religious institutions are obliged to carry out all their activities through others in a fictitious way. Fictitiously conducted transactions are deemed null in the realm of law. The state defined the procedures for electing a patriarch, and while it recognized the patriarch chosen using these procedures, it did not recognize the patriarchate. There is no such thing as a patriarchate, but there are symbolic patriarchs who have no effect on their congregations. The question is not the legal personality of patriarchates but whether they exist at all.”¹⁴⁹

Even certain de facto developments do nothing to alter the picture described above. Following a ECtHR decision, Turkey was required to return the Büyükada Orphanage¹⁵⁰ to the Greek Orthodox Church. Turkey had earlier seized the orphanage by transferring its ownership from the Büyükada Greek Orphanage Foundation to Turkey's General Directorate of Foundations. An unusual de facto situation was created as the title deed was registered in the name of “Fener Greek Patriarchate.”

Turkey allowed this de facto situation to occur only with great reluctance. The Ministry of Justice wrote to the Public Prosecutor's Office of the Islands stating, “no alternative was found except to re-register the orphanage in the land registry on behalf of the Greek Patriarchate of Fener.”¹⁵¹ Rather than recognition, this is the management of a situation in which Turkey had no choice.

The patriarchs and the chief rabbi, whose elections are subject to government regulation and approval, do not exist when it comes to the ownership and use of property or to other rights. There is a legal framework for restricting their rights, but no legal basis for them to exercise rights.

3D) INTERFERENCE IN THE ELECTION OF THE ARMENIAN PATRIARCH

Five Armenian patriarchs have been elected during the existence of the Turkish Republic. Turkish government authorities, citing rules on timing or procedure, have intervened in the election of each. When Armenian Patriarch Mutafyan was declared incapacitated in 2008 because of frontotemporal dementia, the Armenian community entered a long period of uncertainty regarding its leadership.

From that time up to the present, the Armenian Apostolic community's election of a new patriarch has encountered various obstacles and has ultimately been made impossible. The essence of the intervention undertaken by the Governorship of Istanbul (which ought to be understood as

Constantinople,” Organisation for Security and Co-operation in Europe, 12 September 2018, p.3

149 Ali Elbeyoğlu, “**Sanasaryan Han Örneği: Patrikhanelerin Tüzel Kişiliklerinin Tanınmamasının Yol Açtığı Sorunlar**”, Yok Hükümünde, Müslüman olmayan cemaatlerin tüzel kişilik ve temsil sorunu, Aras, 2016, p.154

150 The Greek Orphanage on Istanbul's Büyükada, considered the largest wooden building in Europe and the second largest in the World, was included in the “Seven Most Endangered” program for 2018 by Europa Nova, the leading heritage organization in Europe, and the European Investment Bank.

151 Prof.Dr.Hasan Fendoğlu, “**Büyükada Rum Yetimhanesi**”,

http://www.hasantahsinfendoglu.com/dokumanlar/makaleler/BUYUKADA_RUM_YETIMHANESI.pdf

a reflection of the government's will at the highest level) is this: a new patriarch cannot be elected until his predecessor is dead. While the Patriarchate and the Armenian Apostolic community should be free to determine and follow their internal religious procedures, we instead see them subject to an overreaching government intervention based on non-existent rules, legal gaps, and arbitrary interpretations.

As a result of the government's obstructions, the election has been postponed for years, and rather than having an elected patriarch with the legitimacy and power the ecclesiastical process would have provided, the Armenian community has had to make do with a Patriarchal Vicar-General. The patriarchal election's postponement has prevented the Armenian community from making important decisions and has transformed the Patriarchate into an institution that merely carries out routine tasks.¹⁵²

A closer look at the interventions preventing the Armenian Apostolic Church from choosing a patriarch for many years shows that the government interpreted its "rules" regarding the election in such a way that it could achieve the result it wished.

For example, if we compare the government's reasoning when intervening in the 1998 Patriarchal election to its reasoning when intervening after Mutafyan fell ill, we see an astonishing contrast.

In 1998, Patriarch Karekin Kazancıyan appointed Mesrop Mutafyan Patriarchal Vicar-General, allowing Mutafyan to act as his surrogate. Based on this proxy status, Mutafyan led the establishment of an Election Steering Committee and oversaw the application made to the Istanbul governor's office for holding an election without a Deghabah (an elected church official who oversees the patriarchal election process). The Istanbul Governorship rejected the application, saying: "There will be no such title as the vicar-general, [as] under church customs and traditions, the oldest and most senior spiritual [leader] is in charge."¹⁵³

However, in 2010, after Mutafyan had become incapacitated, the Governorship rejected the Armenian Apostolic Church's election application on completely different grounds. This time the governor's office responded that while the current patriarch is alive a new patriarch may not be elected, only a patriarchal vicar-general. While in 1998 the Governorship blocked an election by denying the existence of the position of Patriarchal Vicar-General, in 2010 the same government office resurrected the Patriarchal Vicar-General position to again deny the church's election application.

In the end, as always, the State, acting through the Istanbul Governorship, has what it wanted, and the Armenian community is rendered unable to elect a new patriarch. The Armenian Apostolic Patriarchate consequently was governed by a Patriarchal Vicar-General for nearly 10 years (with Bishop Sahak Mashalian elected 85th Armenian Patriarch of Istanbul only on 11 December 2019, as this report was being completed).

Another attempt by the Church to elect a patriarch in 2016 was similarly frustrated. In 2016, the Patriarchate's Clerical Council adopted a resolution declaring Patriarch Mutafyan retired and his seat vacant, beginning the electoral process. In 2017, the Clerical Council elected Archbishop Karekin Bekçiyanyan as Deghabah, the official who oversees the patriarchal election process. Then an Election

152 Mine Yıldırım, "Turkey: Why can't Armenians elect a Patriarch?", Forum 18 News Service, http://www.forum18.org/archive.php?article_id=2352

153 Uygur Gültekin, "1998 müdahalesi istifayla çözülmüştü", Agos, 23 March 2017, <http://www.agos.com.tr/tr/ya-zi/18043/1998-mudahalesi-istifayla-cozumustu>

Steering Committee was formed and an election application was made to the Governorship of Istanbul.

The Governorship's response to this 2018 request is quite illuminating as to the State's view on patriarchal elections:¹⁵⁴

“In the elections held after the 1961 Patriarch Election Directive and in the practice of Patriarch elections, the election of a new Patriarch was possible if the patriarchal seat was vacant due to death, resignation, and other reasons, with no judicial decision finding that health problems are counted among the other reasons, and when all these issues are evaluated together, it is clear that only when the patriarchal seat is vacant can a Deghabah be elected; all the procedures relating to Karekin Bekçiyani's election as Deghabah are an absolute nullity and therefore all decisions of the invalidated so-called Deghabah regarding the Patriarch Vicar-General have become invalid due to the mentioned absolute nullity.”

The first question to be asked here is why a religious community attempting to choose its own leader is being met with such harsh State intervention. Undoubtedly, an intervention of this magnitude has partly been made possible by conflicts within the Armenian community, including by different parts of the community asking for different things from the political powers.

But why is a State that defines itself as secular intervening to this extent in the internal affairs of a religious congregation? Does anything in this scenario have implications in criminal law? If it had, surely prosecutors would have become involved.

Is the State interfering so openly in the election process because it grants the elected patriarch official powers to use in public? But then, taking the perspective of public law, what authority has been granted to the patriarch other than to allow him to wear religious clothes and to conduct worship, that those outside the community should have an interest in this election so significant as to warrant the intervention of State institutions on their behalf?

What criteria does the State rely on when it tells the Armenian Apostolic community that a person with advanced dementia is capable of filling the office of patriarch? Can a person with such illness be the director of any public institution? Or is he declared incapacitated? How can the State require someone to continue to occupy the highest position in a religious community when that person's illness would have triggered his removal from any public office? Likewise, by what authority or what law can the State refer to an officer of a religious community, elected according to that community's internal regulations, as “so-called”?

From the perspective of international human rights law, the intervention of the Ministry of Interior in the election of the Armenian Patriarchate is a clear and serious violation. First of all, this intervention has no legal basis. No domestic law accepted under international human rights law as such could form the basis for this intervention.

Indeed, as ECtHR jurisprudence states, for an intervention to be legal, the law that allows the intervention must, among other things, have sufficiently clear and precise language: “a norm cannot be regarded as a ‘law’ unless it is formulated with sufficient precision to enable the citizen to regulate

154 Agos, “**Valilik'ten Patrikhane'ye mektup: Bekçiyani'ı tanımiyoruz**”, 6 February 2018, <http://www.agos.com.tr/tr/yazi/20164/valilik-ten-patrikhane-ye-mektup-bekciyan-i-tanimiyoruz>

his conduct.”¹⁵⁵

Thus the first question to be asked is whether there is legislation obliging the Patriarchate to obtain permission from the Governorship of Istanbul or from any other authority to hold an election. As Mine Yildirim correctly points out, in Turkey “no law states that permission is necessary, or what process to gain permission should be followed”¹⁵⁶ when religious communities wish to select a patriarch or chief rabbi.

In spite of this legal gap, each time a community approaches electing a patriarch or chief rabbi, it is the government that decides whether and when the election may occur.¹⁵⁷

When addressing legal issues involving the highest offices of Turkey’s minority religious congregations, Turkish authorities frequently cite Ottoman era regulations and arrangements made by the Council of Ministers. Can it be maintained that in the Republic of Turkey, which abolished all regulations issued during the Ottoman period, laws written for Ottoman ethnoreligious communities—the Greek Nation Regulation of 1862, the Armenian Nation Regulation of 1863, and the Jewish Nation Regulation of 1865—remain in force?

For example, according to the Armenian Nation Regulation of 1863, only someone who has been a subject of the Ottoman Empire for two generations may be elected to serve as patriarch. Since no patriarch elected during the Republican era was an Ottoman citizen at election, these conditions present a problem from the very beginning.

Even if we accept for the sake of argument that the 1863 Armenian Nation Regulation has legal bearing on the patriarchal election process in question, it is still not clear how the Istanbul Governorship reached its conclusion above. According to Article 2 of the 1863 Armenian Nation Regulation, “In the event of the death and resignation of the Patriarch, or the vacancy of the office of the Patriarch for various reasons” a new patriarch shall be elected. It is clear the term “various reasons” refers to countless possibilities that cannot be foreseen in the normal course of life.

The 1961 Patriarchate Election Directive,¹⁵⁸ cited by the Istanbul Governorship above, regulates not the circumstances under which the election of the patriarch will be held, but how to proceed after the electoral process has started. In short, the Istanbul Governorship’s intervention cites a contemporary law on one subject—regulation after the election process has started—but uses it to evoke an abolished law on another subject—the conditions for holding an election. There can be no basis in law for the intervention when the ECtHR’s requirement of “precision” that allows “the citizen to regulate his conduct” is so entirely lacking.

Even if there had been a precise and foreseeable basis for the Istanbul Governorship’s intervention and the Governorship had cited that legal basis, could this interference have had a legitimate aim within the meaning of Article 9 of the European Convention on Human Rights, which regulates freedom of religion and conscience?

155 European Court of Human Rights, “**Case of Sunday Times, v. The United Kingdom**”, Application no. 6538/74, 26 April 1979, para.49

156 Mine Yildirim, “**TURKEY: Why state interference in the election of Chief Rabbi, Greek Orthodox and Armenian Patriarchs?**”, Forum 18 News Service, 11 August 2010, p.1

157 Mine Yildirim, *ibid*, p.2

158 <https://hyetert.org/2009/07/04/patrik-secimi/>

Article 9 circumscribes the reasons for which a government may legitimately limit freedom of religion: “in the interests of public safety, for the protection of public order, health and morals, or for the protection of the rights and freedoms of others.”

Does an electoral process initiated by the Armenian Patriarchate because it considers the Patriarchal seat vacant threaten public safety, public order, public health, morality, or the rights and freedoms of others? It is clear none of these have been violated or even threatened. Therefore, the Governorship’s intervention lacks a “legitimate purpose.”

In fact, while many issues concerning the election of a new patriarch or regarding the freedoms of religious communities could be litigated, we observe a general abstention from seeking legal remedies.¹⁵⁹ While the State improperly uses the law to interfere in the internal affairs of religious communities, these religious communities do not fully and effectively use existing legal instruments to secure their rights.

Congregations typically have been willing to pursue legal remedies for the confiscation of their property, and have effectively litigated such matters in Turkish courts and before the European Court of Human Rights, but they appear hesitant to litigate issues related to status such as the powers of the patriarchate or church control of the ecclesiastical election processes.

The Constitutional Court’s Decision in Levon Berç

On 10 July 2019, Turkey’s Constitutional Court published its decision in Levon Berç, an individual application regarding interventions in the Armenian Apostolic Church’s patriarchal election process.

Although the Constitutional Court used cautious language, it ruled in favor of the applicants, finding their freedom of religion and conscience had been violated. That an individual application was even filed indicates minority religious communities’ reluctance to litigate issues of status is gradually being overcome. Of equal importance, the favorable ruling shows that litigating status-related rights violations may have very successful consequences.

Let us look at the language the Constitutional Court used in its decision. First, the Court comments that it was “not easy to establish the legal basis of administrative intervention in freedoms of religion and belief.”¹⁶⁰ In the Court’s view, “according to Article 13 of the [Turkish] Constitution, a law is absolutely required in order to limit fundamental rights. In the sense that Article 13 of the Constitution seeks to be the basis of the aforementioned authority that limits the applicants’ freedom of religion and belief, it is concluded that there is no law that is accessible, predictable, and precise, which prevents the arbitrary behavior of organs exercising public power and helps people to know the law.”¹⁶¹

The Constitutional Court should not have examined the matter further because this first conclusion was decisive. When there is no legal basis, any State interference in fundamental rights and freedoms is unlawful. However, for reasons that may be debated, after determining there was no legal basis for State intervention in the patriarchal election, the Court continued to analyze the issue from

159 Uygur Gültekin, “**Seçim Yapılması İçin En Uygun Zamandı**”, Agos, 20 February 2018, <http://www.agos.com.tr/tr/yazi/20246/secim-yapilmasi-icin-en-uygun-zamandi>

160 AYM, Levon Berç, ibid, p.20

161 AYM, Levon Berç, ibid, p.21

other angles.

The Court continued its review with this explanation: “Despite the assessment that the interference had no legal basis, it was deemed necessary in the circumstances of the application to assess whether relevant norms of the Regulation and Directive were in conformity with the requirements of a democratic social order.”¹⁶²

The Court then proceeded to describe its findings on whether intervention in the election of a patriarch could be necessary in a democratic society:

“In the case in hand, the Ministry of Interior has clearly decided under which circumstances the Armenian patriarch will be elected. However, except in the case of meeting an urgent social need, the state cannot decide under which circumstances a new religious leader will be elected or the procedure for electing the religious leader.”¹⁶³

“If there is an intervention in the choice of the leader of a religious community, and thus to the internal affairs of religious communities, undertaken as a result of the understanding of democratic society, it must be put forward that this intervention is being made due to pressing social needs.

However, in the case at hand, the administration was unable to demonstrate the pressing social need that prevailed over the spirit of the Armenian traditions and the will of the Armenian community as understood to have been embodied in the Regulation [of 1863] when [the administration] prevented the election of a new patriarch... Therefore, the conclusion has been reached that, because of the rejection of the requests made by the patriarchate of the Armenians of Turkey for conducting an election, the intervention in the applicants’ religious freedom could not be considered an intervention in accordance with the requirements of the democratic social order.”¹⁶⁴

In addition to these significant findings, the Constitutional Court determined that the differences of opinion on the election of the patriarch within the Armenian community and the varying demands from different actors in the community could not form the basis for interfering in the community’s internal affairs:

“From the perspective of freedom of religion, judicial bodies and institutions with public powers, by themselves, are also not sufficiently equipped to resolve differences between members of the same faith as in the present case. Therefore, the state ought to take measures and offer initiatives to reconcile the interests of different groups... In the application at hand, the administration did not investigate the possibility of resolving the issue through dialogue. More generally, the state has not developed policies to resolve [matters] in accordance with Armenian traditions, customs, and religious requirements. Instead, by implementing its own proposed solution, the administration has determined the more appropriate manner in which the Armenian community’s religious practices should be carried out.”

In a good faith reading, the Constitutional Court’s additional analysis after it found no legal basis for the interference could be attributed to a desire to make further determinations. Supporting this perspective is the last paragraph excerpted above, in which the Court warns the administration not to use differences of opinion within the Armenian community as a means for intervention.

162 AYM, Levon Berç, *ibid*, p.22

163 AYM, Levon Berç, *ibid*, p.29

164 AYM, Levon Berç, *ibid*, p.29

However, a more skeptical approach—one that takes into account the Constitutional Court’s recent role in maintaining the status quo—might say the Court does not want the enormous legal vacuum concerning matters related to the patriarchate, patriarchal elections, and Turkey’s religious minorities to become apparent, and is therefore taking care to skirt those issues.

Regardless of the Constitutional Court’s motivation, its decision here has significant implications for minority religious communities. The Court recognizes the autonomous structure of the Armenian community, treats the patriarchal election as this community’s internal matter, and determines that the State’s interventions in patriarchal elections lack any legal basis.

The Aftermath of Levon Berç

On 8 March 2019, several months before the publication of the Levon Berç decision detailed above, Mesrop Mutafyan, the 84th Patriarch of the Armenian Apostolic Church, passed away. His death ended the debate over whether a new patriarch could be elected while the former one lived, and the church began the process of choosing a new leader.

After the Constitutional Court’s finding that the administration had had no legal basis for intervening in the patriarchal election, the government should have been more careful about interfering in the internal affairs of the Armenian community and should have refrained from making any intervention not clearly based in an “accessible, predictable, and precise” law.

However, the Ministry of Interior’s 32-point “2019 Patriarch Election Directive,” sent to the Armenian Patriarchate on 23 September 2019, shows the government’s intent that business continue as usual.

Article 25 Subparagraph C of the Directive introduces a new condition unseen in previous election directives: the candidates for patriarch must be “included in the class of bishops of the Armenian Patriarchate in Istanbul.”

The condition for candidacy in Article 25 Subparagraph A—“being Turkish by father”—may be controversial in terms of religious freedom but seems to have been accepted by the Armenian community. According to this rule, only those with Turkish citizen fathers are eligible to become patriarch. However, the new requirement of being among the bishops of the Armenian Patriarchate in Istanbul significantly shrinks the pool of candidates.

Indeed, according to a report in the Turkish-Armenian newspaper *Agos*,¹⁶⁵ applying previous conditions would allow there to be 13 candidates, most of whom live abroad, but when the new condition is applied, this number is reduced to 3.

Given the Constitutional Court’s decision above and its determination that there was no legal basis for the interventions in the patriarchal election, it is clear that the geographical limitation introduced by the Ministry of Interior in this new regulation is not legal.

165 *Agos*, “**Tepki çeken talimatname**”, 27 September 2019, p.3

3E) CHURCH ASSOCIATIONS

When we look at the attacks on religious minorities, we see they are always preceded by a demonization campaign. A major slogan of such campaigns targeting Christians, especially Protestants, is the phrase “illicit churches.” According to this narrative, groups of Christians with illegal aims have secretly established places of worship in violation of Turkish law, where they try to brainwash people and make them Christian.

However, as I will explain in more detail later, Turkey’s “rules” for opening new places of worship have never been clear or precise, and those who try to comply with the law in opening a place of worship face legal gaps and a great deal of uncertainty.

Church-based associations are at the intersection of the problem of legal personality and the need for a place of worship. These associations are a partial answer to both issues, but in a way that is far from satisfactory. Until 2004, Turkey’s Law of Associations (No. 2908) prevented religious communities from making use of associations by forbidding association activities conducted “on the basis of race, social class, religion, and sect or on the basis of their name.”

However, in response to criticism from the European Union, Turkey drafted and enacted the Law on Associations No. 5253, in which the provisions prohibiting the establishment of associations on the basis of religion and sect were dropped, along with many other restrictions.

Some religious communities, and in particular Protestant groups (considered to be outside the boundaries of the Lausanne Treaty), responded to the change by quickly forming associations. Here, as with many other issues concerning minorities, we have entered uncertain territory.

Does the use of associations mean these churches now have recognized legal personality? No. In this new area, inspired by associations founded for the goal of building mosques, the State accepts as legitimate the purpose of the founders of the associations. However, this recognition is not a recognition of a church, nor a guarantee that any of these associations can achieve their goal of establishing a church. The associations themselves are not considered “churches” or “places of worship.”¹⁶⁶

While the aim of these associations to establish churches has achieved legitimacy through the endorsement of their statuses, a thousand obstacles have been erected to prevent them from establishing places of worship, blocking them from attaining a full legal framework.

Public authorities are thus able to intervene in these associations whenever they wish and may declare worship under the roofs of these associations illegal at any time.

Despite these shortcomings, associations appear to provide some advantages to religious communities.

The “Guide to Church Associations,” published by the Association of Protestant Churches, lists these benefits of registering as an association.¹⁶⁷

166 [Protestan Kiliseler Derneği, Kilise Dernekleri Rehberi](http://www.protestankiliseler.org/kilise-dernekleri-rehberi.pdf), <http://www.protestankiliseler.org/kilise-dernekleri-rehberi.pdf>, p.8

167 [Protestan Kiliseler Derneği, Kilise Dernekleri Rehberi](http://www.protestankiliseler.org/kilise-dernekleri-rehberi.pdf), <http://www.protestankiliseler.org/kilise-dernekleri-rehberi.pdf>, p.9-10

- “Instead of the police or the gendarmerie, [associations are] the responsibility of the Directorate of Associations, a civilian institution.”
- “There is no obligation to obtain permission for any closed-area meeting within or outside of the association’s headquarters.”
- “While a community consisting of real persons is subject to permission [requirements] and more comprehensive legal conditions for activities like fundraising, receiving financial support from abroad, organizing meetings in closed spaces, [and] organizing conferences, these activities can be much easier as an association.”
- “[Included in] the advantages of being an association are having an association building and headquarters, the ability to employ salaried staff there, being able to print publications, having an informational website, and engaging in promotional and informative activities through this website. With the establishment of an association and the acquisition of a legal personality, setting up a church and having worship are recognized as rights by the state. According to the legislation, it is also possible for associations to open branches or representative offices.”

For these religious communities, obtaining association status and being able to hang a “Protestant Church” sign on a door means State recognition, however partial, and may to some extent combat the label of “illicit church.” But on the other hand, these associations, whose “goals” are considered “legitimate” by the State, almost never achieve their goals or produce churches recognized by the State.

3F) CONGREGATIONAL FOUNDATION PROBLEMS

The inability to elect congregational foundation directors

Congregational foundations differ in structure from other foundations recognized by Turkish civil law. These are the foundations established by decree of the Sultan during the Ottoman era. Unlike modern foundations, they have no deed of trust; they may not establish their own regulations or determine for themselves how to conduct their relations.

As Rita Ender points out,¹⁶⁸ there are 167 congregational foundations under the authority of the General Directorate of Foundations. These include Greek, Armenian, Jewish, Syriac, Chaldean, Georgian, and Bulgarian foundations.

Congregational foundations, formerly much discussed because of the confiscation of their property, are now once again a topic because of their long-awaited Election Regulation. Unlike other foundations established within the scope of Turkish Civil Law, congregational foundations cannot determine their own procedures and rules for electing directors. Instead the government, via regulations, dictates to them how they must operate. Laki Vingas elucidates the problem in this way: “Apart from ours, there is no group possessing legal personality in Turkey that has its freedom to elect and be elected determined by government regulation.”¹⁶⁹

The 2013 cancellation of the Congregational Foundations election regulation and the failure to promulgate a new one in its place, however, have created a state of crisis. The absence of election regulations renders congregational foundations unable to elect new directors and condemns them to

168 Rita Ender, “**Merhume ve merhumların bağışlarından Hahambaşılık ve Patrikhanelerin Tüzel Kişiliklerine**”, Yok Hükmünde, Müslüman olmayan cemaatlerin tüzel kişilik ve temsil sorunu, Aras, 2016, p.29

169 Uygur Gültekin, “**Azinliklar üzerinde vesayet var**”, Agos, 21 July 2014, <http://www.agos.com.tr/tr/yazi/7630/azinliklar-uzerinde-vesayet-var>

retaining their existing directors permanently.

In the same way, any officers of these foundations who might wish to leave their positions are condemned instead to fulfilling responsibilities they cannot transfer. When the foundations submit election applications to the General Directorate of Foundations, the answer they receive is that the regulation is still being prepared. Essentially, the administration tells them “Because I have not done my part, you cannot have elections.” Congregational foundations are reluctant to take legal action on the matter because they fear reprisals.

The General Directorate of Foundations website has a section titled “Congregational Foundation Inquiry” under which these words are found:

“Congregational Foundations are charitable institutions of non-Muslim Turkish citizens created before the Republic. In 1936, with the declarations they prepared, they were registered and recorded at the General Directorate of Foundations. In this way these charitable organizations belonging to congregations were accepted as foundations. [...] Since according to the Turkish Civil Code it is not possible to establish a foundation to support a specific [religious] congregation, it is also not legally possible to establish a new congregational foundation.”¹⁷⁰

This brief quote from the website of the General Directorate of Foundations shows how the congregational foundations are being squeezed in a vice. New congregational foundations may not be established, and those that over time become unable to govern themselves are confiscated by the directorate. When the old foundations lose their capacity to govern themselves, their properties are lost to the government because there is no way to transfer those properties to new foundations.

The same purpose is served when congregational foundations are not free to elect directors according to regulations the congregations themselves have designed, but are instead bound to a General Directorate of Foundations regulation that is always being prepared but never issued.

In July 2018, HDP deputy Tuma Çelik submitted a parliamentary inquiry in the Grand National Assembly as to why a new regulation had not been enacted so that congregational foundations could hold elections. As of the date of this report, his inquiry has not been answered. Çelik stated the following views in his inquiry:

“Despite the AKP government saying, as part of its program, ‘We will continue to take all legal and practical measures to ensure non-Muslim minorities who are citizens of the Republic of Turkey are not discriminated against,’ and despite the AKP government and related institutions continuously issuing statements about a new arrangement, no steps have been taken on this issue for approximately six years.”

Laki Vingas, writing in 2014, succinctly explains how the return of congregational foundation property has lost its meaning in the absence of foundations’ right to choose their own leaders:

“The subject of the regulation overshadows all efforts made within the framework of the government’s understanding of improvement. They say, ‘I am returning your property,’ but they do not give the power to own your property, to manage it, or to establish a system for electing and being elected. Where is the national will, the popular will? This will is registered only through election. This is our

170 <https://www.vgm.gov.tr/vakif-islemleri/vakiflar-hakkinda/cemaat-vakiflari>

biggest problem.”¹⁷¹

A directive from the General Directorate of Foundations to the regional directorates dated 11 March 2019¹⁷² shows that the lack of a regulation has ceased to be an exceptional and temporary situation and has become one of the cornerstones of the established order. In this directive, the General Directorate of Foundations asked that vacancies on the boards of congregational foundations be filled by appointments rather than by election.

The return of seized foundation property

The congregational foundations of non-Muslims were established by decree of the Sultan during Ottoman times. They do not have their own bylaws or internal regulations in the sense we understand those terms today. The confiscation of congregational foundation property was achieved through high court decisions and an abuse of this “lack of by-laws.”

In 1935 Turkey promulgated a new Law of Foundations. On the basis of this new code, in 1936 all foundations were required to submit lists of their assets. In the literature on minority issues in Turkey these lists are commonly referred to as the “1936 declarations.”¹⁷³

As a result of tensions in Cyprus, in 1974 Turkey changed its approach to congregational foundations. The General Directorate of Foundations required these foundations to certify that their real estate belonged to them using their foundation deeds, but since congregational foundations had no foundation deeds, the directorate instead accepted the asset lists the foundations had submitted in 1936. Then, whatever real property was not found on the 1936 declarations became vulnerable to confiscation.¹⁷⁴

The Court of Cassation adopted the view of the directorate. Thus, beginning in 1974, the assets these foundations had acquired after 1936 were confiscated.

In 2011, a provisional Article 11 was added to Turkey’s Law on Foundations. The addition opened the way for the return of confiscated congregational foundation property. However, to apply for the return of its property, a foundation had to show the property had been registered in its 1936 declaration.¹⁷⁵

When Article 11 was implemented, its requirement that foundations produce their 1936 declarations led to some practical impossibilities. For example, foundations in Iskenderun and Hatay had no 1936 declarations to produce because in 1936 those provinces were not part of Turkey. Foundations on Gökçeada had also not submitted declarations in 1936.¹⁷⁶

171 Uygur Gültekin, “**Azinliklar üzerinde vesayet var**”, Agos, 21 July 2014, <http://www.agos.com.tr/tr/yazi/7630/azinliklar-uzerinde-vesayet-var>

172 Melike Çapan, “**Azinlik cemaati seçimleri için geçici genelge: Seçim yok, atama var**”, <https://www.artigercek.com/haberler/azinlik-cemaati-secimleri-icin-gecici-genelge-secim-yok-atama-var>

173 İstanbul Barosu İnsan Hakları Merkezi, “**Azinlik Hakları**” içinde Av. Diran Bakar, “**Uygulamadan Ayrımcılık Örnekleri ve Azinlik Vakıflarının Sorunları**”, İstanbul Barosu, 2002, p.269

174 Lale Ayhan İzmirli, “**Çözülemeyen Problem: Cemaat (Azinlik) Vakıflarının taşınmaz mal edinmesi**”, Tesam Akademi Dergisi, January 2018, p.108

175 Rita Ender, “**Merhume ve merhumların bağışlarından Hahambaşılık ve Patrikhanelerin Tüzel Kişiliklerine**”, Yok Hükümünde, Müslüman olmayan cemaatlerin tüzel kişilik ve temsil sorunu, Aras, 2016, p.29

176 Laki Vingas, “**‘Yok hükmünde’ olmamak adına**”, Yok Hükümünde, Müslüman olmayan cemaatlerin tüzel kişilik ve temsil sorunu, Aras, 2016, p.20

Attorney Sebu Aslangil draws attention to a more fundamental problem in this regard. According to him, non-Muslim foundations, fearing what the State might do with the information, did not make full declarations of their property in 1936. In fact, a comparison of 1912 tabulations of minority foundation property with those same foundations' 1936 declarations shows that in 1936 minority foundations declared only about one tenth of their actual property.¹⁷⁷

As Andon Parizyanos states, Article 11 of the Law of Foundations was an improvement in that it facilitated the return of goods congregational foundations acquired after 1936 that had been confiscated by the decision of the General Assembly of the Court of Cassation. However, Article 11 offered no way to regain confiscated property that had been sold to third parties and did not apply to confiscations connected to the General Directorate of Foundations. Additionally, the Treasury's choice to litigate against the return of property by the General Directorate of Foundations caused congregational foundations a further loss of labor and time.¹⁷⁸

3G) THE QUESTION OF HALKI THEOLOGICAL SCHOOL

One of the consequences of not recognizing the autonomous structures of religious communities is that their many different functions and activities become subject to disparate legal regulations that correspond very poorly to the communities' needs and problems. In this context, a striking example of the obstacles to religious communities' clerical education is the status of Halki Theological School, which has been closed for nearly half a century despite extensive efforts to have it reopened.

The handful of Orthodox Greeks left in Turkey appear to be waiting for Godot in a way endemic to Turkey. The Theological School of Halki, which is attached to the Ecumenical Patriarchate,¹⁷⁹ has been closed since 1971. The Greek Orthodox community across the world has been anticipating news of the school's reopening almost every day of the past 47 years, but to no avail.

To comprehend just how exhausting and frustrating the wait has become, one must understand the seminary's history and its significance to the Orthodox community.

Named after the island of Halki in the Marmara Sea, where it was founded in 1844, the school supplied clergy not only to Turkey's Greek Orthodox community but to hundreds of churches affiliated with the Ecumenical Patriarchate worldwide. By the time a Constitutional Court ruling closed it in 1971, it had graduated 930 clergy. Twelve of these became patriarchs, meaning that most of the past century's patriarchs passed through the seminary's doors. Hence, the seminary has not only been a theological school but has been a primary cultivator of those who lead the Ecumenical Patriarchate. The school's closure has cut a lifeline of the Patriarchate, forcing the institution to struggle for its very survival.

The collapse of the Ottoman Empire and its replacement by the Republic of Turkey marked the beginning of the long road that has led to the Ecumenical Patriarchate's current predicament. From the establishment of the Republic until now, the Patriarchate has faced repeated confiscations of its property and a thousand bureaucratic difficulties intended to force it from Turkey using indirect pressure.

¹⁷⁷ Sebu Aslangil, "**Her cemaatın bir iç yönetmeliği olmalı**", Yok Hükümünde, Müslüman olmayan cemaatlerin tüzel kişilik ve temsil sorunu, Aras, 2016, p.12

¹⁷⁸ Andon Parizyanos, "**Vakıflarla İlgili Konuların Son On Yılda (2008-2018) Gidişatı Hakkında RUMVADER Yönetim Kurulu Başkanı Andon Parizyanos'un Görüşleri**", Cemaat Vakıfları Çalışma Raporu, 2018, p.13

¹⁷⁹ <http://www.patriarchate.org>

The founders of the Republic saw the Patriarchate as an internal enemy who had collaborated with the foreign occupiers of Istanbul in the wake of World War I. The negotiations that led to the Lausanne Treaty, Turkey's founding document, reveal that the expulsion of the Patriarchate was an essential Turkish objective. In the end, Turkish authorities grudgingly accepted the continued existence of the Patriarchate in Turkey, but no developments conducive to its welfare would be permitted.

The closure of the Theological School of Halki was a watershed in Turkey's efforts to suffocate the Patriarchate. It was based on a 1971 ruling by the Constitutional Court annulling the provisions in the Law on Private Educational Institutions (Law No. 625) that had made private institutions of higher education possible. The 1965 law was deemed unconstitutional just six years after it took effect for reasons that were undoubtedly political. Tensions were running high between Turkey and Greece over the Cyprus conflict. In issuing a ruling that would lead to the closure of the Halki school, the Constitutional Court created one more weapon for Turkish politicians to use in their struggle with Greece.

Articles 40 and 42 of the Lausanne Treaty oblige Turkey to give non-Muslims the same rights as Muslims and to facilitate their religious affairs and worship services.¹⁸⁰ The seminary's closure is yet another of Turkey's violations of the Lausanne Treaty in its treatment of non-Muslim minorities.

From Halki's closure to now, the Orthodox community has eagerly awaited its reopening. Optimism grew when the Justice and Development Party (AKP), pursuing perhaps the most minority-friendly policies in the history of the republic, came to power in 2002. The AKP has never said it will not reopen the school. On various occasions—publicly and behind closed doors—party officials have asserted the school could be reopened. Those encouraging statements date back to 2003 when Hüseyin Çelik, at the time the education minister and an AKP heavyweight, said the seminary should be reopened.¹⁸¹

As Turkey's ally, the United States has taken every opportunity to urge Ankara to reopen the school. In 1999, President Bill Clinton visited the school and told his counterpart Süleyman Demirel that it ought to be reopened.¹⁸²

The US Congress has similarly called on Turkey to reopen Halki, issuing various resolutions on the topic since 2002.¹⁸³ When President Barack Obama addressed the Turkish parliament in 2009, he also emphasized the importance of reopening the school.¹⁸⁴ Not only the United States, but the European Union and an array of individual European countries have urged Turkey to reopen the school.

Nevertheless, the seminary remains closed, and some 2013 remarks by (then) Prime Minister Recep Tayyip Erdoğan reveal why. Erdoğan wants two mosques to be opened in Athens in return for the reopening of the seminary.¹⁸⁵ This nonsensical demand shows that the AKP government is simply perpetuating the mindset of its nationalist predecessors, by which non-Muslims are regarded as foreigners. The seminary's abbot, Elpidophoros Lambriniadis, has highlighted the incoherence of Erdoğan's demand: "Had we been Greek citizens, his demand could have made more sense. But we are Turkish citizens."¹⁸⁶

180 <http://www.hri.org/docs/lausanne/part1.html>

181 <http://webarsiv.hurriyet.com.tr/2003/10/31/364989.asp>

182 <http://www.milliyet.com.tr/1999/11/17/haber/hab03.html>

183 <https://bulk.resource.org/gpo.gov/bills/107/hc345ih.txt.pdf>

184 http://www.whitehouse.gov/the_press_office/Remarks-By-President-Obama-To-The-Turkish-Parliament

185 <http://yenisafak.com.tr/politika-haber/ruhban-okulu-onunde-engel-var-29.03.2013-505857>

186 <http://www.hurriyet.com.tr/gundem/21160706.asp>

On the occasion of Greek Prime Minister Tsipras's visit to Turkey in February 2019, Ecumenical Patriarch Bartholomew said, "It is regrettable that a school opened during the Ottoman era closed during the Republican period and has remained closed for almost half a century. We continue our hopes on this issue."¹⁸⁷

However, as of the writing of this report, no concrete step has been taken toward reopening the seminary.

187 <http://www.hurriyet.com.tr/dunya/ciprastan-heybeliada-ruhban-okulu-cagrisi-41107916>

PART 4

PLACES OF WORSHIP

4A) THE INABILITY TO OPEN PLACES OF WORSHIP

Anyone looking at how Turkish media has covered the permission obtained by the Syriac community to build a new Syriac Orthodox church immediately understands there is something strange about opening a church in Turkey. For example, Sabah newspaper announced “The first church to be built from scratch in the history of Republic has been licensed.”¹⁸⁸ Hürriyet used the headline “The first church of the Republic,”¹⁸⁹ while NTV declared “The first church in the history of the Republic has been licensed.”¹⁹⁰

When you read these news stories from a certain perspective, you realize they reflect the perception that since the founding of the Republic religious minorities have not been granted licenses for new places of worship. Apart from a few instances, this perception is true. According to the prevailing understanding in Turkey, non-Muslims’ places of worship are limited to churches and synagogues which have historically been used by the “Lausanne minorities.”

For many years, legislation reflected this understanding. Until certain amendments in 2003, Turkish zoning law stated that places for “mosques” would be allocated when zoning plans are being made. But changes to zoning and other types of laws have not solved Turkey’s problems related to “places of worship.” Although in theory it became possible for non-Muslims to open new places of worship, in practice we see this has not happened.

According to Supplementary Article 2 of the Zoning Law: “In the preparation of land development plans, necessary places of worship shall be allocated taking into consideration the conditions and future needs of the territory planned. In provinces, districts and towns, places of worship may be built provided that permits are obtained from the administrative chief and they conform to the land development legislation. A place for worship may not be allocated for other purposes in violation of the land development legislation.”

The text of Article 2 correlates to a three-stage process. First, the municipality allocates certain tracts for places of worship when making the zoning plan. Secondly, a group of worshippers contacts the municipality and requests that the tract, which is designated as a place of worship in the publicly available zoning plan, be allocated to them. If the municipality allocates the tract to that group, then the group seeks the permission of the administrative chief.

A report by the Protestant Churches Association titled “Is the Right to Establish a Place of Wor-

188 <https://www.sabah.com.tr/yasam/2019/01/08/cumhuriyet-tarihinin-sifirdan-insa-edilecek-ilk-kilisesine-ruhsat-cikti>

189 <http://www.hurriyet.com.tr/gundem/cumhuriyetin-ilk-kilisesi-41077271>

190 https://www.ntv.com.tr/turkiye/cumhuriyet-tarihinin-ilk-kilisesinin-ruhsati-verildi,T_de4QY1_0OaCI-hufJutw

ship in Turkey a Lost Right?” describes what happened between the publication of the amended zoning law and the end of 2014:

Although the municipalities’ urban zoning plans have designated locations for places of worship, non-Muslim minorities applying to municipalities say that municipalities have reserved space only for mosques, and have not set aside space for Christian churches and Jehovah’s Witnesses’ halls. The results are consistent with these claims; none of the 22 places of worship of Jehovah’s Witnesses have official status and applicants to municipalities receive the response ‘no religious space has been allocated except for the existing mosques in our region.’ The experience of Protestants is no different; out of more than 10 applications, only one was successful. Protestants and Jehovah’s Witnesses are relatively new groups and therefore do not have historical places of worship, and [when] their applications are constantly rejected, their experiences offer important clues about establishing a place of worship in Turkey. As a result of the municipalities disregarding the demands of these communities when preparing urban zoning plans, these communities are forced to continue to use places of worship that do not have the status of places of worship. The fact that only mosques are included in the zoning plans and that very few applications for other places of worship are successful highlights the problem of discrimination based on religion or belief during the exercise of the right to establish a place of worship.”¹⁹¹

Sema Kılıçer, analyzing sections related to freedom of religion in the 1998–2015 progress reports of the European Union Commission, found that other than Diyarbakır and Van, no municipality had officially authorized a Protestant or Jehovah’s Witnesses place of worship.¹⁹² Furthermore, though the Diyarbakır and Van municipal committees granted approval to such places of worship,¹⁹³ which were properties purchased by the religious communities, as of this writing these churches had been unable to get approval at the provincial level. Protestants report that so far, no congregation from among them has been granted a license for a place of worship except the Istanbul Protestant Church Foundation. The licensing process experienced by that particular foundation represents an isolated and exceptional development that could not be replicated by other Protestant churches in Istanbul or in Turkey more widely.

The stories and statistics detailed above paint a picture of what Turkey’s minority religious communities face when attempting to open a new place of worship. Turkey’s bureaucracy and the municipalities governed by the main opposition party, the CHP, share a mentality that disregards non-Muslim minorities. While the HDP-held municipalities of Van and Diyarbakır have broken from this “tradition,” we see that the flexibility shown by CHP municipalities for Alevi houses of worship—Cemevis—is set aside when it comes to Protestants and Jehovah’s Witnesses.

The Protestant Churches Association report on places of worship also documents how Salvation Protestant Church and Çankaya Municipality, part of a CHP stronghold, played the game of “puss in the corner,” showing in a striking way how “dissenting” municipalities assume State reflexes when it comes to religious minorities:

“First on 15.05.2006 [...] as the Association of Salvation Churches, a petition was filed with the Ankara Metropolitan Municipality regarding the need for a place of worship. The petition

191 Protestan Kiliseler Derneği, “Türkiye’de İbadet Yeri Kurma Hakkı Kayıp Bir Hak mı?”, <http://www.protestan-kiliseler.org/ibadetYeriRaporu.pdf>, p.15-16

192 Sema Kılıçer, “An overview of the European Commission’s Progress Reports on Turkey 1998-2015 regarding the freedom of religion and belief”, p.7

193 8 April 2019 interview with Protestants

stated that difficulty was caused by the [current] place of worship being...insufficient in terms of both space and security, and a place for worship was requested.

Unable to receive a response to its application, the Salvation Churches Association submitted new petitions several times beginning in 2007, requesting information about its applications [...] The reply dated 16 April 2007 stated ‘a suitable place for your congregation has not been identified.’

An application was made again in 2013, this time on the basis of information in the files on the places of worship in the district provided by officials in the Real Estate Office of the Çankaya Municipality.

This time the application was rejected because the location requested had been taken by the Directorate of Religious Affairs. Then an application was made for another location. This place was empty and not being used by anyone and there was no [competing] request for this place. This time, however, the application was rejected on the grounds that the location belonged to the treasury.”¹⁹⁴

As of late 2019, the Salvation Churches Association had not been allocated land on which it could build a church. The European Court of Human Rights, ruling on a case brought by the Jehovah’s Witnesses¹⁹⁵ about their being neither able to use existing places of worship nor open new places of worship, concluded that the administrative authorities in Turkey tended to apply legislation on places of worship in a “rigid” and “prohibitive” manner. The Court also stated that “domestic courts had taken no account of the specific needs of a small community of believers, and [...] the impugned legislation was completely silent on this type of need on the part of small communities, even though the small number of adherents meant that the congregations in question needed not a building with a specific architectural design but a simple meeting room in which to worship, meet, and teach their beliefs.”

Indeed, given that a Muslim prayer room (mescit) is required to be included in almost every high-occupancy workplace or publicly accessible building in Turkey, the restrictions imposed on religious minorities’ places of worship can be understood to violate not only freedom of religion and belief, but prohibitions on discrimination. States may not discriminate between majority religious sects and sects or communities to which only a minority belongs. That is to say, Turkey has not only failed to fulfill its positive obligation to provide for minority places of worship, but has failed in regards to the negative, and more fundamental, obligation to not interfere with places of worship established by the religious communities themselves.

I discuss issues of the cemevi (the Alevi place of worship) under a separate heading below. However, problems regarding places of worship and other practical difficulties faced by those minority religious communities Turkey has deemed fall outside the scope of Lausanne are potentially in conflict with Turkey’s commitments under the European Convention on Human Rights. Any of these matters may lead to applications to the ECtHR and subsequently to rulings that Turkey is in violation of those commitments.

194 Protestan Kiliseler Derneği, “Türkiye’de İbadet Yeri Kurma Hakkı Kayıp Bir Hak mı?”, <http://www.protestan-kiliseler.org/ibadetYeriRaporu.pdf>, p.20-21

195 ECtHR, **Association for Solidarity with Jehovah Witnesses and Others v. Turkey**, Application nos. 36915/10 and 8606/13

A recent development in Turkey, popularly referred to as “construction reconciliation,” has inspired religious minorities to attempt a new way of making their places of worship official. According to a representative from the Association of Protestant Churches,¹⁹⁶ after the construction reconciliation was announced, some Protestant congregations applied to the Land Registry Offices for a “type change,” registering their buildings as “places of worship.” He added that these applications can simply be made on the basis of a statement and that the applicants have not encountered any difficulties so far.

In fact, this change to the deed represents the final stage in the normal procedure, a stage previously only reachable after an initial allocation of space by the municipality and the governor’s approval for a license. However, we do not yet know whether this path, already being accessed by religious minority congregations as the only potential way to acquire official status for their meeting places, will lead to a permanent right. Although registering such locations as “places of worship” may seem like a legal gain, it is still unclear whether this registration will result in a *de facto* status recognized by public authorities.

4B) CONVERSION OF HISTORICAL PLACES OF WORSHIP INTO MUSEUMS AND MOSQUES

Historically, places of worship belonging to non-Muslim communities in Turkey have often been converted into museums. Some have even been turned into mosques.

The Cathedral of the Holy Cross on Ahtamar Island in Van and Sumela Monastery in Trabzon were built and used for centuries as places of worship but today operate as museums. They are each open for worship only one day out of the year. One day per year must have been considered sufficient to meet the demand for faith tourism. The State mentality must also have objected to giving worshippers more than one day per year of access, as more might cause these sites to be seen as a church and a monastery rather than as museums.

In comparison, other historical places of worship are not as lucky as the Cathedral of the Holy Cross or Sumeleya Monastery. At least the cathedral and monastery are treated as cultural artifacts with a specific religious identity, even if that identity is symbolic rather than functional. As seen in the example of two Hagia Sophia churches, historically Christian structures have also been transformed into mosques, cutting these structures off from the religious communities that built and used them, and severing even the last symbolic ties to their past.

The Hagia Sophia church in Iznik (ancient Nicea), built in the 6th century, was converted into a museum in 1935 and into a mosque in 2012. Likewise, the Hagia Sophia church in Trabzon, built in the 13th century, was granted museum status in 1964 but was converted into a mosque in 2013. Both churches had been used as mosques during the Ottoman period.^{197,198}

While these two Hagia Sophias are important to the Greek Orthodox community, the spiritual significance of the great Hagia Sophia in Istanbul to that community is difficult to overstate. For more than a millennium, Hagia Sophia served as a sacred place of worship for the Ecumenical Pa-

196 8 April 2019 interview with Protestants

197 Kerry Kolasa-Sikiaridi, “**Hagia Sophia in Iznik: Historical Church Turned Mosque**”, <https://eu.greekreporter.com/2018/06/14/hagia-sophia-in-iznik-historical-church-turned-mosque/>

198 Caroline Eden, “**Turkey’s other Hagia Sophia, in Trabzon**”, <https://www.theguardian.com/travel/2017/oct/25/turkey-other-hagia-sophia-trabzon-church-mosque>

triarchate.¹⁹⁹ This cathedral, in which the Byzantine emperors were crowned, was used as a symbol of power by the Ottoman sultans and converted from a church to a mosque after Fatih's conquest of Istanbul in 1453. In 1934, at the order of Atatürk, it was stripped of religious and political references and was turned into a museum.

At the time of this writing, the possibility of reconverting the great Hagia Sophia into a mosque is under discussion. Given the Hagia Sophia's deep symbolism and its political and ideological references, this discussion warrants a closer look.

Turkish journalist Ruşen Çakır, who closely follows Islamist movements, recounts²⁰⁰ that prior to the Justice and Development Party's ascent to power in 2002, conservative and Islamist groups in Turkey made three main demands during their demonstrations: lifting the ban on the Islamic headscarf, an end to restrictions on the Imam Hatip religious schools, and Hagia Sophia's conversion into a mosque.

In the 16 years of Justice and Development Party rule, all conservative demands concerning the headscarf and the Imam Hatip schools have been met, but Hagia Sophia has remained a museum off limits to Muslim worship. During these years, Erdoğan, on various occasions and using various reasons, has rejected calls to transform the cathedral to a mosque. At the reopening of a restored Istanbul mosque in 2014, for instance, he responded to chants demanding Hagia Sophia's conversion by telling worshippers to use the existing mosques in the vicinity, including the famed Blue Mosque. "The Blue Mosque is right next to it. Let's fill this place first and we will see thereafter,"²⁰¹ he said.

The controversy flared again after the mid-March 2019 massacre at New Zealand mosques when it emerged that the assailant explicitly referred to Erdoğan and the Hagia Sophia²⁰² in messages published shortly before the attack. With Turkey's local elections scheduled for 31 March, chants demanding Hagia Sophia's conversion to a mosque began to ring out again at Erdoğan's rallies. Responding to such chants at a 16 March 2019 rally, Erdoğan said, "You should fill the Blue Mosque first and then we'll see [...] This issue has a political dimension [...] Let's not fall for those games [...] We know how and when to act."²⁰³

By "political dimension," Erdogan meant the outcry that changing Hagia Sophia's status would trigger both at home and abroad. In an 18 March televised interview, he elaborated further, pointing to the downsides of making Hagia Sophia a mosque, which he said would have a "heavy price" that outweighed the gains. "Let's not forget that we have thousands of mosques across the world," he said, adding that the proponents of making Hagia Sophia a mosque failed to consider "what could then happen to those mosques" and lacked understanding of world affairs. "We carry the burden of the Muslim world [...] hence we need to be cautious and careful," he said.²⁰⁴

In less than a week, however, Erdogan was singing a different tune. "Hagia Sophia could be re-

199 Greek Orthodox Archdiocese of America, "**The Church of Hagia Sophia**", <https://www.goarch.org/-/the-church-of-hagia-sophia>

200 <https://www.youtube.com/watch?v=sDbYdx1t8hs>

201 Haber Türk, "**Başbakan Erdoğan'dan Ayasofya cevabı**", 6 June 2014 <https://www.haberturk.com/gundem/haber/955305-basbakan-erdogandan-ayasofya-cevabi>

202 The National Herald, "**New Zealand Killer's Weapon Had 'Turkofagos' and 'Hagia Sophia Will Be Liberated' Written On It**", <https://www.thenationalherald.com/235490/new-zealand-killers-weapon-had-tourkofagos-and-hagia-sophia-will-be-liberated-written-on-it/>

203 <https://onedio.com/haber/gundem-ayasofya-cumhurbaskani-erdogan-dan-8-gunde-3-ayri-aciklama-866465>

204 <https://onedio.com/haber/gundem-ayasofya-cumhurbaskani-erdogan-dan-8-gunde-3-ayri-aciklama-866465>

moved from its museum status. Entry to Hagia Sophia could become free after the elections. We could name it not Hagia Sophia Museum, but Hagia Sophia Mosque, and open it to visitors free of charge,” he said in a 24 March television interview.²⁰⁵

Erdogan did not explicitly say Hagia Sophia would be opened for worship, but by speaking of a “Hagia Sophia Mosque,” he made it clear that the edifice’s museum status would change. And once it was considered a mosque, other obstacles to worship in the structure would, no doubt, be removed.

As this report is being written, it remains unclear whether Hagia Sophia in Istanbul will be reclassified as a mosque or opened for Muslim worship. It is, however, clear that any steps toward these ends would have a very negative meaning for the Ecumenical Patriarchate, the Greek community of Istanbul and Christian world in general.

In fact, Ecumenical Patriarch Bartholomew has repeatedly voiced his community’s opposition to all proposals for reopening the minor and great Hagia Sophias as mosques. Regarding the conversion of Hagia Sophia in Trabzon from a museum to a mosque, he stated that there were enough mosques, that there was no need for another, and that Hagia Sophia should remain a museum.²⁰⁶

When the conversion of the great Hagia Sophia of Istanbul is discussed, the Ecumenical Patriarch demonstrates what seems to be a stronger opposition, saying: “It should remain a museum, and if it is to be opened for worship, it should be opened as a church.”²⁰⁷

There is no understanding in Turkey that places of worship should belong to the heirs of those who designed, built, and used them. On the contrary, as can be seen by the demands that the great Hagia Sophia be opened for worship as a mosque, these places of worship are considered the natural property of Muslims.

4C) THE QUESTION OF CEMEVIS

Cemevis, where Alevi conduct their worship called cem, still have no legal status in Turkey. As surprising as it may seem, this non-recognition has been the case throughout the history of the Turkish Republic. Although the 1925 law on the Closure of Dervish Monasteries and Tombs was introduced to “combat fundamentalism,” it led to the loss of the Alevi religious leaders, called dedes, and made it impossible for Alevi to conduct worship services. The law accomplished this directly, by closing the Alevi lodges, and indirectly, by banning Alevi religious offices.

The Law on the Closure of Dervish Monasteries and Tombs is understood to be a “revolutionary law” enacted in the time of Atatürk. According to Article 174 of the Turkish Constitution, such laws cannot be found to be in violation of the Constitution. This does not, however, mean these laws cannot be changed.²⁰⁸

205 <https://www.sozcu.com.tr/2019/gundem/son-dakika-erdogandan-ayasofya-muzesi-aciklamasi-4112632/>

206 NAT da Polis, **Bartholomew I: Do not transform Hagia Sophia in Trabzon into a mosque**, <http://www.asianews.it/news-en/Bartholomew-I-Do-not-transform-Hagia-Sophia-in-Trabzon-into-a-mosque-25568.html>

207 NAT da Polis, **Ecumenical Patriarch says no to Hagia Sophia as a mosque, yes to Christian worship**, <http://www.asianews.it/news-en/Ecumenical-Patriarch-says-no-to-Hagia-Sophia-as-a-mosque,-yes-to-Christian-worship-30483.html>

208 Taha Akyol, “**Tekkeler ve Aleviler**”, *Hürriyet*, 14 November 2013, <http://www.hurriyet.com.tr/tekkeler-ve-aleviler-25112971>

In today's Turkey two reasons are put forward to justify the failure to recognize cemevis. The first is that the place of worship for Muslims is the mosque. The second is that the Law on the Closure of Dervish Lodges and Monasteries and Tombs does not allow official recognition of cemevis as places of worship.²⁰⁹

It is interesting that the Justice and Development Party (AKP) government, whose political legacy is almost entirely based on reckoning with "Kemalism" and "Kemalist revolutions," uses the Law on the Closure of Dervish Monasteries and Tombs, a classic example of Kemalism, to justify its refusal to recognize cemevis. The AKP government has done this, for example, in defense petitions it has submitted to the ECtHR.

In its 2016 ruling on İzzettin Doğan and Friends, the ECtHR heavily sentenced Turkey not only because the Court ruled that Turkey had failed to recognize Alevi places of worship, but because it found Alevis were discriminated against in the provision of public services by Turkey's Directorate of Religious Affairs, and that Turkey failed to recognize Alevism in general.

As of November 2019, Turkey had not implemented the Court's judgement. The ECtHR's findings and conclusions in İzzettin Doğan could forcibly alter the very foundations of the State-religion relationship in Turkey.

The ECtHR, as it had done previously in other important decisions, drew attention in İzzettin Doğan to the autonomous structure of religious communities. According to this principle, only the highest authority of a religious community may determine the community's affiliation with a faith. The State may never determine this.²¹⁰

Applying this principle, it is impossible for the Turkish government to continue to rely on the view of its Directorate of Religious Affairs in denying that Alevism is a distinct religious belief, because Alevis very clearly state that their beliefs differ from those of Sunni Islam.

One of the most significant consequences of the State not recognizing cemevis is that construction permits cannot be obtained to build them in areas designated for places of worship in municipal construction plans. Alevis are forced to construct cemevis only on private land.²¹¹

When it came to the recognition of cemevis, the ECtHR's findings rebutted Turkey's argument that State tolerance of cem worship meant that there was no violation of freedom of religion in practice. The Court said it could not regard the tolerance allegedly shown by the government as an adequate substitute for recognition, which alone was capable of conferring rights on those concerned.²¹²

In the ECtHR's view, because no clear legal framework governs the situation of unrecognized religious minorities such as Alevis, additional legal, organizational, and financial problems occur. First, the ability to build a new place of worship is uncertain because it is subject to the goodwill of central or local authorities. Second, unrecognized communities do not have access to the courts in their own

209 Norwegian Helsinki Committee, "Alevi cem houses: Freedom of Religion or Belief in Turkey, an input for public discussion", A Norwegian Helsinki Committee Paper, No.3-2014, p.3

210 ECtHR, *Case of İzzettin Doğan and Others v. Turkey*, para.121

211 Mehmet Bardakçı, Annette Freyberg-Inan, Christoph Giesel and Olaf Leisse, "Religious Minorities in Turkey", Macmillan Publishers, 2017, p.103

212 ECtHR, *Case of İzzettin Doğan and Others v. Turkey*, para.127

right but only through foundations, associations, or groups of followers.²¹³

Having made these findings, the ECtHR concluded that Turkey had violated the applicants' freedom of religion. The Court also said Turkey's different treatment of majority religion adherents and Alevis lacked an objective and reasonable justification, resulting in a violation of Article 14 of the European Convention on Human Rights, which prohibits discrimination.

Another important ECtHR decision on nonrecognition of cemevis had been issued in 2014 in the case *Republican Education and Culture Center Foundation v. Turkey*. The Court concluded that nonrecognition of cemevis, in preventing the Alevi community from benefitting from laws exempting Sunni places of worship from paying for electricity, was discrimination on the grounds of religion.

In that case, an Alevi foundation had requested that its center in Yeni Bosna, which included a cemevi, be exempt from paying electricity bills on the basis of laws that allowed places of worship to receive electricity for free. The foundation applied to the ECtHR after a domestic litigation process during which Turkey's Supreme Court of Cassation confirmed the Turkish government's position that since cemevis were not places of worship they were not exempt from paying for electricity.

The ECtHR disagreed, writing that if a State introduces a privileged status for places of worship, all religious groups that desire to take advantage of the privilege must be offered a fair opportunity to do so, and that established criteria for the status must be applied in a non-discriminatory manner. The Court found, therefore, that Turkey had violated ECHR Article 14, which prohibits discrimination, in connection with Article 9, which protects freedom of religion.

As of this writing, Turkey has not made the legal changes necessary to implement these ECtHR decisions, and still does not recognize cemevis as places of worship. However, according to the Norwegian Helsinki Committee Freedom of Belief Initiative, *Republican Education and Culture Center Foundation v. Turkey* seems to have had an impact on some first instance courts: "In light of the decision of the ECtHR, some courts decided that electricity bills should be paid from the budget of the Directorate of Religious Affairs. For example, in the case filed by Cem Foundation Yenice Branch in Tarsus and Sıtkı Baba Cemevi for 'payment of cemevis' electricity bills by the State," the Tarsus 1. Court of First Instance ruled that cemevis counted as places of worship and that their electricity bill should be paid from the Religious Affairs budget."²¹⁴

However, that these cemevis have had to bring separate cases to benefit from a government service provided to places of worship means that Turkey has not implemented the ECtHR's decision. Implementation would entail cemevis and other currently unrecognized places of worship benefitting from these government services as a routine matter, without having to appeal to a court or to any other authority for a decision that grants them the benefit.

213 ECtHR, *Case of İzzettin Doğan and Others v. Turkey*, para.130

214 Norwegian Helsinki Committee, "Hak ve Eşitliğin Peşinde-Türkiye'de İnanç Özgürlüğü İzleme Raporu Ocak 2016-Mart 2019", p.19-20

PART 5

DISCRIMINATION AND HATE SPEECH

5A) DISCRIMINATION

*“I have, of course, faced a lot of negative discrimination for being an Armenian before this. For instance, when I was doing my short-term military service (8 months) in the Denizli 12th Infantry Regiment, all my friends in my cohort were promoted to the rank of private after taking the oath except for me. I was a man with two children and perhaps I shouldn’t have cared. What’s more, I would be more comfortable than the others. I would not be assigned night watches or more difficult duties. But the truth of the matter is, I was deeply affected by this discrimination. I will never ever forget how I hid behind the tin shed and cried alone for two hours after the oath ceremony, while everyone else shared their happiness with their families.”²¹⁵ **Hrant Dink, 12 January 2007***

*“...no people can be a monolithic whole. I cannot and I won’t say Armenian people are this, this is how they see things, this is how they live. But of course, the Armenian community [that remains in Turkey] is a people subjected to a hundred years of pressure from the state and consequently have been negatively affected psychologically. During this pressure, they were helped by very few groups or circles. Many Armenians don’t want to put themselves forward, they think twice when taking positions. I mean, we’re the kind of people who, when a cabbie asks for our names, think about whether we should say our real names. Because you never know what’s going to happen after that. From this point of view, the life of Armenian people in Turkey is to live a bit as if we exist and a bit as if we do not exist. Of course, not all Armenians live like this, but we can say that the fear pervading some segment is not unfounded. There are those who want to smash this fear, to say what they know as truth, and Hrant was one of them. That’s why he was killed. So here we enter a dead end street. It’s not possible to say, “No, nothing will happen to me” to those who say, “If you talk, something will happen to you.” In the end, we are talking about a people who were subjected to genocide, whose properties have been confiscated, and whose existence has been denied.”²¹⁶ **Yervart Danzikyan, 19 January 2019***

Non-Muslims cannot participate in Turkey’s State institutions. They cannot enter law enforcement, or become military officers, or serve as judges or prosecutors. The only public institution that accepts non-Muslims as employees are universities.²¹⁷

Although this situation often goes unnoticed because the percentage of non-Muslims in Turkey

215 <https://hrantdink.org/en/hrant-dink/hrant-dink-articles/728-why-was-i-chosen-as-a-target>

216 <https://www.gazeteduvar.com.tr/gundem/2019/01/19/yetvart-danzikyan-devlet-ayan-beyan-dink-cinayetinin-icin-de/>

217 29 January 2019 interview with a Jewish-Turkish journalist

is very low, the utter absence of non-Muslims in Turkey's public institutions cannot be satisfactorily explained by any reason other than institutionalized discrimination.

An incident in 2013 revealed how the Turkish State knows which of its citizens are non-Muslim.

The story begins with a mother in Istanbul who tried to enroll her child at an Armenian school.²¹⁸ Like so many other Armenians who did what they could to survive the 1915 massacres, this woman's ancestors had converted to Islam. She wanted to regain her family's earlier identity, so she was baptized and her government-issued identity card was updated with the classification "Christian."

She thought her legal identity as a Christian would be enough to allow her to enroll her child at an Armenian school, but she soon found it would not be so easy. Bureaucratic steps were required. She was told, "You must get an official certification from the National Education Office attesting that there is no impediment to you enrolling [your child] in this school." The family went to the local National Education Office and requested a document allowing the child to be enrolled at the Armenian school. The written response of the Istanbul-Şişli District National Education Office included a shocking revelation:²¹⁹

"To know whether the parent of the student to be enrolled had changed religion, name, or sect by a court decision, her 'Family Status' population register confidential ancestry code (for example, the population registry code for Armenians is 2), [in use] from 1923 until now, must be extracted, and the student concerned can be registered if his parent's confidential code is 2 at the relevant population and citizenship directorate register."

After this story broke, interviews with authorities and research conducted by the newspaper *Radikal* revealed a century-long saga of discrimination²²⁰ Turkey had assigned populations "ancestry codes" dating back to the 1923 Lausanne Treaty. According to *Radikal*'s findings, Turkey's Population Directorate used 1 to designate Greeks, 2 for Armenians, and 3 for Jews.

Officials cited by *Radikal* claimed the ancestry codes were used only to determine who may enroll in minority educational institutions. Further research by *Radikal*, however, showed the falsity of this claim.²²¹ Syrians were discovered to be coded as 4 and other non-Muslims as 5. The minorities coded as 1, 2, and 3 each have their own schools, but as of 2013, Syrians and other minorities did not.

What emerged in the journalistic investigation was a phenomenon that had always been suspected but impossible to document. Perhaps this code was what had ensured no non-Muslim ever served in Turkey's military, police force, or judiciary. Even if non-Muslims adopted Muslim names and changed their religious affiliation to "Muslim" on their identification cards, their origins were always known to the State.

The questions generated by the discovery of this century-old practice could change our understanding of many historical events. For example, did the ancestry code play an important role in implementing the 1946 Wealth Tax that largely targeted Turkey's non-Muslims? Did this registry impact the pogroms in which the homes and businesses of Thracian Jews were plundered in 1934 and those of Istanbul's ethnic Greek residents in 1955?

218 <http://www.agos.com.tr/haber.php?seo=90-yildir-soy-kodu-ile-fislemisler&haberid=5479>

219 *Radikal*, "Nüfus kayıtlarında 'soy kodu' ile fişleme, <http://www.radikal.com.tr/turkiye/nufus-kayitlarinda-soy-kodu-ile-fisleme-1144436/>

220 <http://www.radikal.com.tr/turkiye/nufus-kayitlarinda-soy-kodu-ile-fisleme-1144436/>

221 http://www.radikal.com.tr/turkiye/soy_kodu_osmanlidan_suryaniler_4_numara-1144612

Does the continued use of these codes reveal that the policies of the Progress and Union (İttihat ve Terakki) Party, which orchestrated the Armenian Genocide in 1915, were adopted in their entirety by the Republic of Turkey when it was established in 1923?

In response to a 2016 question submitted by Garo Paylan, a member of parliament of Armenian origin, officials reported that the ancestry code had been removed from the system of the General Directorate of Population Affairs, i.e., that it was no longer being used.²²²

It may not be wise to assume the Turkish bureaucracy could so easily have given up a century-old practice. Commenting on the ancestry code's purported removal, human rights lawyer Cem Halavut told *Agos* weekly:²²³ "Since the ancestry code is an unofficial [illegal] practice, this practice cannot be ended by a legal order, only discontinued by direction of a circular. We were informed of the application of the ancestry code when a child's demand to be registered at an Armenian school had been refused on the ground that his ancestry code was not '2.' It is of course gratifying that such an event will not happen again. But I think the state always has such information, so we cannot say there will never be discrimination again."

The discrimination faced by religious minorities in Turkey is not limited to the inability of non-Muslims to enter public office. Religious minorities face discrimination in many different areas, from opening places of worship and training clergy to benefiting from religious services provided by the State.

Only Sunni Muslim citizens of Turkey benefit from the services of the Directorate of Religious Affairs, which in 2019 had a budget of 10.5 billion liras²²⁴ (approximately 1.838 billion US dollars). It is unacceptable in a democratic society that an institution with such an enormous share of the public budget completely excludes Alevi and non-Muslims from its services.

Turkish public schools have compulsory religion classes from the fourth grade of primary school until the end of secondary education. The curriculum, like other State-funded programs, favors the Sunni conception of Islam and is designed to impose it on students.

In 2007, the ECtHR found in *Hasan and Eylem Zengin v. Turkey* that Turkey's compulsory religion classes violated the applicants' rights.²²⁵ The Court, having examined the course textbooks, stated that the classes offered an education on Sunni Islam rather than on religion generally, and that such they did not meet the requirements of "objectivity and pluralism necessary for education in a democratic society."

In response to this ECtHR decision, Turkey made some changes to its religious textbooks, adding material to them on faiths other than Sunni Islam, including Alevism.

However, these changes did not prevent Turkey from being condemned by the ECtHR in 2014 on the same issue. In *Mansur Yalçın and Others*²²⁶ the ECtHR acknowledged that Turkey had amend-

222 T24, "Soy Kodları Kaldırılıyor mu?", 25 February 2016, <https://t24.com.tr/haber/soy-kodlari-kaldiriliyor-mu,329596>

223 *Agos*, "Soy kodu 'şifahen' kalktı", <http://www.agos.com.tr/tr/yazi/14473/soy-kodu-sifahen-kalkti>

224 <https://www.sozcu.com.tr/2018/ekonomi/diyanetin-butcesi-istihbarati-5e-katladi-2678028/>

225 ECtHR, *Hasan and Eylem Zengin v. Turkey*, Application no. 1448/04, [https://hudoc.echr.coe.int/eng-press#{"full-text":\["1448/04"\],"itemid":\["003-2142546-2275681"\]}](https://hudoc.echr.coe.int/eng-press#{)

226 ECtHR, *Mansur Yalçın and Others v. Turkey*, Application no. 21163/11, 16 September 2014

ed its religion course curriculum, but cited expert testimony that the changes had mostly involved adding content on various beliefs existing in Turkey, including Alevism. The bulk of the curriculum remained unchanged in its focus on Islam as practiced and interpreted by a majority of the Turkish population. The ECtHR stated that, because the course continued to be structured around Sunni Islam, the parent applicants' concern that their children would face a conflict of allegiance between what they were taught in religion class and the values and practices they were taught at home was a legitimate one. The Court further indicated that the conflict was unavoidable because the State had failed to provide an appropriate procedure for exemption from the classes.

Despite these ECtHR decisions issued in 2007 and 2014, Turkey had not, as of December 2019, resolved the problems of its compulsory religion course. The Directorates of National Education require those who wish to be exempt from the course to submit documentation showing they are non-Muslims. Applications lacking such documentation are denied. Although some lawsuits filed by parents in administrative courts contesting these denials have been successful,²²⁷ these individual decisions have not led to a change in general practice, and the compulsory religion course continues to impose the same problematic content on students.

5B) HATE SPEECH

The Council of Europe Committee of Ministers' Recommendation No. 20 for member states of the Council of Europe in 1997 describes hate speech as follows:

"... 'hate speech' shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin."²²⁸

The ECtHR has not explicitly defined hate speech, but has often touched on the concept in its decisions. According to ECtHR rulings, it may be considered necessary in certain democratic societies to sanction or even prevent all forms of expression which spread, incite, promote or justify hatred based on intolerance.²²⁹

When we consider hate speech in the Turkish context, it is not possible to say Turkey has fulfilled its responsibility to its religious minorities. Despite the numerous incidences of grave harm suffered by minorities, no progress has been made in this area. As described earlier in this report, unfettered and unchallenged hate speech targeting minorities, including demonization in the Turkish media, has repeatedly set the stage for later physical violence inflicted on their communities.

In the section of this report describing historical attacks on religious minorities, I referred to a statement by Emre Günaydın, the prime suspect in the Malatya Zirve Publishing House massacre, made at the time of his arrest. Günaydın commented that there were 50 churches in Malatya. When these murders took place in 2008, the number of Protestant Christians in Malatya did not exceed a few dozen people, let alone a population that could support 50 churches.

Leading up to the massacre, anger at Christians and paranoia about their activities, incited by

²²⁷ <https://t24.com.tr/haber/milli-egitim-zorunlu-din-dersinden-muafiyet-icin-gayrimuslimlik-belgesi-istedi-yargi-so-ramazsin-karari-verdi,777344>

²²⁸ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680505d5b>

²²⁹ *Gündüz v. Turkey*, Application No: 35071/97, para.40

public statements and news reports, had reached a fever pitch. This was true in Turkey generally and in Malatya in particular, creating a situation in which prime suspect Günaydın could believe Malatya had 50 churches.

Hate speech targeting religious minorities in Turkey is routine. The Hrant Dink Foundation scans Turkish media and analyzes the instances of hate speech it finds, sharing the results with the public through annual reports.

According to the Hrant Dink Foundation, in 2018 Turkish media published 1,133 instances of hate speech against Jews, 973 instances of hate speech against Armenians, 439 instances of hate speech against Turkey's ethnic Greeks, 370 instances of hate speech against Christians, and 262 instances of hate speech against non-Muslims generally.²³⁰

Analysis by the Hrant Dink Foundation shows that the outlets publishing the most instances of hate speech are pro-government newspapers. However, the foundation also found hate speech against religious minorities frequently appears in the pages of *Sözcü*, *Aydınlık*, and *Yeniçağ*, right-wing and left-wing nationalist newspapers, which are popularly referred to as “dissidents.”

In interviews, minority group members report very little success when they attempt to bring instances of hate speech to the judiciary. Interestingly, prosecutors who readily find a crime in speech criticizing abstract concepts such as “Turkishness” and “the State” are not willing to take action on hate speech that targets minorities. This is where Turkey's inverted perception of freedom of expression appears most clearly: instead of penalizing hate speech that targets vulnerable groups, Turkish authorities often severely punish speech criticizing the government, which is within the scope of freedom of expression in democratic societies.

230 <https://hrantdink.org/tr/asulis/faaliyetler/projeler/medyada-nefret-soylemi/2002-medyada-nefret-soylemi-ve-ayrimci-soylem-2018-raporu-yayimlandi>

PART 6

ISLAMIZED CHRISTIANS AND THE RIGHT TO IDENTITY

In Turkey, the survivors of the 1915 Armenian Genocide and their descendants are sometimes called “remnants of the sword.” This phrase implies that a mass killing with some survivors has occurred. Besides this phrase, which has been used for many years, other phrases have started to be applied to descendants of Armenian Genocide survivors in the last two decades.

As Vercihan Ziflioğlu notes in her book *The Story of the Armenians in Purgatory*, phrases such as “Crypto-Armenians,” “Muslim Armenians,” and “Islamized Armenians” are also in use.²³¹ These terms all refer to the same social phenomenon. The genocide caused some Christian citizens of Turkey to hide their religious identity, with the result that their descendants have continued to conceal this identity, may know very little about it, or may even have become unaware of their religious heritage.

A similar phenomenon, though not as well known, has occurred among the survivors of the 1914–1923 massacres targeting the Greek community, and among those Greeks who remained in Anatolia after the 1923 Turkish-Greek population exchange.

In order to remain whole, to survive, or even to simply exist in Turkey, these minority members had to assume another identity. Some adopted their new Muslim identity with sincere belief, becoming Muslims even to themselves. Others saw their former identity as the true one and never abandoned it, but hid it carefully. Some who secretly remained Christian passed on this “inner knowledge” to the next generations, while others avoided telling their children about their family origins in order to protect them.

In the Turkish nationalist narrative, the prefix “crypto,” attached to a religious identity, is used as a pejorative. It insults the holder of the identity, implying that he or she is unreliable. This use of “crypto” assumes that someone with other options, including living openly as a member of a particular religion, deliberately chose to deceive others as to their religion.

In fact, “secret Christians” can be treated as a component or a subtopic of Turkey’s failure to face its past. The shame of horrific events in Turkey’s past is displaced from the perpetrators and their heirs to the victims and their descendants. Instead of confronting the sins of our grandfathers and grandmothers, we apply negative adjectives to the victims of those sins, accusing them of freely choosing secrecy and deception. Yes, in this aspect it is a problem of confrontation.

But on the other hand, this great tragedy of forced hidden religious identity merits its own, separate treatment as a unique problem that can’t be fully addressed under another topic.

231 Vercihan Ziflioğlu, “Araftaki Ermenilerin Hikayesi- Ne Hz. İsa’ya, ne de Hz. Muhammed’e yaranabildik”, İletişim, 2015, p.11

I call it the denial of the “right to identity.” I frame the concept in this way because, as I explain below, when these hidden Christians became known, neither the wider Muslim community nor the representatives of Turkey’s Lausanne minorities accepted them.

These individuals’ right to identity and Turkey’s need to confront its past intersect and overlap. If Turkey confronted its past, its relationship with all its minorities would undergo a profound change. If we imagine an atmosphere in which the Armenian Genocide has been fully confronted, we see that Armenians in Istanbul would be regarded as the grandchildren of genocide victims. However, the identity of “hidden Armenians” is more nuanced and complex than simply being the grandchildren of genocide victims. “Hidden Armenians” are victims not only of the genocide but also of another grave violation of rights that is not included in the acknowledgement of 1915. Their identities—whether destroyed or merely hidden—have been denied them. They lost family members to the genocide and somehow survived themselves, but this survival came at the cost of all ties to their ancient culture and identity.

The right to identity is recognized under international human rights law as an autonomous, independent right that includes the right to one’s name, family, and culture.²³² From this perspective, it is evident that the right of Islamized Armenians and Greeks to their own names, families, and cultural identities is subject to severe, ongoing violation. For had these Islamized minorities not found themselves forced to convert, had they had an uninterrupted connection with their ancestry and heritage, they would have had different names and different family histories, and would have inherited a different culture. Although perhaps it can be said that such losses occur during any assimilation, the word “assimilation” is inadequate to describing the intensity and destructiveness here. We are speaking of a complete erasure of identity.

We do not know exactly how many Armenians remained in Anatolia after the Armenian Genocide or how many Greeks remained in Turkey after the population exchange. However, some estimates have been made using existing data. For example, according to data collected by the Armenian Patriarchate following the genocide, an estimated 100,000 Armenian women and children remained in Anatolia.²³³ We have no similar data regarding the Greeks.

The Greeks and Armenians who remained in Anatolia after the massacres, population exchanges, and genocide experienced further social fracturing. Taking Armenian families as an example, we see that some remained Christian, some truly became Muslim, and some split, with part of the family maintaining a Christian identity and the other part becoming devout Muslims.²³⁴ It is also known that some Armenian families adopted a Kurdish-Alawite identity. Still others, though they converted to Islam, intermarried only with other Islamized Armenian families and saw themselves as Muslims of Armenian ethnicity.²³⁵

These Anatolian Christians were, in a way, absorbed by the social structures surrounding them.²³⁶

232 International Human Rights Law Clinic University of California, Berkeley School of Law, “**Right to Identity**,” 2007, <http://scm.oas.org/pdfs/2007/CP19277.PDF>

233 Raymond Kevorkian, “**The Armenian Genocide**”, I.B, Tauris, 2011 aktaran Laurence Ritter, <https://repairfuture.net/index.php/en/identity-other-standpoint/from-silence-to-silence-armenian-identity-and-islamized-armenians>

234 Laurence Ritter, “**Kimliğin Yeniden İnşası: Gizli ve Müslümanlaştırılmış Ermeniler Arasında Aile Yapısının Önemi, Müslümanlaş(tırıl)mış Ermeniler**”, Konferans Tebliğleri, Hrnt Dink Vakfı, 2013, p.400

235 Laurence Ritter, Max Sivaslian “**Kılıç Artıkları**”, Hrnt Dink Yayınları, 2013, p.13

236 Mert Kaya, **The Islamization of Anatolian Greeks between the years 1919-1925: A study of memory**, Master’s Thesis, Hacettepe University Graduate School of Social Sciences Department of Communication Sciences, 2017, p.93

On the one hand, they produced new forms of existence within the wider Muslim community, while on the other hand, they kept alive the beliefs and cultures they carried from the past in various forms. For example, as Mert Kaya points out, the Christian tradition of egg painting continued until recently in these Islamized families. And although Islam generally forbids the consumption of alcohol, among these families were liquor and wine producers.²³⁷ Likewise, Tamer Çilingir states that many traditions unrelated to Islam, mostly in accordance with the Christian faith, continue to live on in Turkey's Black Sea region. These include customs such as using coffins to bury the dead and participating in activities that reflect the church calendar.²³⁸

It may be that these activities are not undertaken as a conscious effort to keep a heritage alive. Traces of the past, of one's family and ancient culture, may be retained as habits without knowledge of their origin. Islamized Christians encounter this identity from the past in different ways, but the emotions that arise after the encounter are often intense. A significant number of Islamized Armenians describe great pain and even anger that a fact about themselves and their families remained hidden for many years.²³⁹

The stories of Islamized Greeks and Armenians learning their true identities differ greatly. For some, this identity is something they had always intuited from clues in their environment. For example, some secret Armenians living in southeastern Turkey say they were referred to by their neighbors as "Mıslimeni." This Kurdish word literally means "Muslim," but was used to denote converts to Islam.²⁴⁰ There are also situations where a family has knowledge of its past and origins but this knowledge has been kept from individuals within that family.²⁴¹

When it comes to this knowledge of identity, the State is undoubtedly in the greatest position to recognize Islamized Christians who are unaware of their own background. As discussed above under the section "Discrimination," Turkey has recorded the family histories of its citizens in the population records, and thus knows everyone's genealogy, including those of the "secret" Greeks and Armenians.²⁴²

This information possessed by the State has sometimes been reported to those it concerns in traumatic contexts. For example, in the interrogations following the 12 September 1980 military coup—in which the interrogators frequently used torture—some detainees learned of their Armenian ethnicity for the first time at the hands of their torturers.²⁴³

A few incidents, especially those involving secret Christians coming out into the open, claiming their identities, and reckoning with their situations, seem to have served as a catalyst. According to Vercihan Ziflioğlu, the 19 January 2007 murder of Hrant Dink was one of the most important turning points in Christian self-recognition: "Dink's death broke a century of silence, and bit by bit the

237 Mert Kaya, *ibid.*, p.108

238 Tamer Çilingir, **Rupen Varjebeyan ile söyleşi, Resmi tarihin unutturulan sayfası: Pontos Rum Soykırımı**, Agos, 10 December 2016

239 Ayşe Gül Altınay, "Müslümanlaş(tırıl)mış Ermenilere Dair Tarihsel Suskunluk ve Yeniz Hafıza Çalışmaları", Müslümanlaş(tırıl)mış Ermeniler, Konferans Tebliğleri, Hrant Dink Vakfı, 2013, p.65

240 Vercihan Ziflioğlu, "Araftaki Ermenilerin Hikayesi", İletişim, 2015, p.70

241 Bir Ermeni araştırmacıyla görüşme, İstanbul, 22 January 2019

242 Orhan Kemal Cengiz, "Turkey's Secret 'Ancestry Codes' Track Non-Muslim Minorities", Al Monitor, 8 August 2013, <https://www.al-monitor.com/pulse/originals/2013/08/turkish-ancestry-codes.html/>

243 Vercihan Ziflioğlu, "Araftaki Ermenilerin Hikayesi- Ne Hz. İsa'ya, ne de Hz. Muhammed'e yaranabildik", İletişim, 2015, p.12

Crypto-Armenians began to emerge.”²⁴⁴ As Ziflioğlu points out, books such as Fethiye Çetin’s *My Grandmother*, Ayşegül Altınay’s *Grandchildren*, and others on Armenian grandmothers broke taboos and accelerated the discovery and acceptance of Christian identity.²⁴⁵

Although Hrant Dink’s murder was understood to be the murder of an Armenian who was too outspoken and too bold in claiming his identity, the enormous public outcry against his murder cascaded into a powerful expression of Armenian identity and solidarity with that identity. Tens of thousands of people attending Hrant Dink’s funeral chanted “We are all Armenians,”²⁴⁶ and carried banners and placards bearing this proclamation in Armenian, Turkish, English, Kurdish, and other languages. Such a social reaction was unprecedented in Turkey.

Ziflioğlu writes that this monumental public reaction to Dink’s murder transformed Armenian-ness from something to be ashamed of something to be claimed, encouraging Islamized Armenians to come out in the open.²⁴⁷ According to Ziflioğlu, another factor accelerating the reclamation of Armenian identity was the restoration and reopening of historical Armenian churches in Diyarbakir, Van, and Kayseri. For example, the restoration of the Surp Giragos Church in Diyarbakir was a cause of great excitement among secret Armenians. These Armenians began to “be involved in the restoration process, even taking on duties, protecting and watching over the church.”²⁴⁸

Likewise, that the Ministry of Culture undertook to repair the Cathedral of the Holy Cross on Ahtamar Island in the years of 2000s seems to have created the perception that the State has a new openness to minority identities. The flow of Armenian tourists and worshippers from other parts of Turkey and from abroad to the churches in Van and Diyarbakir, and the contacts made between secret Armenians and these visitors, has also hastened secret Armenians’ reclamation of Christian identity.²⁴⁹

However, the hidden Greeks and Armenians who have done the work of publicly reclaiming their historical identities have not been warmly embraced by the Greek and Armenian Churches. On the contrary, the Armenians of Istanbul and diaspora Armenians have excluded formerly hidden Armenians from the Armenian Apostolic Church,²⁵⁰ and the Ecumenical Patriarchate has only expressed a “cautious welcome” to formerly hidden Greeks.²⁵¹ In this context it is important to remember that the Patriarchate’s interest in Islamized Christians could be negatively viewed in Turkey as a form of missionary activity. Contact with Greeks who have reclaimed their identity may also be seen as a security issue for the Patriarchate.²⁵²

While for Greeks the process of acceptance and reclamation has occurred mostly on an individual basis, for Armenians this process has sometimes taken a collective form. Formerly hidden Armenians have founded organizations such as the Association of Dersim Armenians, the Association

244 Vercihan Ziflioğlu, “*Araftaki Ermenilerin Hikayesi- Ne Hz. İsa’ya, ne de Hz. Muhammed’e yaranabildik*”, İletişim, 2015, p.22

245 Vercihan Ziflioğlu, “*Araftaki Ermenilerin Hikayesi- Ne Hz. İsa’ya, ne de Hz. Muhammed’e yaranabildik*”, İletişim, 2015, p.29

246 <https://t24.com.tr/haber/can-dundar-hrant-dink-icin-yazdi-on-binlerce-insanin-hepimiz-ermeniyiz-diye-yuruyecegini-hayal-eder-miydin,383972>

247 Vercihan Ziflioğlu, *ibid*, p.28

248 Vercihan Ziflioğlu, *ibid*, p.46

249 22 January 2019 interview with an Armenian researcher, Istanbul

250 Vercihan Ziflioğlu, *ibid*, p.65

251 8 April 2019 interview with a Greek researcher, Izmir

252 22 January 2019 interview with an Armenian researcher, Istanbul

of Bitlis Armenians, and the Association of Sivas Armenians.²⁵³ The establishment of these associations seems to have facilitated and accelerated hidden Armenians' self-recognition and reclamation of identity. For example, these associations facilitate the proof of Armenian identity required by the Armenian Patriarchate before baptism. Armenians who prove their roots through these associations are admitted to the Armenian Apostolic Church after updating the religion entry on their state identity cards and completing six months of training.²⁵⁴

The Greek Orthodox Church has also set conditions for ethnic Greeks who wish to belong to their ancestral church, including religious education. Some candidates are also required to learn Greek.²⁵⁵

The steps taken by Turkey's secret Armenians and Greeks to recognize their heritage and reclaim their identity undoubtedly represent an advancement in human rights. After a century of secrecy, this recognition and reclamation is a tremendous achievement. However, we cannot say these citizens of Turkey are able to fully exercise their right to identity until Turkey confronts the history and conditions that caused that identity to be buried and inaccessible for so long.

253 23 January 2019 interview with an Armenian lawyer, Istanbul

254 23 January 2019 interview with an Armenian lawyer, Istanbul

255 Mert Kaya, *The Islamization of Anatolian Greeks between the years 1919–1925: A study of memory*, Master's Thesis, Hacettepe University Graduate School of Social Sciences Department of Communication Sciences, 2017, p.92

PART 7

REFUGEES AND FOREIGNERS

7A) YAZIDI REFUGEES

The Yazidis are one of Iraq's ancient peoples. Although they speak a Kurdish dialect, their religious beliefs and the identity they have created around those beliefs separate them from the surrounding Kurdish population. On 3 August 2014 the Islamic State (IS) attacked the Sinjar region, the ancient home of the Yazidis, as part of the group's attacks on Iraqi territory.

There is no doubt that the mass murder, kidnapping, and enslavement of Yazidis carried out by IS after it took control of Sinjar constitute genocide and crimes against humanity under international human rights law.

According to data collected by human rights organizations, more than 5,000 Yazidis were killed and 6,600 were kidnapped after IS attacks in Sinjar.²⁵⁶ Men were slaughtered, women and girls were made sex slaves, and boys were brainwashed to be used as child soldiers.

The evidence shows IS acted with the intention of partially or completely destroying the Yazidi people because of their religious beliefs. Before the attacks, IS had asked its theologians to investigate Yazidis, and these "researchers" concluded the Yazidis were "devil worshippers" and "heretics." The IS propaganda bulletin Dabiq stated that after the "conquest" of Sinjar, "pagan" Yazidis were encountered, and declared that on Judgment Day Muslims would have to give account to God for why the Yazidis had survived to this day.²⁵⁷

In other words, IS targeted the Yazidis for genocide because of their religious beliefs. Some Yazidis who fled this genocide took refuge in Turkey, where as asylum seekers they encountered a number of problems. But in my opinion, the root of the issues facing Yazidis in Turkey has been Turkey's failure to recognize these asylum seekers as victims of genocide. The effect of this failure has manifested itself at every stage of Yazidis' stay in the country.

Many Yazidis who fled Sinjar were only able to enter Turkey illegally. These Yazidis who entered Turkey illegally settled in camps created by Kurdish-run municipalities in Turkey's southeastern provinces that had limited facilities. Whenever the leaders of NGOs contacted the Turkish government about these asylum seekers, they received the same reply: "We want them to stay on the other

256 Valeria Cetorelli, Isaac Sasson, Nazar Shabila and Gilbert Burnham, "**Mortality and kidnapping estimates for the Yazidi population in the area of Mount Sinjar, Iraq, in August 2014: A retrospective household survey**", <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5423550/>

257 RASHID and YAZDA "**Destroying the Soul of the Yazidis-Cultural Heritage Destruction During the Islamic State's Genocide Against the Yazidis**", https://docs.wixstatic.com/ugd/92f016_b5b37c3356754ba8b30e0f266e5b58d4.pdf, p.33

side of the border in Iraq, not in Turkey. We are preparing camps for them in Duhok and will support them there.”²⁵⁸

As a result of this policy, only a small minority of Yazidis who took refuge in Turkey were admitted to official refugee camps funded through Turkey’s Disaster and Emergency Directorate (AFAD). The vast majority instead remained in Kurdish municipality camps that operated with limited local resources. According to a Southeast Anatolia Region Municipalities Association press release, as of October 2014, 20,000 Yazidis had arrived in Turkey. They were distributed among the camps in these numbers: Diyarbakır, 5,652; Batman, 2,525; Mardin, 646; Şırnak, 5,907; Siirt, 1,195; Şanlıurfa-Viraneşir, 1,242; and in AFAD camps in Midyat and Mardin, 2,840. Other than the 2,840 Yazidi asylum seekers accepted into the AFAD camps, all had settled in camps established by the municipalities.²⁵⁹

The central government provided very little assistance to Yazidis staying in the municipality camps—a mere 100 tents, 500 blankets, and 500 toys.²⁶⁰ And the central government’s discriminatory behavior against Yazidis did not stop there. According to the Diyarbakır Bar Association Children’s Rights Center, Iraqi Yazidi refugees and Syrian refugees have been treated differently in the provision of health services. According to the bar association, ambulance crews dispatched via an emergency number have provided ambulatory treatment for Yazidis at the municipal camps but have refused to transport Yazidis needing treatment in a hospital. Yazidis had to pay for treatments taking place in the hospital, while refugees from Syria accessed hospital care free of charge.²⁶¹

A lack of space has also affected Yazidi asylum seekers, despite the best efforts of municipalities. The camp in Diyarbakır, for example, had a capacity of 3,000 but housed 4,000 people. In the absence of central government support, municipal doctors and volunteers from the Turkish Medical Association and the Health Workers’ Union provided health care services to the Yazidi refugees.²⁶²

On 11 September 2016, under a country-wide State of Emergency, the central government appointed trustees to replace the mayors of Kurdish-run municipalities.²⁶³ Following these appointments, the Yazidis were told they would be sent to AFAD camps. After this development, many Yazidis returned to Erbil or Zakho, some emigrated to Germany or another western country, and the most destitute among them agreed to move to the AFAD camp in Mardin.²⁶⁴

Both the AFAD camps and the decision to relocate Yazidi refugees into these camps were made without the least concern for the horrific atrocities the Yazidis had experienced in Iraq or the fear they had of Muslims. The Yazidis were placed into camps where Muslim Arabs were the majority. For example, 2,700 Yazidis were moved into a camp built for Syrians in Midyat that was already home to 7,000 Arabs.²⁶⁵

258 Nurcan Baysal, “**Ezidiler: 73. Ferman-Katliam ve Kurtuluş**”, İletişim Yayınları, 2018, p.50

259 Hayata Destek, “**Durum Raporu-Türkiye’deki Ezidi Sığınmacılar**”, <http://panel.stgm.org.tr/vera/app/var/files/1/4/141016-ezidi-raporu-stl-tr.pdf>

260 Faika Deniz, “**Is there a safe haven? Experiences of female Ezidi refugees in Fidanlık refugee camp**”, RLI Working Paper, https://sas-space.sas.ac.uk/9173/1/RLI_Working_Paper_No.27.pdf, p.13, p.13

261 Mahmut Bozarslan, “**Ezidi Sığınmacılara Ayrımcılık İddiası**”, Amerika’nın Sesi, 29 February 2016, <https://www.amerikaninsesi.com/a/ezidi-siginmacilara-ayrimcilik-iddiasi/3212970.html>

262 BBC Türkçe, “**Diyarbakır: Gönüllülerin ve belediyenin ayakta tuttuğu Ezidiler**”, 13 October 2014, https://www.bbc.com/turkce/haberler/2014/10/141013_ezidiler_diyarbakir

263 Halkların Demokratik Partisi, “**Kayyum Raporu**”, p.3

264 Bir insan hakları savunucusuyla görüşme, Diyarbakır, 23 February 2019

265 Nurcan Baysal, “**Ezidiler: 73. Ferman-Katliam ve Kurtuluş**”, İletişim Yayınları, 2018, p.72

In early September 2018, the government closed the camp in Midyat and attempted to move the camp's Yazidi residents to a camp in Gaziantep. Asylum seekers who believed IS fighters were present in the camps in Gaziantep refused to relocate.

According to a report published on the Organization for Security and Co-operation in Europe (OSCE) website, while some Yazidis responded by returning to Iraq, as of 18 September 2018 an estimated 1,200 remained in Turkey, living by their own means outside of official camps.²⁶⁶

In the words of a humanitarian volunteer who witnessed their plight, the Yazidis were caught between the State, which wanted to dissolve them among its Muslim refugees, and the Kurdish political movement (via the Kurdish-run municipalities), which asked them to become Kurds. While the cause of Assyrian and Chaldean refugees was taken up by their corresponding religious institutions in Turkey, the Yazidis had no such institutions to look after them.²⁶⁷

As I mentioned above, underlying the problems these Yazidis refugees faced—from not being permitted to enter Turkey legally to the decision to relocate them to a camp in which IS fighters might be present—was Turkey's failure to recognize them as having suffered genocide because of their religious beliefs. Because such recognition was lacking, the Yazidis encountered no efforts in Turkey that might have alleviated their trauma.

7B) FOREIGN PROTESTANTS

The state of emergency declared after the 15 July 2016 coup attempt has led to a serious regression in human rights in Turkey, as well as widespread human rights violations.

During the state of emergency, 160,000 individuals were arrested, 152,000 public servants were dismissed from their posts,²⁶⁸ and more than 150 journalists were detained.²⁶⁹ These are just some of the symptoms of the setback in human rights Turkey has experienced.

At first glance, the state of emergency may not seem to have a direct impact on religious minorities. However, a closer look shows that there has been a ripple effect on these groups.

Indeed, as one Armenian interviewee commented,²⁷⁰ “in recent years, non-Muslims are generally living in a tense atmosphere. Because they know from their own experience that if there is tension in Turkey, it will somehow turn out have an effect on non-Muslims. Because they are Turkey's perpetual scapegoats. Every tension with Greece, with Cyprus, with Armenia, with Israel, with the United States in some way affects the non-Muslims living in Turkey.”

The tension of the aftermath of the coup attempt first impacted non-Muslims through the arrest of Pastor Andrew Craig Brunson. Brunson, who had lived with his wife in Turkey for more than two

266 OSCE Working Session 12, “**The Plight of Yazidi Migrants in Turkey**”, <https://www.osce.org/odihr/397460?download=true>

267 Mersin, 20 February 2019

268 UN High Commissioner for Human Rights, Turkey: UN report details extensive human rights violations during protracted state of emergency, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22853&LangID=E>

269 BBC, “**Reality Check: The numbers behind the crackdown in Turkey**”, <https://www.bbc.com/news/world-middle-east-44519112>

270 22 January 2019 interview with an Armenian, Istanbul

decades, in 2016 applied to the public authorities to obtain an indefinite residence permit. The interior ministry rejected Brunson's application, stating it was not found "suitable from the perspective of public order and public safety."

The ministry's reasoning was later revealed to be based on allegations that "Brunson held rites for citizens of Kurdish origin between 2010 and 2013" and "carried out missionary activities under the guise of providing assistance to asylum seekers from Syria." Following these accusations, in October 2016 Brunson was detained and arrested on charges of belonging to the Fetullahist Terror Organization (FETÖ).

Brunson was charged with "Providing state information required to be kept secret, for political or military espionage purposes," "Attempting to abolish the Turkish Grand National Assembly," "Attempting to abolish the Government of the Republic of Turkey," and "Attempting to abolish the constitutional order."²⁷¹

Brunson's arrest, as is known, caused a major crisis between Turkey and the United States. President Trump himself demanded Brunson's release several times. At the final hearing, the witnesses against Brunson withdrew the incriminating statements they had made against him. The court then sentenced Brunson to three years, one month, and fifteen days in prison for "aiding a terrorist organization without being a member of it." Credited toward his sentence were the two years he had already spent detained.

The findings of the UN Working Group on Arbitrary Detention on Pastor Brunson's case are critically important and provide a lens for understanding later worrying developments. The Working Group stated that "the arrest and detention of Mr. Brunson was the result of him being targeted by the Turkish authorities on the basis of his nationality and faith and thus resulted from discrimination expressly prohibited under the Covenant."²⁷²

After Brunson's release, the international community ceased to focus on the situation of foreigners in Turkey, and the events that followed went unnoticed. However, a very dangerous practice that falls within the description given by the UN Working Group continues today in Turkey—a practice of serious discrimination on the basis of religion.

Andrew Brunson himself was the first to describe this worrisome practice against the noncitizen members of Turkey's religious minority communities. In a statement before the United States Commission on Religious Freedom, Brunson stated:

"The Turkish government has accelerated the expulsion of Christian foreigners from Turkey. The most pressing hardship the Turkish church has faced in the last couple of years is the expulsion of foreigners closely involved with the Turkish church. The Turkish government does not allow Christians to set up education and training programs to develop leaders. One result of this is a lack of trained pastors. Foreigners have helped to fill this gap. Over 50 Protestant families have had to leave the country in recent years [...]"

²⁷¹ BBC News, "Pastör Andrew Brunson kimdir: Türkiye-ABD ilişkilerinde kriz yaratan davada hüküm ve tahliye", 12 October 2018

²⁷² Human Rights Council Working Group on Arbitrary Detention, Opinions adopted by the Working Group on Arbitrary Detention at its eighty-third session, 19–23 November 2018, Opinion No. 84/2018 concerning Andrew Craig Brunson (Turkey), https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session83/A_HRC_WGAD_2018_84.pdf, para.72

I want to emphasize that the foreigners targeted for deportation are for the most part church leaders and pastors. Many churches have been negatively affected.”²⁷³

My own interviews with Protestant church leaders show that the deportation of foreigners gained momentum after the 15 July 2016 coup attempt. As Brunson said, the deportees are foreigners who have close relations with Protestant churches in Turkey.

These foreigners, including some who have lived in Turkey as long as 20 or 25 years, either receive a notification that they must leave the country or learn when they are abroad that they are banned from reentry.

Those who are banned from reentry are told “There is an N-82 record on you.” In the case of those who receive notice from the Directorate General of Migration while still in Turkey, Article 9²⁷⁴ and Article 54 (particularly Subparagraph 1-d)²⁷⁵ of Turkey’s Law on Foreigners and National Protection (No. 6458) are cited as justification. In other words, the foreigner in question is regarded as a threat to “public order or public safety or public health.”

None of these notices or summons allege concrete details to justify the determination made. What this means is that a person who has spent half of his or her life in Turkey and has established unbreakable ties to the country can be removed or banned from reentry based on the mere abstract

273 USCIRF Hearing, Testimony of Andrew Brunson https://www.uscirf.gov/sites/default/files/Andrew%20Brunson%20%281%29_0.pdf

274 Article 9 of Turkey’s Law on Foreigners and National Protection (No. 6458) reads:

Ban on entering Turkey

ARTICLE 9 – (1) The Directorate General, when necessary and upon consultation with the relevant government departments and institutions, may impose an entry ban against foreigners whose entry into Turkey is objectionable for public order, public security, or public health reasons.

(2) The Directorate General or governorates shall impose an entry ban for foreigners who are deported from Turkey.

(3) The entry ban to Turkey shall not exceed five years. However, in cases where there is a serious public order or public security threat, this period may be extended for a maximum of an additional ten years by the Directorate General.

(4) For foreigners whose visa or residence permit has expired and who have applied to the governorates to exit from Turkey before their situation is established by the competent authorities upon which a deportation decisions has been taken, the entry ban shall not exceed one year.

(5) Among those who have been invited to leave Turkey pursuant to Article 56, an entry ban might not be imposed for those who leave the country within the specified period of time.

(6) The Directorate General may revoke an entry ban or, allow the foreigner to enter into Turkey for a given period of time, without prejudice to the entry ban.

(7) For reasons of public order or public security, the Directorate General may introduce advance clearance conditions for the admission of certain foreigners’ to Turkey.

275 Article 54 of Turkey’s Law on Foreigners and National Protection (No. 6458) reads in relevant part:

Persons subject to a removal decision

ARTICLE 54 – (1) A removal decision shall be issued in respect of those foreigners listed below who:

(a) are deemed to be removed pursuant to Article 59 of the Turkish Penal Code No. 5237;

(b) are leaders, members, or supporters of a terrorist organization or a benefit-oriented criminal organization;

(c) submit untrue information and false documents during the entry, visa and residence permit actions;

(ç) made their living from illegitimate means during their stay in Turkey

(d) pose a public order or public security or public health threat;

[..]

(ğ) are determined to be working without a work permit;

[..]

(2) A removal decision may be issued in respect of applicants or international protection beneficiaries solely when there are serious reasons to believe that they pose a threat to national security of the Turkey or if they have been convicted upon a final decision for an offence constituting a public order threat.

mention of a code or an article.

Recipients are only able to learn what the administration considers to be “concrete details” justifying the determination by filing a lawsuit in administrative court. In most cases, they would be told that as “missionaries” they threaten public safety.

There is no effective domestic legal remedy in Turkey that can stop this practice. Administrative courts reject requests to issue stay orders in such cases, and it takes many years for them to decide on the substance of the cases. In order to be granted an injunction against removal, an applicant must demonstrate to the Constitutional Court that they could be tortured or that their right to life could be violated in the country of removal. For citizens of countries such as the United States or Germany, this requirement is impossible to meet.

When we look at this practice from the perspective of human rights law, it is clear that those targeted by it experience severe violations of multiple rights. That these men and women are removed from Turkey—their home of many years—because of their religious beliefs is a grave violation of religious freedom. Furthermore, no noncitizen Muslims are being removed from Turkey for spreading Islam, making this practice against Christians a discriminatory one that violates their right to equal treatment.

Likewise, even though this practice usually targets only one member of a family, it entails a grave violation of family life and private life because it forces the target’s entire family to migrate against their will. Since these removal and entry ban procedures may only be used against alleged criminals, the right of family members to a presumption of innocence is also violated. As mentioned, these determinations are being made only with an abstract reference to the law. The absence of any concrete justification against which family members could present arguments or evidence strips these individuals of their ability to make an effective legal application, violating their right to a fair trial.

It is remarkable that this practice involving severe rights violations is being carried out in such great silence. Apart from Brunson’s statement excerpted above, as of late 2019 no reports by international organizations or news agencies had addressed or described the situation of these noncitizens.

As of October 2019, the list of those targeted by this practice and their nationalities included:

Dave Wilson	USA
Pam Wilson	USA
Charles de Bueger	New Zealand
Mike Platt	USA
Mike Frechette	USA
Matt Black	USA
N.R.	United Kingdom
Ki Won Suh/Gi Won Seo	South Korea
Mark Zieschang	USA
Thomas Werks	Germany
Jeremey Lambert	USA
Levy Castro	Brazil
Yu Chiel Sim	South Korea

Ken Wiest	USA
M.G.	Iran
M.G.	Iran
B.W.	USA
Jari	Finland
Rob Duncan	United Kingdom
Helmut Frank	Germany
Hans Jurgen Lovien	Germany

The practice of removing these people from Turkey, their home of many years, for no reason that could be seen as legitimate under either Turkish or international law, clearly constitutes persecution on the basis of religious belief.

More frightening, however, is that this use of criminal accusations against noncriminals to effect their deportation is likely the first step in a process that could directly target the Turkish Protestant congregations these foreigners served, treating them as if they are criminal enterprises.

As can be understood from various sections of this report, the government attitude we see toward Protestants in these deportations has grave implications for their safety. Protestants have experienced terrible suffering in Turkey, including the Malatya massacre. They have repeatedly been targeted with hate speech and violence because of their so-called “missionary” activities.

The deportation of noncitizen Protestants one by one has seriously violated the deportees’ rights, and has made Turkey’s already vulnerable native Protestant population even more vulnerable by opening the way for further violations of their rights.

CONCLUSION

As I have tried to show in this study, the problems facing religious minorities in Turkey today have deep historical roots and cannot be resolved simply through changes on paper.

First, Turkey's perspective on religious minorities must change. And to do that, Turkey must confront its past in an open and honest manner.

Only after this confrontation can sincere and meaningful steps be taken to solve the problems.

Otherwise, any reforms undertaken to solve the problems of religious minorities in Turkey, no matter how positive they appear, will remain cosmetic.

The mentalities that shaped Turkey's past have not changed, but rather continue today.

Until these mentalities change, the steps necessary to fundamentally change the status of Turkey's religious minorities are impossible to take.

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Selected publications by Mr. Cengiz:

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Tree of Hope (a novel), Indie Publishing House, 2019

Selected translations by Mr. Cengiz:

“Freedom of Thought, Belief, Conscience and Expression” (2000, Belge Publications); “Torture Reporting Handbook” (2000, University of Essex); “A Guide to Good Prison Practices, Making Standards Work” (2001, PRI); “Defending and Promoting Economic, Social and Cultural Rights” (AAAS, 2004); “Combating torture handbook: a manual for judges and prosecutors” (2004, University of Essex) “Journalism, Media and the Challenge of Human Rights Reporting” (2006, Human Rights Policy).

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