

# Regulating religion and the Protestants in Turkey

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## Introduction

This chapter outlines the regulation of religion in Turkey and presents the major problems faced by the Protestant communities against this background. There are three legal foundations for the regulation of religion in Turkey; the Turkish Constitution, the Lausanne Treaty, and the international human rights covenants with some reservations. There are two separate regulatory systems for the majority religion and the minority religious groups. On the one hand, Sunni Islam is treated as the majority religion. The Ministry of National Education and the Presidency of Religious Affairs provide religious education for lay Muslim citizens as well as training for the religious functionaries. Religious education cannot be offered in private institutions. (Kuru 2009, p.165). All Islamic services have to be delivered by the Presidency of Religious Affairs. (Gozaydin, 2008, p. 221) The Constitution prescribes its duties to be exercised "in accordance with the principles of secularism, removed from all political views and ideas, and aiming at national solidarity and integrity." (Article 136) There are no other state agencies and legislation available for minority religions.

On the other hand, the Treaty of Lausanne set up the minority regime for the Turkish Republic and provided some exceptional remedies. The state has identified three groups as minorities in accordance with the treaty: Armenian Orthodox Christians, Greek Orthodox Christians, and Jews, which had been granted autonomous millet status in the ancien regime (İçduygu & Soner, 2006, p. 453). The other non-Muslim minorities<sup>1</sup> are not protected under the minority regime

<sup>1</sup> For contesting arguments that the provisions of Lausanne Treaty encompass all non-Muslim groups. See Oran (2007, p. 38), and Oran (2004).

as well as non-Sunni Muslims are not recognized as minorities. In this context, the Protestant communities cannot benefit from the exceptional remedies that the Treaty of Lausanne guaranteed.

## Brief Overview of Regulation of Religion in Turkey

In this section, I will briefly present how the regulation of religion is formulated and how the interpretation of these formulas has changed over time. Except for the rights protected under the Treaty of Lausanne, the regulation of religion is mainly structured based on the constitutional principle of secularism (*laiklik*) in Turkey. The Turkish Constitution requires religion to be excluded from politics, yet, it does not prescribe complete separation between state and religion; it rather generates state control and supervision in all religious affairs. The Presidency of Religious Affairs is the epitome of the unique features of Turkish secularism. It is designed to teach and execute the enlightened version of Islam through its civil servant personnel; all mosques are operated under its establishment (Sakallıoğlu, 1996, p. 234). In other words, the Turkish Constitution ensures that religion would not intervene in state affairs, but vice versa is not required. In this context, secularism serves as a set of substantive commitments to protect the state and citizens rather than a separation between religion and state affairs (Bali, 2018, p. 236).

In a case decided in 1971, the Turkish Constitutional Court (TCC) explains that, unlike Christianity, Islam does not have ordained clergy, hierarchical religious leadership, and independently institutionalized mosques. Because of these organizational differences, the doctrine of separation between state and religious affairs created distinctive political structures in Turkey compared to the Christian nations in the West. Furthermore, according to the Court, unlike Christianity, Islam regulates not only individual beliefs but also social and political life, which necessitates the state closely regulating all religious affairs. Therefore, while independent churches do not pose a threat to the order of the state in the West, independent mobilization and institutionalization of Islam through religious groups endangers the secular unity and order of the state in Turkey<sup>2</sup>. The Court highlights that modern countries have developed their unique secular political modalities in their respective historical backgrounds. Indeed, there are differences even among the Western nations that are dominated by the same religion<sup>3</sup>.

<sup>2</sup> TCC, 21 October 1971, no. 1971/76.

<sup>3</sup> TCC, 16 Jan. 1998, (Welfare Party Closure case), no. 1998/1.

The TCC provides two main justifications for the regulation of religion by the state. First, religion is regulated “to prevent religious fanaticism by training skilled religious functionaries and to render religion a tool for moral discipline, and hence, to reach the level of modern civilization”<sup>4</sup>. Second, religion is also regulated “to provide for religious needs regarding religious functionaries, worship places and maintenance of those”<sup>5</sup>. Religion is considered a type of social need, and the state is assigned positive responsibilities to provide for that need just as it is responsible for other needs of the society<sup>6</sup>.

Furthermore, secularism is interpreted as a modern lifestyle and outlook that the state and citizens alike should embrace. According to this interpretation, clearly stated in a 1989 TCC decision regarding headscarf, “secularism cannot be narrowed down to the separation of religion and state affairs. It is a milieu of civilization, freedom, and modernity whose dimensions are broader and whose scope is larger. It is Turkey’s philosophy of modernization, its method of living humanly. It is the ideal of humanity”<sup>7</sup>. In this context, for instance, secularism creates a disposition that necessitates modern clothing and requires citizens to be bare-headed. Thus, it becomes a civic duty for each citizen to espouse secularism and its corollary, modern clothing.

In a 2012 decision, the TCC shifted this interpretation of secularism explained above and broadened the religious liberties of the individual citizens. The TCC stated as follows:

Secularism is not an essential attribute to individuals or society, but to the state. Examining the historical development of secularism, one can see that there are two different interpretations and practices of secularism. According to the strict understanding of secularism, religion is a private matter in the consciousness that absolutely must not exceed into the social life and public sphere. On the other hand, the more inclusive and liberal interpretation of secularism draws on the appraisal that religion is not only a private phenomenon but also a public one. This interpretation of secularism does not constrain religion to the private sphere. It sees religion as an important part of the individual as well as collective identity and permits religious visibility in society. In a secular political system, while individual choices about

<sup>4</sup> TCC, 21 October 1971, no. 1971/76.

<sup>5</sup> TCC, 21 October 1971, 1971/76.

<sup>6</sup> TCC, 23 Nov. 1993, (OZDEP Party Closure Case), no. 1993/2.

<sup>7</sup> TCC, 7 March 1989, no. 1989/12, (Translated in Ozbudun and Genckaya 2009, p. 106).

religion and individual practices are protected from state interference, the state has a positive responsibility to protect them. In this context, the principle of secularism is the guarantor of the freedom of religion and conscience.”<sup>8</sup>

Overall, this shift illustrates a departure from an exclusionary version of secularism to a version more inclusive of the religious practices widespread in Turkish society. While this shift has answered the main grievances of the religious majority regarding individual religious liberties, the expansion of Turkish democracy requires further re-evaluation of the current interpretation of secularism and citizenship in order to address the problems of religious minorities.

Having said that, this new interpretation of secularism did not create any new implications against the state’s role as the only guarantor and legal provider of religious education and services. During the first period of the Turkish Republic, by establishing the Presidency of Religious Affairs, the Ministry of National Education, and the Directorate General of Foundations, the state seized all the power of Islamic institutions in order to eliminate the traditional and modern duality in the state institutions that the Ottoman modernization projects had produced (Hanioglu, 2008, 72-75) (Berkes, 1998, p. 483).

Since the foundation of the Republic, the political pendulum has swung between repression and accommodation of Islam in the public sphere, yet the state’s control over Islam always remained intact without legalizing any autonomous Muslim religious group. The early years of the Republic were replete with harsh measures against the sufi brotherhoods (Sakallioğlu, 1996, pp. 232-236). Although religious brotherhoods were outlawed in 1925, numerous brotherhoods continued to form communities underground and spread their Islamic teachings (Yavuz, 2003, p. 9, 47-48). When the political setting became less constrained, the brotherhoods had more public visibility (Ozdalga, 1998, p. 28). During the tenure of the AKP government, religious brotherhoods (*tarikats* and *cemaats*) enjoyed defacto freedoms to conduct some community organizations such as operating *madrasas* and college student dormitories/houses. Along the same lines, Aksit and others’ findings show that the impact of the official religious education decreased more and more during this period. According to these sociologists, the type of religious education that religious individuals receive is a crucial determinant of their religious outlook (Bahattin *et al.*, 2020, p. 282). Having said that, religious brotherhoods have no legal standing to teach their interpretations of Islam or create autonomous religious institutions for their communities.

<sup>8</sup> TCC, 20 September 2012, no. 2012/128.

In short, as illustrated above, the state is responsible to teach the correct version of religion and provide services for believers so that harmful religious practices can be eliminated as well as national solidarity and integrity are consolidated. The state's monopoly over religious services and education holds the key to understanding the constitutional ground upon which the grievances of the religious minorities should be evaluated.

## Protestants in Turkey

Exact demographic data is not available, but it is estimated that all non-Muslims make up less than 1 percent of the current Turkish population. While the non-Muslim population gradually decreased since the establishment of the Republic (Aktar, 2001, p. 208), their problems drew more public attention in recent decades (Akgönül, 2011, p. 149). Members of the Protestant communities are estimated to be around 7000 to 10.000 (The US Office of International Religious Freedom Report on Turkey, 2020). Approximately, there are 186 Protestant groups (churches and fellowships) concentrated in Istanbul, Ankara, and Izmir (TeK, 2022). The majority of the Protestants established a joint association called the Association of Protestant Churches (TeK). The association publishes annual religious freedom reports covering problems faced by the Protestant communities and hate crimes committed against them<sup>9</sup>.

Current major Protestant groups in Turkey can be categorized as follows (Malkoç, 2006; Malkoç, 2011):

- **Minority Churches:** They are the offshoots of the historic Eastern churches that existed in the Ottoman Empire for centuries. Armenian Protestant Church, Syriac Protestant Church, and Greek Protestant Church were the churches in this category. However, only the Armenian Protestant Church has survived in Turkey with two active churches, Gedikpaşa Armenian Protestant Church and Aynalicesme Protestant Church both located in Istanbul. There are about 500 Armenian Protestants living in Turkey. There is also a handful of Syriac and Greek Protestants who worship in other Protestant churches.
- **Anglican Church:** the Anglican Church has churches and chapels in Ankara, **Istanbul**, and **Izmir**.<sup>10</sup> Anglican Protestants are one of the oldest Protestant groups in Turkey. A very small number of Anglican believers live in Turkey.
- **Baptist Churches:** The churches under this category follow the Baptist teachings or embrace similar teachings to those. Some of these churches have 'Babtist' in their church's title while some others don't use it.

<sup>9</sup> See: <http://www.protestankiliseler.org/eng/>.

<sup>10</sup> See: <https://europe.anglican.org/where-we-are/church-locations/turkey>.

- Lutheran Churches: The majority of the members in these churches have ethnic or national ties with European Lutheran majority countries.
- Pentecostal and Charismatic Churches: Many of these churches under this category were founded in the last two or three decades.
- Presbyterian and Reformed Churches. Several churches that identify themselves as such or follow similar theological and organizational paths can be mentioned in this category.
- Churches of the Istanbul Protestant Church Foundation: The foundation has several congregations in **Istanbul, izmir, izmit**, Bursa, and Eskişehir.<sup>11</sup> The foundation's church organization is independent and its teachings are close to evangelical Protestantism.

## Problems Faced by Protestants in Turkey

Religious minorities deal with problems related to the structure of regulation of religion in Turkey as well as social problems such as pressure, discrimination, and hate crimes by some members of the majority culture. It is crucial to separate these two types of obstacles not only for the purpose of this chapter but also in order to propose practical solutions for the problems faced by minority religious groups in Turkey (Unlu, 2020, p. 796). In this section, I will introduce major issues of the Protestant groups emanating from the structure of regulation of religion.

Based on the Protestant communities' religious freedom reports<sup>12</sup>, the grievances of the Protestant groups appear to be concentrated in three areas: first, the lack of legal personality, second, the obstacles to building and maintaining worship places, and third, the lack of legislative and administrative measures to allow training religious personnel. Another hot debate with regard to religious freedom in Turkey is the compulsory religion classes. Obligatory declaration of faith in the process of exemption from the compulsory religious classes continues to be a threat to the right not to declare one's religion or belief (Yıldırım, 2022, p. 19). However, while compulsory religion classes raise major complaints among non-Sunni Muslims, deists, atheists, and agnostic citizens with Muslim background, they do not seem to create unsolved problems for the Protestant community (TeK, 2022).

<sup>11</sup> See: <http://www.istpcf.org/about-us/>.

<sup>12</sup> See the reports through 2006-2022: [http://www.protestankiliseler.org/?page\\_id=638](http://www.protestankiliseler.org/?page_id=638).

## Legal Personality

As the state has a monopoly over religious affairs, it does not grant legal personality to any religious organization, Muslim and non-Muslim alike. One of the key grievances that the Christian minorities express is the lack of legal personality<sup>13</sup>. Only the Catholic Church has a special legal status as a diplomatic representative of the Vatican State, yet this is not a legal status on the basis of religion per se (Kılınç, 2020, p. 7). The demand of non-Muslim groups to obtain legal status as religious communities has been refused by the Turkish authorities on the grounds that it would violate the principle of secularism. The Turkish authorities were concerned that Muslim communities could claim rights for themselves by using the analogy with the rights granted to the non-Muslim communities (Goltz, 2006, p. 179).

The lack of legal personality renders churches as such unable to engage in legal transactions, pursue their rights in courts, employ religious personnel, and conduct religious services more efficiently (Öktem, 2016, p. 53). Furthermore, some scholars argue that legal personality can provide better social prestige and acceptance which are particularly vital for minority religious groups (Yıldırım, 2016, p. 178). The protestant communities operate and obtain legal representation via foundations and associations. Organizing via associations and foundations proved to be a useful alternative formula for religious communities to gain a kind of legal status.

According to TeK, the Protestant groups have 119 legal entities including 13 religious foundations, 20 representative branches of the religious foundations, 33 church associations, and 53 representative branches in 2022 (TeK, 2022). They had one<sup>14</sup> foundation, 26 associations, and 12 representative branches in 2013 (TeK, 2013), which demonstrates the growth of Protestant legal entities in the past decade. Small communities have more association-based organizing because establishing a foundation is more costly and the procedure is relatively longer. However, in recent years, the trend among Protestants has been to establish foundations for their communities (TeK, 2022).

After the amendments in the Law on Associations that lifted the ban on establishing an association for religious activities, Protestant communities started to organize via associations in 2005 (TeK, 2009). Through associations, Protestant

<sup>13</sup> Various religious freedom reports mention the issue as a major prolonged problem. See the reports by Association of Protestant Churches, Freedom of Belief Initiative, the US Office of International Religious Freedom, the US Commission on International Religious Freedom.

<sup>14</sup> This report does not include 4 historical Protestant foundations that belong to the minority groups, Armenians and Syrians. <https://www.cemaatvakiflaritemsilcisi.com/index.php/vakiflar>.

communities are able to become legal entities as civil society organizations, which provides them with legal and social status. They can gather at the association centers and collect donations for the association whereas actual persons need proper permission for such gatherings and collecting donations. Associations can own assets, employ staff, and publish works to educate the public about their teachings. Associations can also open branches in other cities and towns in Turkey. According to TeK, “while church associations are not legal churches, they are able to run virtually all activities that a real church can” (Şahin, 2013, p. 9). On the other hand, associations have to complete regular bureaucratic responsibilities and keep their account books, receipts, and documents for auditing by state officials. Furthermore, the Law on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction adopted in 2020 amended the Law on Associations, which allows the authorities to remove board members without judicial review and to replace them with trustees (Yıldırım, 2022, p. 46).

Although forming an association was a useful means to gain legal status, it did not answer all the needs of the communities. In 2017, the Protestant communities started to encourage establishing foundations and the trend continues (TeK, 2018, 2022). While an association has to be a non-profit depending on donations, a foundation can earn income. Although the process of establishing a foundation is lengthier and more expensive, it provides more legal protection. While an association can be closed by the governor’s office, a foundation can only be closed by a court decision.

According to Article 101 of the Turkish Civil Code, a foundation cannot be established to support only one particular religious community. Thus, except for the historical religious community foundations that were registered before 1936, there cannot be a foundation to promote a religious community. New religious groups can register their foundations as ‘new foundations’ that do not possess the exceptional rights available to the historical communities.

## Worship Places

Protestant communities encountered legal limitations in establishing worship places until 2003 as the Turkish zoning laws assumed that all worship places would be mosques and hence, did not provide regulations for opening churches in construction and city planning (Kılınç, 2020, p. 55). Several articles of the Law on Construction were rephrased and the word “mosque” was replaced with “place of worship” to include all worship places in 2003.<sup>15</sup> Thus, non-Muslim communities obtained the right to build places of worship with the approval

<sup>15</sup> The Law on Construction, Law no. 4928.



of the administrative authorities (Grigoriadis, 2008, p. 36). This amendment allowed churches to obtain de jure the same status as mosques, and hence to use public resources such as free utilities and the allocation of public real estate to those who want to build a place of worship (Goltz, 2006, p. 176). Yet, in order to open a church, the community has to establish a legal entity (association or foundation), a certain number of followers has to live in that area, and the church has to possess the required amount of land (2500 square meters for the Istanbul municipality). The procedure is under the initiative of local administrations, which leads to inconsistent outcomes in the applications of the Protestant communities to open churches (Kılınç, 2020, p. 56).

As many Protestant communities are new establishments, they do not have proper church buildings as part of their cultural heritage unlike the traditional Christian communities rooted for centuries in Turkey. Therefore, building and receiving recognition of worship places continue to be a major problem for the Protestant groups. As mentioned above, the Protestant groups have 119 legal entities including 13 religious foundations, 20 representative branches of the religious foundations, 33 church associations, and 53 representative branches. The rest of the Protestant groups do not hold legal entity status. There are about 13 Protestant groups that use historical church buildings. The remaining either rent various places or meet in houses and offices (TeK, 2022). Most Protestant groups assemble and worship on premises that are not legally recognized as places of worship. Although the worship services in these places are generally tolerated by the authorities, these congregations cannot secure the same benefits that are available to the legally recognized ones (Yıldırım, 2013, p. 210). Officially recognized worship places enjoy financial advantages such as tax exemptions and free utilities as well as some conveniences such as extra layer of security from social pressure and possible hate crimes. The utilities of mosques, synagogues, Catholic and Orthodox churches are paid by the Directorate of Religious Affairs. Utilities of some Protestant worship places are paid by municipalities while some others do not receive paid utilities. No systematic administration is available for Protestants and some other minorities such as Alevis and Jehovahs Witnesses (Şirin *et al.*, 2016, p. 67). According to TeK, a small number of churches have built their own free-standing churches, but they could not receive official recognition yet (TeK, 2021).

Legal recognition of places of worship also provides more protection against criminal incidents. According to Article 152 of the Turkish Penal Code, destroying, demolishing, or breaking religious property is punishable by one to four years in prison. Defacing religious property is punished with three months to one year in prison. According to Article 115 of the Code, interfering with the service of a religious group is punished with one to three years in prison.

## Training of Clergy

The right to educate and train religious personnel is an indispensable element of freedom of religion as religious communities would slowly dissolve without them (Özbudun, 2010, p. 222). Religious freedom reports highlight that non-Muslim minority groups experience continuous obstacles to training their religious personnel. Law on Private Education Institutions does not allow private religious education. Thus, the religious minorities cannot establish independent clergy training schools; and no legislation is available to accommodate minority religions in the national education system that provides training for Sunni religious functionaries. It is often argued that this situation creates glaring inequalities as the large public resources are allocated to the training of Sunni Muslim religious functionaries and their salaries (Şirin *et al.*, 2016; Yıldırım, 2022).

Many Protestant communities train their religious personnel through mentorship programs within the community, providing seminars in Turkey, and sending students abroad. On the other hand, some Protestant congregations have to rely on foreign pastors for religious services. These groups face problems with obtaining residential visas for their pastors and their families because a special visa regime does not exist for religious workers (Yıldırım, 2022). According to the Association of Protestant Churches, some religious officials and their families were forced to leave due to rejection of visa renewal as well as receiving entry bans or preliminary permit requirements (TeK, 2022).

## Conclusion

There are two possible approaches to address the grievances of the Protestant communities in Turkey. In order to provide equal opportunities for the Protestant communities within the existing system, either they have to be assimilated as another 'state religion', as in the case of Islam; or another paradigm shift is needed in the interpretation and application of Turkish secularism, which would encompass all religions, the majority and minority alike. Because the Protestant communities seek to obtain independent organization in religious affairs, the first option appears to be out of the question even though it is relatively easily achievable. This solution would make them a part of public administration and hence, would necessitate the exercise of tutelary state control over them. If such a solution is forced, it would be tantamount to a violation of the European Convention on Human Rights, of which Turkey is a signatory. In several cases, the European Court of Human Rights ruled that state intervention in the internal religious affairs of groups infringes the right to religious freedom (Öktem, 2016,

pp. 49-50). The second option, on the other hand, appears capable of offering systematic and desirable remedies; yet, it requires a much more complicated process filled with broader social, political, and legal entanglements.

The Turkish nation-building process rested on the idea of a homogeneous society, and hence, Turkish secularism limited the manifestation of religion in the public sphere without allowing religious organizations to develop independently. The three major problems of the Protestant communities emerge because of the main framework set up for the regulation of the religion. First of all, obtaining a legal personality is at the heart of all the major problems at hand in this article. Muslim and non-Muslim religious groups are not recognized as such because according to the current implications of Turkish secularism, the state is charged with the responsibility to provide for religious needs and in return build national solidarity. The issues around training clergy, as well as building and maintaining worship places, emerge because of the state's will to closely supervise religion.

The religious freedom reports highlight the discrimination against the Protestant groups in receiving public resources for religious services, education, and employment of clergy, which is provided solely for the Sunni Muslim community. They argue that this seems to be in contradiction with the prohibition of discrimination and the principle of equality that the state has to uphold. The Turkish state allocates a large amount of public funding to the religious affairs of the majority. However, the state does not grant funding to Sunni Muslims, rather, the state itself manages the allocated budget to teach the state's Islam. The fine line between granting and spending money for religious affairs explains the main criterion for eligibility. Therefore, state Protestantism could be eligible for public funding, but the Protestant communities could not. Training clergy is entrapped in the same entanglement. If the state incorporated the education of Protestant religious personnel in the public education system, it would necessarily create a state religion.

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