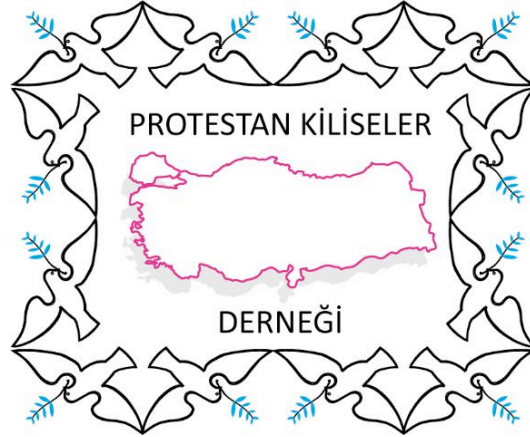


“A Threat” or Under Threat?

Legal and Social Problems of Protestants in Turkey, 2010



**ASSOCIATION OF PROTESTANT CHURCHES
COMMITTEE FOR RELIGIOUS FREEDOM AND LEGAL AFFAIRS**

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“The Association of Protestant Churches” started its activities in 1989 as a ‘Council of Representatives’ and later became the ‘Turkish Alliance of Protestant Churches of Turkey’ and it was finally constituted as a legal association on 23 January 2009. The ‘Committee on Religious Freedom and Legal Affairs’ operates in behalf of the Association and works to protect freedom of belief.

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Preface

John 8:32 states, “You shall know the truth and the truth shall set you free.” Of course such freedom depends on how the ‘truth’ discovered is used. Moreover, unless truth comes to light and is understood, evaluations remain deficient, correct judgments cannot be reached nor injustices overcome. Where the truth is unknown, hidden or distorted, it is not only ‘the oppressed’ who are deprived of freedom, but society as a whole. No person or administration can sow incomplete information, half-truths or lies and expect to reap justice and righteousness. We long to see a harvest of justice and righteousness for all in our country, without discrimination.

This report presents the facts about the status and experiences of our country’s Protestant community in the area of the basic human right of ‘freedom of belief and thought’. As the report will show, though there have been some advances, at the most fundamental level many undesirable conditions remain and these should be rectified as soon as possible. It is our hope that as these will be set right our whole population will be granted more ‘freedom’.

Many thanks are due to our valued associates Mine Yıldırım and Umut Şahin who worked tirelessly in the preparation of this report, to our legal counsel Orhan Kemal Cengiz, for his unstinting assistance over the years, and to Dilek Kurban of The Turkish Economic and Social Studies Foundation (TESEV). Our thanks also go to all the Protestant pastors and church members who assisted in this research.

We also wish to express our deep gratitude to the Global Dialogue Foundation and their Turkey representatives for their confidence in our association and for the funding they provided for the research, travel, printing and other resources needed for the production of this report.

Respectfully,

Zekai Tanyar

Association of Protestant Churches

Chairman

Synopsis

1. The Protestant Community in Turkey numbers around 3,000-3,500 persons. Most of the members of this community were formerly Muslims or atheists, though a small percentage are citizens of the Republic of Turkey who are of Armenian, Syriac or Greek descent. There are around 100 church congregations of various sizes, the vast majority of which are located in İstanbul, Ankara and İzmir. About 50 percent of these congregations are what is known as “house churches” because they worship in their homes and so are “invisible” to the society. These house churches average 10 to 15 members each. Protestants have established one foundation, 22 associations and five branches representing associations. The remaining congregations possess no legal personality whatsoever.

2. The only way the Protestant Community can obtain legal personality is by establishing a foundation or association. Now that it is possible for churches to establish associations, gradually more and more churches are doing so. Although a small number of churches that have established an association have had a positive experience, some negative observations have also been made: many other types of associations exist for years without government inspection but Christian associations are inspected within their first year of existence. This is taken as an indication that the government views Protestants with suspicion and wants to keep them under government control. Furthermore, administrative practices are so inconsistent as to prove chaotic. Virtually every church has experienced a different set of procedures. In experience the procedures followed by the police and civil authorities have been far from predictable, transparent or consistent. Civil servants are permitted to use excessive personal discretion and they use this to restrict the religious freedom of Protestants. The Protestant Community’s basic desire is that their existing congregations be recognized by the government as religious congregations and that a legal structure be created that all can understand and apply. It is believed that having legal personality will lead to acceptance in the society and significantly aid in efforts to solve other related problems.

3. The Protestant Community in Turkey needs places of worship, yet this need seems destined to remain unmet, due to inadequate regulations and the inconsistent and restrictive decisions rendered by many civil servants. The fate of existing churches is left entirely to the discretion of local governments and law enforcement officers. This puts the Protestant Community in a very vulnerable position. Although the Zoning Law was amended in 2006 to allow legal establishment of

churches, this continues to be virtually impossible in practice. Rather than solving this problem, the legal regulations currently in effect actually make the situation more complicated and deep. Local administrations, in particular local municipal governments, fear losing votes if they are perceived as supportive of the establishment of churches. As a result, they respond negatively to such requests. This state of affairs reveals how serious the problem actually is.

4. There is no legal basis for Christians to train clergy in an official educational institution. Interviews conducted with church members reveal that they have become accustomed to the fact that Turkey only allows for the training of clergy for Muslims. Within the Protestant Community there is no single proposal or request as to how to solve this problem. Protestants consider it very unlikely that the government will train, or create means to train, Christian clergy. As a result, they are trying to solve this problem using their own resources. Nonetheless, Protestants are open to various possible satisfactory solutions, should the government be willing to move in this direction.

5. Christian and Jewish primary school and high school students have the right to be exempt from compulsory religion classes. But there are serious hardships associated with making use of this exemption. Some school principals are not sufficiently knowledgeable about the exemption and are not helpful to those who would make use of it. Even though children are exempt they have to sit in the classroom during the class and are subjected to bad treatment from classmates and, in some cases, teachers. The exemption cannot be properly implemented due to the lack of pluralistic values and tolerance.

6. Protestants are used to discrimination. Because they consider discrimination normal and do not expect it to change, they do not even complain about it. When someone loses his or her job for this reason, proving that the dismissal was due to the person's being a Christian is one of the most difficult problems one can experience. Protestants experience discrimination at both the individual level and as congregations. In spite of positive legal regulations against discrimination, obtaining justice in these cases remains extremely difficult. For the Protestant community in particular, the most important problems are that they are used to being discriminated against, that they are not sufficiently knowledgeable concerning their legal rights, and that they are afraid that if they seek legal redress against discrimination they will end up being further marginalized.

7. It is widely thought by Protestants that the state, the media and the society harbor negative, sceptical and disparaging attitudes towards Protestants. Further, Protestants share that the government views them politically and assumes that they have a political agenda. They believe that present-day Protestants are made to bear the burden of negative events of the past and of attitudes engendered by these incidents. Because education can play a significant role in passing

prejudices on to the younger generation, historical narratives in particular should be reviewed. Even though Protestants’ activities do not have a political objective, it is evident that government agencies and society more generally attribute political significance to these activities. It is a widely-held conviction among Protestants that the government does not view them as equal to other citizens.

8. Although they have decreased compared to those of former years, broadcasts and programs presenting incorrect, negative and slanderous material about Protestants continue to be produced. In the face of rhetoric about missionary activities, Protestants try to respond but feelings of hopelessness and powerlessness dominate. Faced with these assertions Protestants have no way to express themselves, no avenue to respond and correct misinformation and erroneous perceptions. Even TRT [Turkish Radio and Television], though a government-run organization, not only does not produce programming for Christians, but when airing programs about Christians and missionary activities, does not invite Christians to participate and in no way allows them to join the discussion or express their views. With this practice TRT exhibits the fact that it is not impartial.

9. Various studies have documented that there is societal intolerance to non-Muslims.¹ The government and the society fail to accept that this intolerance is a problem and hence do not take steps to remedy the situation. This does not increase hopes of progress moving forward.

10. The Republic of Turkey is signatory to many national and international conventions and documents that significantly support freedom of religion and conscience. The stance taken towards freedom of religion and conscience by the European Convention on Human Rights and the European Court of Human Rights which interprets this Convention is extremely important for Turkey. Turkey recognized the European Court’s mandatory judicial authority in 1987 and subjects its legal regulations and procedures to the jurisdiction of the European Court of Human Rights. From the perspective of this comprehensive legal framework, Turkey’s laws and, in particular, the enforcement of these laws show deficiencies with regard to Protestants in Turkey and their ability to obtain legal personality, open places of worship, train clergy and be protected from hate crimes.

¹ One of the most recent of these was conducted by Sabancı University. Of those surveyed 66 percent believed those of other religions should not be allowed to hold meetings open to the public in which to express their ideas and 62 percent believed that such persons should not be permitted to publish books that express their views. *Türkiye’de Dindarlık: Uluslararası Bir Karşılaştırma, [Religiosity in Turkey: An International Comparison]* Prof. Dr. Ali Çarkoğlu Prof. Dr. Ersin Kalaycıoğlu, Sabancı University, 2009.

I. INTRODUCTION

This study is the fruit of a project concerned with the protection of freedom of religion or belief in Turkey and how this can be realised in compatibility with international human rights standards. To this end the project has examined problems experienced by Protestant community in Turkey. It is the result of the efforts of the Turkish Protestant community to make its voice heard by its own government and by the society in which it lives. One issue about which virtually everyone in Turkey agrees is that “missionaries” constitute a grave national threat and must be opposed. These “missionaries” are guilty of committing a “crime” against which there is no law. As to who “missionaries” are, the answer to this question is not exactly clear. The definition of this term varies with one’s point of view and knowledge of historical narratives. One thing, however, is clear: the Protestant community has been labeled as “missionaries” and has, as a result, borne the brunt of being stigmatized and denounced over the last twenty years. The goal of this study is to move beyond the label and give those truly wishing to understand a closer look at the Protestant community.

This report endeavours to shed light on the problems of Protestants. It presents the reader with a brief account of the history of the Protestant community in Turkey, and a review of legal and social problems they face. Following elaborations on freedom of religion and belief standards set by international human rights law and provisions in Turkish law on non-Muslim minorities, the report offers policy recommendations to address

ongoing problems faced by Turkish Protestants.

This study addresses two major areas of concern. In the first section the problems facing Protestants are examined in their legal context. Then, in the second section attempts to hold a mirror up to these legal issues through the experiences of Protestants. Within this general framework critical issues such as problems related to legal entity status, establishing places of worship, training clergy, compulsory religious education and discrimination are addressed. In addition to the above, a section treating Protestants’ perceptions of how the government, society and media view them has been included. The report concludes with a series of proposed recommendations. In light of the fact that the government of Turkey and the Turkish society have embraced pluralistic democracy and it is hoped that these recommendations will help all who live in this society experience the benefits of freedom of religion and belief in accordance with the principle of equality.

In order to capture day to day experiences of the Protestant community, focus group meetings were held with representatives from the provinces that have the largest Protestant churches, namely İstanbul, İzmir, Diyarbakır and Ankara.² Through meetings with groups and individuals experiences and reflections

² In the interest of providing as much representation as possible, in addition to the meetings we held in these provinces, we have also included experiences and impressions from other churches. These have been gleaned from interviews not originally initiated as part of our project.

related to the issues under review have been gathered. As presented in this report, these responses were classified and identify trends. Rather than focusing on analysis too much, there has been an attempt to relate experiences and struggles of individuals and make their voices heard. Another objective of this study was to focus in particular on problems faced by women and children within the Protestant community. Because the number of women who participated in the meetings was extremely low, this goal was not fully achieved. On the other hand, the plight of the children of Protestant families, in particular how helpless they feel when attending compulsory religious classes and the extent to which this issue has been glossed over has emerged as an urgent problem. In this report there has been a concerted effort to let these children’s voices be heard.

A. A brief history of the Protestant Community in Turkey

Protestant congregations began to appear in Anatolia for the first time during the Ottoman period, in the 1800s.³ The Protestant confessional community was recognized for the first time by the Ottoman Empire in 1846 and was accepted as a separate *millet* (a semi-autonomous confessional community with legal status) by Ottoman Sultan Abdülmecid on November 27, 1850.⁴ It was only after the founding of the Republic that this status came to be disregarded from a legal perspective.

Examination of the composition of the Protestant confessional community in the pre-Republican period shows that this community was spread over much of Anatolia and consisted mainly of Ottoman citizens of

Armenian, Greek and Syriac descent.⁵ However, due to the effects of deportations during the Ottoman Empire, the population exchange enacted at the beginning of the Republican period, the *varlık vergisi* (“wealth tax”) and the Istanbul Pogrom of 6-7 September 1955, virtually all of the Protestant community in Anatolia and most of it in Istanbul was obliged to emigrate to other countries. From the perspective of the present day, we see that Protestant congregations from Ottoman times that still exist are limited to three congregations in Istanbul: the Gedikpaşa Armenian Protestant Congregation, the Aynalıçeşme Armenian Protestant Congregation and the Immanuel (Bible House) Syriac Congregation.

During the 1970s several persons of Muslim background embraced Christianity and started worshipping with various Syriac and Armenian citizens of the Republic of Turkey, conducting their worship in Turkish. Thus the Turkish Protestant community emerged. Initially small groups would meet in homes and then, as growth took place, small congregations started to form, primarily in Istanbul, but also in Izmir and Ankara. As these congregations began to use varied locations as places of worship, the Protestant community increased in visibility and, during the period of the 1980 military takeover, began to experience persecution. Subsequently, in 1988, a wave of crackdowns and arrests occurred.

In the 1990s, the Protestant community experienced a period of relative calm. Because they did not possess classic church buildings, they began to rent or buy non-church facilities (e.g. storefronts, warehouses), thus increasing their visibility. They notified local authorities, primarily provincial governors and security forces, in writing, that they were meeting for the purpose of worship, further attracting attention to themselves in the public arena.

³ Uygur Kocabaşoğlu, *Anadolu’daki Amerika* (Ankara: İmge, 2000), 14.

⁴ Mehmet Alparslan Küçük, “Anadolu’daki Protestan Ermeni Milleti’nin Oluşumu”, *Ankara Üniversitesi İlahiyat Fakültesi Dergisi*, 50:2 (2009), 178.

⁵ Kocabaşoğlu, *Ibid.*, 28.

Whereas the laws made no provision for establishing or building places of worship other than mosques, local authorities initially did not intervene to prevent the use of these facilities, giving, in a sense, their tacit approval to the opening of these places of worship. However, starting in the late 1990s, a litany of assertions – that non-Muslim groups were a threat to national security, that their objective was to divide the country, that they were paying people to adopt their beliefs, that they were meeting unlawfully in “pirated” facilities – began to be widely promoted, especially by the print and visual media, and began to appear in the reports of some government agencies. As a result of this trend, two local assemblies, one in Izmir and another in Istanbul, were temporarily closed in 1999.⁶ At the end of 2001 the activities of the Protestant community were included on the December agenda for the National Security Council’s monthly meeting. It was stated that missionary activity constituted a threat to national security and that these groups must be combated.⁷ Immediately after this National Security Council meeting, in 2001, court cases were initiated to close the facilities of nearly twenty churches, especially those in Istanbul. In 2007 the closing of these facilities was ratified by a decision of the Council of State.⁸ Though they had begun previously, after the December 2001 National Security Council meeting, anti-Christian campaigns intensified in many arenas, especially in the media, including the airing of negative television programs. Simultaneously, with this

⁶ In 1999 the Izmir Jesus Christ Assembly (İzmir İsa Mesih Topluluğu) and the Istanbul Zeytinburnu Believers in Christ Assembly (İstanbul Zeytinburnu Mesih İnanlıları Topluluğu) were closed.

⁷ This topic did not appear on the formal agenda and conclusions of the meeting. However, this subject was reported in many newspapers and television news programs. The National Security Council did not refute these reports.

<http://www.radikal.com.tr/haber.php?haberno=218964>, 20.04.2007

⁸ Court of Cassation, 10th Chamber, Admissibility :2004/5833 Judgment: 2007/3234

widespread villification campaign, churches began to be subjected to physical attacks and church members began to be arrested with the justification that they were engaged in missionary activity. Some Protestants who were citizens of other countries were deported with the justification that they were involved in missionary activity. In 2007, these attacks reached their climax. A Catholic priest in Trabzon and three Protestants in Malatya were savagely murdered. Plans to assassinate a number of church leaders were exposed and many churches were attacked by shooting, arson, stoning, and other means.⁹ Pursuant to a 2007 Ministry of Interior Decree pertaining to the protection of minorities, many churches and church leaders began to receive police protection.¹⁰ As a result of these security measures, security problems have significantly decreased relative to previous years.

Though in recent years some positive legal developments have resulted from steps taken in the context of European Union accession process and democratisation efforts, these steps remain inadequate in practice to solve the problems faced by the Protestant community.

B. Protestant Community Today

Turkey’s domestic Protestant community comprises 3,000-3,500 members. The majority of these adherents consists of persons who were previously affiliated with the religion of Islam or atheists, whereas a lesser part is made up of citizens of the Republic of Turkey who are of Armenian, Syriac or Greek descent.

⁹ Alliance of Protestant Churches 2007 Rights Violations Report (Protestan Kiliseler Birliği 2007 Hak İhlalleri Raporu), http://www.protestankiliseler.org/index.php?option=com_content&view=article&id=1137&Itemid=459.

¹⁰ In 2007 in the face of increasing attacks against non-Muslims, the Ministry of Interior published a memorandum pertaining to the protection of minorities. Decree No: 2007/63 No: B050.DİB.04.02./2007.

At 28.5 years of age, the average age of the Protestant community parallels that of the rest of the country. The number of men is slightly higher than that of women. The educational level is above that of Turkey overall, with the average being high school level. Protestants generally participate in the labor market through the private sector. Unemployment is around 10 percent.

Turkey's Protestant community comprises around one hundred churches, large and small, the vast majority of which are in Istanbul, Ankara and Izmir. Fifty percent of these congregations have no public visibility, as they are “house churches” where the congregations consist of 10 to 15 persons who worship in their own homes. The remaining churches gather for worship in publicly visible meeting places.

The Protestant community has no way to train clergy under the auspices of the Turkish Ministry of Education. Other non-Muslim groups face a similar situation. The vast majority of the Protestant community's clergy are trained “in house,” with a small segment being educated in theological schools in other countries and some acquiring the knowledge and skills needed for church leadership through seminars held within the country.

Protestant congregations have established

one foundation and 22 associations so far. There are also five representative agencies affiliated with these associations. The remainder of the congregations have no status whatsoever as legal entities.

The Protestant community, unlike the Catholic and Orthodox confessions, has no hierarchical or centralized structure. Each congregation functions independently in its own right. However, the Protestant community felt the need for mutual support and united action in the face of increasing persecution, so, starting in the late 1980s church leaders began gathering. In the mid-90s, as this affiliation gained structural momentum, the Alliance of Protestant Churches (abbreviated as TeK, which is short for “Temsilciler Kurulu”, i.e. Council of Representatives) was established. Over time most of the local Protestant churches in Turkey became part of this alliance. The present members represent approximately 85 percent of the local Protestant churches in Turkey. Due to restrictions in the former laws governing associations TeK could not properly represent itself before public authorities. However, when the Law on Associations changed TeK decided to found an association. The Association of Protestant Churches (Protestan Kiliseler Derneği) was established on 23 January 2009.

II. LEGAL FRAMEWORK

RIGHTS AND LEGAL PROBLEMS OF PROTESTANTS UNDER INTERNATIONAL AND TURKISH LEGAL REGULATIONS

Orhan Kemal Cengiz, Lawyer

Legal Counsel for the Association of Protestant Churches

INTRODUCTION

Unless it is examined with extreme care and in its historical perspective, Turkey's ancient minority problem cannot be understood. Without a doubt there is an array of factors that make it difficult to correctly perceive Turkey's minority policies "with the naked eye." The number of minority persons in Turkey has now greatly diminished and these communities have become virtually invisible. Turkey's minorities are not talkative. As a result of the fear-filled history they have experienced, they have lost their ability to express their problems out loud.

Consequently, without careful attention it is not possible to understand the minority policies Turkey has systematically implemented for many years.

We will explicitly state this "minorities policy" below. However, without grasping the elements that constitute it, it is not possible to understand this policy. Accordingly, first of all we will look at the the elements that constitute this policy and seek to understand it within this general framework.

When taken together, these four concepts enable us to understand Turkey's minorities policy: *Fait Accompli*, Auto-pilot, The Unconscious and Ittihadist Continuity.

a) *Fait Accompli*

Fait Accompli is a strategy term. It is used in the context of warfare or struggle between two groups. This could be a war; it could also be two groups struggling for a position. The essence of *Fait Accompli* is this: One of the sides, let's call it the aggressive side, attacks the passive side with a sudden assault and, without any warning, takes something from it – rips it off. In this case, the aggressive side counts on the passive side being, in a sense, conservative, unwilling to respond. Generally the passive side thinks that it has a lot to lose. Because it thinks it has a lot to lose, when you take part of what it has, it does not react. The aggressive side understands the passive side's "state of mind" very well and acts accordingly. It makes an assault, and with a very sudden assault it takes something from the passive side, and a new *status quo* is created. The passive side has lost something it had; the aggressive side now has more than it did. Time passes. Then the aggressive side takes something more from the passive side with another sudden assault. So it continues. Each time the passive side bemoans the situation but it thinks, "If, in response to this, I get involved in a totally open confrontation, I may lose everything I have." After a while the balance changes. Most of what the passive side had has been

taken from it; it has very little left of what it formerly had. The aggressive side makes another assault. It takes away something else. This time the passive side starts to think, “I used to have a lot and when it was being taken away from me, I didn’t say anything. Now I have very little, there’s no point fighting for just this much”. This conflict continues until the passive side has lost everything.

The policy Turkey has implemented for long years is a *fait accompli* strategy. When we look at how the property of their endowed institutions has been taken from the minorities, at how the “wealth tax” was implemented and at all the other restrictions imposed on minorities, we see the distinctive characteristics of a *fait accompli* emerge.

b) Autopilot

In order to explain the minorities policy, the second concept we are going to use is “autopilot.” It is our conviction that, in Turkey, not just the minorities policy, but certain other policies are on autopilot. What do we mean by this? The point is this: the distinction between “the state” and “the administration” is well known. Certain policies are “policies of state” which cannot be changed by governments that come to power. It is assumed that Turkey’s “founding decree” anticipated certain policies on certain issues. For example, consider the 1923 “Directive” that stipulated the status of the Greek Orthodox Patriarchate and the “Memorandum” of 1974. Turkey designated the status of the Greek Orthodox Patriarchate, the accepted religious leader for Orthodox Christians throughout the world, with two governorship-level memoranda. Legally, these are referred to as “soft law” documents because, theoretically, they are the most easily changed of legal arrangements. The Istanbul Governorship enacted two regulatory procedures and

designated one of these a “Directive” and the other a “Memorandum.” As these were not laws or statutes, but only administrative regulatory procedures, theoretically they should be easy to change. But to the contrary, although virtually all of Turkey’s legal regulations have changed within the framework of the EU conformity process, these two “soft law” documents have remained untouchable because, as is the case with many other issues relating to minorities, Turkey’s approach to the Patriarchate is governed by policies that are on “autopilot.”

c) Unconscious

It is my contention that, where minorities are concerned, as is the case with many things in Turkey, much of the politics and many of the attitudes are strongly affected by influences in the “unconscious mind.” Consider an example: until very recently one of the fixed items on the National Security Council’s agenda was “Missionary Activity in Turkey.” Turkey, which has the second largest army in NATO convenes a council made up mainly of military men and they include on their agenda that several thousand people in Turkey have become Christians, as if this is a matter of grave concern. How can this be explained without reference to the impulses of the unconscious mind?¹¹ Whereas the population of Turkey at one time consisted of 25 percent non-Muslims, today these numbers have decreased to the point where they have to be expressed in thousandths or ten thousandths of a percent. Without knowing how this historical process has marked our collective subconscious it is impossible to understand the roots of such unrealistic perceptions.

¹¹ Here “unconscious mind” refers to that intuitive aspect of our cognition which, without our conscious awareness, influences all of our actions and attitudes.

d) Ittihadist Continuity

Although its visibility and power have risen and fallen during different periods, without a doubt the sociopolitical factor that has most marked Turkey's last century is Ittihadist continuity. The Republic of Turkey, never having come to terms with the massacres that non-Muslims were subjected to during the dissolution of the Ottoman Empire, has granted unbroken continuity to this ittihadist mentality¹² by transforming it into its own "deep state."¹³

From the motto of one of Turkey's biggest newspapers – "Turkey belongs to Turks" – to the streets and boulevards named after Talat Pasha, this ittihadist continuity can be seen in every area of daily life. What is more, sometimes we see it in a mocking, threatening form as, for example, in the case where the street in front of the Greek Orthodox Patriarchate is named after Sadrazam Ali Pasha, the grand vizier who hung one of the patriarchs.

Without comprehending the world of this ittihadist mindset, it is not possible to unravel the Santora, Dink and Malatya murders.

In the final analysis, we see that where minorities are concerned the ittihadist line of thought remains vitally alive. When all of the

¹² "Ittihadist mentality" as it is used here refers to an attitude towards the state and government that believes it has the right to mold society from the top down, which derives its legitimacy from itself, and which believes it has the right to engage in all manner of manipulation and provocation to ensure the continuity of its own prosperity and power to rule. [Translator's note: "Ittihadist" is a reference to the Committee of Union and Progress ("İttihat ve Terakki") which was in power during the final years of the Ottoman Empire and which implemented a series of nationalistic policies against non-Muslim minorities.]

¹³ The operational methods of the "Special Organization" (Teşkilatı Mahsusa) that was the architect of the inhuman practices employed during the Armenian deportation have continued unchanged in the Republican period in the 1934 anti-Jewish pogroms in Thrace, the plundering of non-Muslims' property in Istanbul in 1955, and the Alevi massacres that took place in 1978 and laid the foundation for the *coup d'état* of 12 September 1980.

factors articulated above are taken together, we arrive at the following characterization of Turkey's minorities policy:

Turkey's minorities policy is:

"a policy of eradication, which rests upon a *fait accompli* strategy implemented by *ittihadist* units within the state, abetted by *collective amnesia* within the society and which runs on *autopilot*."

It would appear that the minorities policy described above has started to show some cracks with the coming to power of the "outsider" Justice and Development Party (JDP) with its "Islamist" and "conservative" roots. The Ergenekon trial has struck an enormous blow to the "absolute immunity from punishment" from which the "gangs" within the state perpetually benefitted. Again, the reforms which the JDP has implemented within the context of the EU accession process, and the sense of relief for minorities that these reforms has engendered should not in any way be deprecated.

Nonetheless, it cannot be said that, thanks to the steps the JDP has taken, Turkey's ittihadist minorities policies described above have been driven permanently from the stage of history. For these policies to change, a decisive, strategic and comprehensive approach is needed.

Even if it is only a drop in the bucket, this report has been prepared with the intent of contributing to such an effort and pointing the way to solutions for the problems experienced by Protestants.

A. Provisions on Freedom of Religion or Belief in the International Covenants to Which Turkey is a Party

The Republic of Turkey is signatory to quite a few conventions and documents of importance from the standpoint of freedom of religion and conscience. These arrangements, which should direct Turkish

legal regulations and practices, are as shown below:

United Nations Universal Declaration of Human Rights; Article 18: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

United Nations International Covenant on Civil and Political Rights; Article 18/1:

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (of 25.11.1981);

Article 1: Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.

Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

Article 2: No one shall be subject to discrimination by any State, institution, group

of persons, or person on the grounds of religion or other belief.

Article 5: The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.

Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.

The child shall be protected from any form of discrimination on the ground of religion or belief. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.

Practices of a religion or belief in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account article 1, paragraph 3, of the present Declaration.

Article 6: In accordance with article 1 of the present Declaration, and subject to the provisions of article 1, paragraph 3, the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms:

To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;

To establish and maintain appropriate charitable or humanitarian institutions;

To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;

To write, issue and disseminate relevant publications in these areas;

To teach a religion or belief in places suitable for these purposes;

To solicit and receive voluntary financial and other contributions from individuals and institutions;

To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;

To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;

To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.

United Nations Convention on the Rights of the Child; Article 14:

States Parties shall respect the right of the child to freedom of thought, conscience and religion.

States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals,

or the fundamental rights and freedoms of others.

Document of the Copenhagen Meeting of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe (CSCE):

(5/7) - human rights and fundamental freedoms will be guaranteed by law and in accordance with their obligations under international law;

(9/4) - everyone will have the right to freedom of thought, conscience and religion. This right includes freedom to change one's religion or belief and freedom to manifest one's religion or belief, either alone or in community with others, in public or in private, through worship, teaching, practice and observance. The exercise of these rights may be subject only to such restrictions as are prescribed by law and are consistent with international standards.

Helsinki Final Act; Section VII:

The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion. They will promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development. Within the framework the participating States will recognize and respect the freedom of the individual to profess and practise, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience...

They confirm the right of the individual to know and act upon his rights and duties in this field. In the field of human rights and fundamental freedoms, the participating States will act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights. They will also fulfil their

obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound.

The Charter of Fundamental Rights of the European Union; Article 10, contains the statement, “Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.”

However we wish to state that Turkey, when ratifying international agreements, has stipulated reservations which are at odds with the articles concerning minority rights in particular and, in some cases, with the general spirit of these agreements. It is clear that, to be able to speak of a comprehensive breakthrough in the area of human rights, a great many of these reservations would need to be withdrawn.

B. Freedom of Religion and Conscience According to the European Convention on Human Rights

The approach to freedom of religion and conscience of the European Convention on Human Rights (ECHR) and of the European Court of Human Rights (ECtHR), which interprets this convention, is highly significant with regard to Turkey. Turkey, which recognized the compulsory judicial authority of the court in 1987, renders its legal regulations and practices accountable to the European Court of Human Rights.

The European Convention on Human Rights, Article 9, makes the following provisions regarding freedom of religion and conscience:

1. *Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his*

religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. *Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or the protection of the rights and freedoms of others.*

The freedom to manifest religion or conscience ensured by the European Convention on Human Rights is not an absolute right; it may be subject to exceptions and limitations. Interference with a right recognized by the convention,

a) must pursue a legitimate aim, namely, to protect public safety and protection of public order, health or morals can be considered legitimate aims.

b) must be foreseeable in the law (supremacy of law; legal guarantee against arbitrariness). In the case-law of the ECtHR, the meaning of this condition, which is expressed in terms of foreseeability in the law or accordance with the law, is expressed in such terms that the procedure that constitutes an interference with a right or freedom must have a basis in national law. Even though such a discretionary authority is granted to organs of the state in this matter, the scope of this discretionary authority must be indicated in a fashion that prevents arbitrary practices with in the law that grants this authority.¹⁴

As for interferences, “the interferences with the applicant’s rights to have been strictly proportionate to the legitimate aim pursued”

¹⁴ Huvig v France (Series A No 176-B; Application No 11105/84)

otherwise the condition on legality would have been violated.¹⁵

Further, the regulatory norm that is set forth as the basis for the interference must be accessible and understandable. In other words the applicants should be able to access the law easily, should be able to be cognisant of the existence of the norm, and, if necessary, should be able, with the help of a lawyer, to understand without uncertainty what the norm means.¹⁶

c) must be “necessary” in a democratic society. The interference or limitation of a right as recognized by the convention must be necessary and of a nature that is lawful in democratic societies. According to the court’s findings, the adjective “necessary” implies “a pressing social need.”¹⁷ In reaching its decision, the court applies pressing social need, appropriate and credible sufficient cause establishing this need, the proportionality of the measure which constitutes the interference, and standards of individual balance and preference to the concrete incident which is the subject of litigation.

The Meaning of Freedom of Religion

The European Court of Human Rights explains the meaning of freedom of religion as follows:

As enshrined in Article 9 (art. 9), freedom of thought, conscience and religion is one of the foundations of a "democratic society" within the meaning of the Convention. It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, skeptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it.

¹⁵ Funke v France (Application no. 10828/84)

¹⁶ The Sunday Times v. United Kingdom (App. 13166/87)

¹⁷ Barthold v. Federal Republic of Germany (App. 8734/79)

While religious freedom is primarily a matter of individual conscience, it also implies, inter alia, freedom to "manifest [one's] religion". Bearing witness in words and deeds is bound up with the existence of religious convictions.

According to Article 9 (art. 9), freedom to manifest one's religion is not only exercisable in community with others, "in public" and within the circle of those whose faith one shares, but can also be asserted "alone" and "in private"; furthermore, it includes in principle the right to try to convince one's neighbor, for example through "teaching", failing which, moreover, "freedom to change [one's] religion or belief", enshrined in Article 9 (art. 9), would be likely to remain a dead letter.¹⁸

The ECtHR's View on Religious Proselytism/Missionary Activity

The ECtHR has stated that, as long as abusive means such as “offering material or social advantages with a view to gaining new members for a Church or exerting improper pressure on people in distress or in need ... [or] the use of violence or brainwashing” are not resorted to, calling people to change their religion is within the scope of freedom of thought, conscience and religion.¹⁹

Again, according to the ECtHR, freedom to manifest one's religion includes in principle the right to try to convince one's neighbour to believe in that religion. If such a freedom is not granted, the freedom to change one's religion becomes utterly meaningless.²⁰

While the ECtHR states that freedom of religion is basically a matter of individual conscience, it also indicates that, among other characteristics, it includes not only the freedom to manifest one's religion “openly” or in a group, but also “alone” or “in private”. Article 9 lists a concrete series of forms that the manifestation of religion or belief may take: worship, teaching, practice and observance.

¹⁸ Kokkinakis judgment of 25 May 1993, Series A no.260-A, p.17

¹⁹ Kokkinakis, para 49

²⁰ Kokkinakis, para 31-3

C. Provisions in Domestic Law

According to article 24 of the Constitution of the Republic of Turkey:

Everyone has the right to freedom of conscience, religious belief and conviction.

Acts of worship, religious services, and ceremonies shall be conducted freely, provided that they do not violate the provisions of Article 14.

No one shall be compelled to worship, or to participate in religious ceremonies and rites, to reveal religious beliefs and convictions, or be blamed or accused because of his religious beliefs and convictions.

Education and instruction in religion and ethics shall be conducted under state supervision and control. Instruction in religious culture and moral education shall be compulsory in the curricula of primary schools and secondary schools. Other religious education and instruction shall be subject to the individual's own desire, and in the case of minors, to the request of their legal representatives.

No one shall be allowed to exploit or abuse religion or religious feelings, or things held sacred by religion, in any manner whatsoever, for the purpose of personal or political influence, or for even partially basing the fundamental social, economic, political, and legal order of the state on religious tenets.

Article 115 of the Turkish Penal Code (TPC) regulates the crime of “Restriction of freedom of belief, thought and conviction.” The text of the article is as follows:

(1) Any person who forces another person by using violence or threat to disclose or change his religious, political, philosophical beliefs, conceptions and convictions, or prevents disclosure and publication of the same, is punished with imprisonment from one year to three years.

(2) In case of prevention of group religious service or worship by use of violence or threat or performance of any act contrary to the law, the punishment to be imposed is determined according to the above subsection.

In the event that the crime in TPC article 115 is committed through abuse of influence based on public office, the punishment to be imposed is doubled (TPC 119/1-e).

Appendix 2 of the Zoning Law contains regulations pertaining to places of worship. According to this article:

In the development of zoning plans, the required places of worship shall be designated taking into account the conditions of the planned districts and regions and their future needs.

Provided that the permission of the highest civilian administrator is obtained and the zoning legislation is respected, places of worship can be built in the provinces, sub-provinces and towns.

Places of worship cannot be allocated for other purposes in violation of the zoning legislation.

Again, according to Article 9/3 of the Zoning Law:

In the event that, in order to serve the public, it is necessary to allocate space in the zoning plans of official buildings and facilities, or to make modifications for this purpose, the ministry can give instructions to the relevant municipality through the provincial governor's office or, if necessary, may independently enact and ratify the section of the zoning plan which concerns official buildings and facilities.

According to Article 35 of the Law Pertaining to the Founding and Duties of the Directorate of Religious Affairs:

Mosques and prayer halls shall be opened for worship by permission from the

Directorate of Religious Affairs and administered by the directorate. Though done by real and legal persons, mosques and prayer halls opened for worship with or without permission shall have their administration turned over to the Directorate of Religious Affairs within three months. Proportional to availability, personnel shall be allocated to these facilities by the Directorate of Religious Affairs. Until personnel are allocated principles and methods concerning the professional qualifications of those who serve in these facilities shall be regulated by the applicable legislation.

The rights of religious congregations to assemble as an exception to meetings requiring permission in paragraph b or article 4 of the Meetings and Demonstrations Law: It is stated that “with the condition that laws are obeyed and their own rules and limitations are abided by, meetings, ceremonies, celebrations, greetings and send-offs that will be carried out in keeping with law or tradition” cannot be evaluated as being within the scope of this law.

In Article 230, paragraph 5 of the Penal Code, performing a religious marriage without having a civil marriage ceremony is penalized. According to the article in question:

Couples who marry by arranging a religious ceremony without executing civil marriage transactions are sentenced to imprisonment from two months to six months. Both the public action and the punishment imposed thereof, is abated with all its consequences when the civil marriage ceremony is accomplished.

D. Legal Problems Faced by Protestants

a. The Problem of Legal Personality

To be able to understand the problem of legal personality with which Protestants are faced and the point this situation has reached

today, we need to look at how the matter of legal personality is regulated in the Turkish legal system. Until recently Protestants were bereft of any of the benefits of legal recognition. In Turkish law the situation of minorities is regulated by articles 37 through 45 of the Treaty of Lausanne. According to the Treaty of Lausanne, non-Muslims have minority status.

Considering the advances in human and minority rights of our day, and the recognition accorded to these concerns, designating only “non-Muslims” as minorities is an extremely regressive arrangement. However, when we examine verdicts reached by Turkish courts and the way in which administrative organs have interpreted these judgements, we see that right up to the present, the interpretation of the law is even more restrictive than this. The Turkish authorities have interpreted the expression “non-Muslim” in the Treaty of Lausanne as encompassing only the Greek, Armenian and Jewish communities,²¹ having stated that groups outside these categories do not possess minority status.

Under the Turkish legal system (if we set aside political parties established to come to power and unions founded by workers), three forms of legal personalities exist: companies, associations and foundations. It is quite clear that a church cannot be organized in the form of a for-profit business. This leaves two types of legal personalities, the association and the foundation. The efforts of Protestants to establish organizations under these two forms of legal personality have formerly met with serious obstructions.

In 2000, the endeavours of İhsan Özbek and his associates to establish the Kurtuluş Protestant Church in Ankara were rejected, first by the Ankara Civil Court, the court of first instance, and subsequently by the Supreme Court of Appeals, on the grounds

²¹ Yuda Reyna and Ester Moreno Zonana, *Son Düzenlemelere Göre Cemaat Vakıfları* (Istanbul: Gözlem Gazetecilik Basın ve Yayın, 2003), p. 72

that the objective of the foundation was only to assist Protestants and that the Civil Code did not permit as an objective the assistance of a particular confessional community. Actually, upon inspection of the bylaws of the foundation that Özbek and his associates sought to establish, it can be seen that the objective was not only to assist a particular confessional community, but to help persons who are in need. However, the court of first instance and the supreme court interpreted the bylaws in the fashion stated.

The Ankara Protestant congregation thought this obstruction of their efforts to establish a foundation interfered with their “freedom to associate” and brought the matter to the European Court of Human Rights (ECtHR). The ECtHR, in a verdict issued on 6 October 2009,²² finding in favour of the applicants, ruled that the denial of their request to register amounted to a “disproportionate” intervention and that, accordingly, the Republic of Turkey had violated the applicants’ “freedom to associate” as specified in Article 11 of the Convention.

Due to amendments made within the framework of EU conformity laws (2004-2008 amendments), restrictive provisions in the Law on Associations and the Law on Foundations were eliminated and the Protestants did achieve the means of obtaining legal personality, even if not in an entirely satisfactory form. Whereas there were previously verdicts indicating that foundations and associations could not be established in behalf of a congregation, today one foundation in Istanbul and a number of associations in various provinces established by Protestants are in operation.

While this unquestionably represents a step forward, it cannot be said that these associations and foundations fully meet the needs of the congregations in question. Turkey’s laws and legal practices are in

conflict with the main model in Europe, which is that religious communities and institutions are recognized as such and “allowed to register and obtain legal personality, without having to go (indirectly) by way of other institutional arrangements.”²³

It is evident that Turkey’s restrictive understanding of legal personality is also in conflict with European Court of Human Rights’ general approach to this issue. In the case of Hassan and Tchaouch,²⁴ the ECtHR made the following assessment regarding the importance which the freedom to organize holds for religious congregations and of the scope of this right:

The Court recalls that religious communities traditionally and universally exist in the form of organised structures. They abide by rules which are often seen by followers as being of a divine origin...Where the organisation of the religious community is at issue, Article 9 must be interpreted in the light of Article 11 of the Convention which safeguards associative life against unjustified State interference and is thus an issue at the very heart of the protection which Article 9 affords. It directly concerns not only the organisation of the community as such but also the effective enjoyment of the right to freedom of religion by all its active members. Were the organisational 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.

With reference to Turkey’s latest legal amendments, this point must be noted: Unless the objective of these congregations to form a church is recognized, their churches do not gain a legal structure by means of these foundations and associations. In brief, non-Muslim congregations have been

²² Özbek and Others v. Turkey (no. 35570/02).

²³ European Commission for Democracy Through Law (Venice Commission), “Opinion on the Legal Status of Religious Communities in Turkey and the Right of the Orthodox Patriarchate”, Adopted by the Venice Commission at its 82nd Plenary Session, Venice, 12-13 March 2010, para. 73

²⁴ Hassan and Tchaouch v. Bulgaria (30985/96), 26 October 2000; paragraph 61-65.

granted a right to legal personality similar to that of an “association to establish a mosque.” It can be said that this is a positive step towards recognizing these congregations as religious establishments and towards granting them a distinct legal personality. Still it is clear that, in their present form, associations and foundations that can be established do not meet the needs of these congregations. An association refers to a group of people who have come together around a particular objective, while a foundation refers to allocation of particular property for a particular objective. It is quite evident that a religious institution remains outside of both of these purposes. Further, the special structural and organizational needs of religious institutions necessitate the existence of civil law pertaining to religious institutions. All the needs of religious institutions – hiring clergy, collecting donations, holding religious services, providing training, and the like – exhibit the need to develop a new understanding of legal personality that preserves the unique structure of these institutions.

In its present state, the legislation that provides for Protestants to gain legal personality is confusing and open to potential abuse. In reality, granting Protestants the possibility of establishing an association limited to the purpose of “founding a church” creates ambiguity regarding the legal status of these associations.

As a case in point, it would seem the Ankara Provincial Governorship’s case to close the Association of Kurtuluş Churches²⁵ has resulted from this “confusion.”

The Ankara Provincial Governorship, on the assertion that persons were worshipping in the office the Association of Kurtuluş Churches set up in Çayyolu (a suburb of Ankara), and that this was unlawful, opened a court case demanding that the association be

closed down. The assertion that it is illegal for Protestants, who established an association to address their need to worship, to engage in worship in the office of their association, shows the delicate status of churches obliged to organize within the framework of the Law on Associations. For Protestants, the only comforting aspect of this rather worrying case is that it was that it terminated with a verdict from what could be considered a “libertarian” court. The Ankara 1st Civil Court of First Instance rejected the governorship’s demand that the association be shut down with the following justification:

Upon consideration of the factors that the association's legal personality cannot be revoked nor its activities suspended due to the opening of a facility without permission, that for the association to be closed and its activities to be suspended it would be necessary to indicate with a finalized court verdict that the association had become a source of illegal activity and that there was an organic connection between the activity deemed criminal and the association’s legal personality, the case is found invalid and rejected because it has not been established that the accused association has acted unlawfully or in violation of any restrictions...²⁶

It can be seen from the points evaluated above that Protestant congregations’ needs and problems pertaining to the acquisition of legal personality are ongoing. The need for a solution renders the creation of new legislation imperative.

b. The Problem of Places of Worship

Until amendments were made to the Zoning Law in 2003, it was highly debatable whether a place of worship other than a mosque could be opened or what the relevant practices and procedures to do this might be. The relevant article (Appendix Article 2) of Zoning Law No. 3194 used to read as follows:

²⁵ Ankara 1. Asliye Hukuk Mahkemesi Esas No: 2007/44, Karar No: 2007/ 185

²⁶ Cf. verdict in question from the Ankara 1st Civil Court of First Instance (Ankara 1. Asliye Hukuk Mahkemesi).

In the development of zoning plans, the required places for mosques shall be designated, taking into account the conditions of the planned districts and regions and their future needs. Provided that the permission of the mufti is obtained and the zoning legislation is respected, mosques can be built in the provinces, sub-provinces and towns. Places for mosques cannot be allocated for other purposes in violation of the zoning legislation.

In the context of the European Union process, this article has been amended as follows:

In the development of zoning plans, the required places of worship shall be designated, taking into account the conditions of the planned districts and regions and their future needs. Provided that the permission of the highest civilian administrator is obtained and the zoning legislation is respected, places of worship can be built in the provinces, sub-provinces and towns. Places for worship cannot be allocated for other purposes in violation of the zoning legislation.

However, where it involves non-Muslims, what the law gives the implementation takes away. This practice has been put to use in the case of the regulations for places of worship. The zoning law amendment cited above has been rendered non-functional through the Implementation Guidelines. The Implementation Guidelines indicate the following about religious facilities:

a) Structural Conditions: Can be made in zoning parcels that have been designated for religious facilities in the zoning plans. In new planning sectors, they will be made such that the zoning parcel is not smaller than 2500 m^2 .

b) Construction Conditions: If there is not a ruling to the contrary in the zoning plans, only religious facilities and their auxiliary buildings may occupy such spaces. Such spaces may not be used for commercial, residential, educational or other such functions. In zoning parcels in conformity with the structural conditions, unconnected structures may be included in the building design, on condition that it is 10.00 meters away from the parcel's

border. The floor area ratio can be a maximum of 60%. Building heights are unrestricted. Facilities such as a WC or fountain for ablutions may be built within the scope of the auxiliary building.

c) Mosques must be constructed in conformity with the conditions published by the Directorate of Religious Affairs.

Though the legal code permits it, for a variety of reasons, non-Muslims who want to open a place of worship face major obstacles.

It is impossible for a church with a congregation of thirty or forty persons to purchase a lot that is 2500 m^2 and build a building on it. Further, the condition that permission be obtained from the civilian authorities, because it does not include explicit criteria, is a regulation subject to arbitrary responses. In practice, municipalities have rejected requests that space be allocated and a multiplicity of bureaucratic obstructions have been encountered. Subsequent to the adoption of the amendments to the Zoning Law, dozens of applications have been made and denied; only a handful of applications have been successful. In theory it is possible for Protestants to have places of worship. In reality, this problem remains unsolved.

The United Nations International Covenant on Civil and Political Rights, to which Turkey is signatory, ensures freedom of belief in its 18th Article. The UN Human Rights Committee, which is tasked with monitoring compliance with the Covenant, in its General Comment No. 22 concerning the scope of freedom of religion and belief, states, “The freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts... including the building of places of worship.”

According to the ECHR, freedom of religion entails two kinds of obligation for signatory governments. One of these is “positive,” the other “negative” in nature. Positive obligation expresses the obligation to take measures

that protect religions present in the society and which allow the adherents of those religions to perform their worship freely and without fear. Negative obligation is the obligation to not interfere. The secular state is obligated to treat religious beliefs impartially, to both protect them and ensure that disputes concerning them are conducted in a peaceable fashion, and also to achieve the cultural diversity that stimulates the perpetuation of a diversity of beliefs. As the European Human Rights Commission has stated, if the belief or religion in question represents a minority in the society, the state's positive obligation become even more pronounced. As the Strasbourg organs state: *"The protection of diversity of thought from suppression constitutes one of the fundamental characteristics of democratic societies which guarantee the rights contained in the Covenant..."*²⁷

The European Court of Human Rights, when hearing a case concerning freedom of belief and dealing with a minority group in the country against whom the application is made, acts with increased sensitivity. A series of cases in which Bulgaria and Greece were found guilty due to their attitudes and actions towards Muslim minorities are suggestive in this regard.

In a case where Bulgaria was found guilty because it arbitrarily dismissed from his position a mufti chosen by a Muslim congregation, the ECtHR made these findings:

The Court recalls that religious communities traditionally and universally exist in the form of organised structures. They abide by rules which are often seen by followers as being of a divine origin. Religious ceremonies have their meaning and sacred value for the believers if they have been conducted by ministers empowered for that purpose in compliance with these rules... Where the organisation of the religious community is at issue, Article 9

must be interpreted in the light of Article 11 of the Convention which safeguards associative life against unjustified State interference. Seen in this perspective, the believer's right to freedom 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.²⁸

It should be remembered that Greece, which in terms freedom of religion problems greatly resembles Turkey, has been repeatedly found guilty by the European Court of Human Rights due to the restrictions it has imposed on religious congregations outside of the Orthodox faith. In a case where a Jehovah's Witness was convicted of opening a place of worship without obtaining the needed permission from the Greek authorities, the ECtHR found that Greece had implemented its formal regulations in an excessively restrictive and punitive fashion and convicted them of violating freedom of religion and belief.²⁹

The Organization for Security and Co-operation in Europe, of which Turkey is a member, states in paragraph 4 of article 16 in its 1989 Vienna Concluding Document that with regard to religious communities within the domain of their sovereignty, member countries are obligated to "respect the right of these religious communities to establish and maintain freely accessible places of worship or assembly, [and] organize themselves according to their own hierarchical and institutional structure."

Similarly, with the European Union Accession Partnership Document, Turkey has pledged to "secure the full enjoyment of human rights and fundamental freedoms by all individuals and further develop conditions for the

²⁷ European Commission of Human Rights, No. 9401 / 81, Dec. 17.12.81, D:R. 27 p. 228

²⁸ Case of Hassan and Tchaouch v. Bulgaria, application no. 30985 / 96, 26 October 2000, para 62

²⁹ Manoussakis and Others v. Greece, 17 Eur. Ct.H.R. ser. A 1347 1999-IV

enjoyment of freedom of thought, conscience and religion without discrimination and irrespective of language, race, color, sex, political opinion, philosophical belief or religion.”

As the statements above all show, all the arbitrary steps taken by civil authorities against the opening of new places of worship in Turkey are flagrant violations of Turkey’s obligations under international law.

c. Protection of Protestants’ Personal Rights and Protection Against Hate Speech

It is not at all uncommon in Turkey for the media to set forth Protestants as illegitimate and turn them into a hate object, particularly by targeting missionary activities. Publications and broadcasts that demonize Protestants occur at both the local and national levels. It is no coincidence that physical attacks against Protestants almost always follow negative news stories about Protestants in the media.

Virtually none of these incendiary broadcasts targeting Protestants has resulted in the prosecution and conviction of those responsible for the broadcast. The Turkish justice system seems not to have sufficiently grasped the concept of the “hate crime” nor the significance of this concept for the protection of minorities.

For example, during a 6 January 2005 broadcast on one of Turkey’s biggest television stations, a theology professor considered an opinion leader in Turkey made this assessment of the two Turkish Christians who were also guests on the live broadcast: “...I see this as proof of the claims being made. It is in fact the case that the State of the Republic of Turkey is under attack and these are people we have lost...” He continued his comments, to summarize, by saying,

At this moment in each of Turkey’s provinces and counties...there are three or five or ten house churches that have been started. In these places there are – not one, two, three, five or ten but many – Turks like these who have declared themselves to be priests... These people are undermining the Republic of Turkey... Something else...these people are enemies of the Turks. They are undermining us from within. They call Muslims and Turks “the seed of Satan.” In front of Christians, I mean, they are rejecting Muslims and Turks. These people have their roots outside of the country...There is a fifth column operation directed against Turkey. There is a psychological operation. There is an operation to destroy us, to subjugate us from within. Because they are also destroying our national identity... They continue to steal our people... They see our people as Satan’s seed, infidels, atheists. The real atheists, the real infidels, the real seed of Satan are those who taunt Muslims. In particular these renegade converts to Christianity...

The court case opened by Turkish Protestant leaders who were deeply offended by these words was dismissed with the justification that “in the transcript of the tape Christian propaganda in Turkey was discussed without any mention of the plaintiffs by name... the news reported was true, contemporary and of benefit to the public, the topic and the mode of expression used were intellectually related. It was natural for a television channel engaged in a broadcast reaching the whole country to report this news with a view to preserving national unity and solidarity, and the plaintiffs have no grievance constituting grounds to sue because they were not once mentioned by name and not a single word was spoken that violates their rights of personhood.”

All of the cases Protestants opened with regard to similar broadcasts on various channels were also thrown out due to lack of “grievance.” All these verdicts from local courts indicating that Protestant congregations may not be plaintiffs in these

matters because a specific name was not mentioned have been upheld by the Supreme Court of Appeals. It is interesting to note that, in an attempt to obtain damages for mental suffering from Orhan Pamuk for his statement that “we killed 30 thousand Kurds and one million Armenians,” the lower court rejected the case with the justification that the plaintiffs “have no grievance constituting grounds to sue,” but this same Supreme Court of Appeals overturned the lower court’s decision.

The lower court had explained that in the case the plaintiffs brought, just because the plaintiffs were individual members of the Turkish nation, there was no possibility that, by extension, their rights of personhood had been violated and so, for this reason, there was no active grounds to sue and the verdict was reached to reject the case. When the local court decision was appealed, the Supreme Court of Appeals, 4th Judicial Office which heard the case, overturned the verdict in favor of the plaintiffs on merit grounds. The Judicial Office, in its reversal decision,³⁰ pointed out that “granting the existence of the plaintiffs’ grounds for bringing suit, it is necessary to render a verdict based on an investigation of the case’s merits” and that, in the event that the existence of an “attack on rights of personhood” is accepted, it is incumbent on the court to render a verdict in keeping with the provisions of the relevant legislation. The Judicial Office, recalling that Article 66 of the Constitution states that “Everyone associated to the Turkish State by means of citizenship is a Turk,” indicated that, as is the case with sense of honor and dignity, feelings of belonging to the nation of which one is a member fall within the scope of personhood values and are legally protected.

As can be seen, when the Protestant community, which only numbers several

thousand, brought a redress case for language that openly targeted and defamed them, the Turkish judiciary rejected the case on the grounds that the plaintiffs’ names were not explicitly mentioned and there was thus no objective grievance. However, when language used by Orhan Pamuk in the context of the Armenian issue was in view, the same judiciary was able to accept that a whole nation could be considered aggrieved.

Requests for redress have gone unanswered, not just in the case of defamation by the media, but also in regard to discriminatory and inflammatory language about Protestants in textbooks. The Association of Protestant Churches, in a formal request dated 3 September 2009, made application to the Ministry of National Education requesting that inflammatory language about Protestants used in secondary-level textbooks be removed. In the Association’s formal request it was stated that “in particular in the textbook for the eighth grade ‘History of the Republic of Turkey’s Revolution and Atatürkism’ class, the section entitled, ‘Missionary Activities’ in the section on ‘Threats Facing Turkey’ was conspicuous” and attention was drawn to “the fact that missionary activity was perceived as a national threat and that this perception of threat was being conveyed to the society in a variety of ways, including through textbooks,” resulting in disturbing incidents. The response to this formal request, dated 2 October 2009,³¹ from the Ministry of National Education’s School Board is troubling. The Ministry’s answer closes with these sentences:

It is well known that our country’s geopolitical and strategic position has made it the focus of various hostile activities. It is imperative that sensitivity be shown regarding such endeavours which, in our country in particular, include ideological activities and, sometimes, activities meant to divide the country, which are perpetrated in the name of “missionary

³⁰<http://www.radikal.com.tr/Radikal.aspx?aType=RadikalDetay&ArticleID=935727&Date=14.05.2009&CategoryID=77>

³¹ Cf. Written response numbered B.08.0. TTK.0.01.01.01, Ministry of National Education, School Board Presidency.

activity”. The whole education system cannot be criticised because of certain isolated incidents.

There is absolutely no way the outlook reflected in the Ministry of National Education’s answer from which we have quoted above can be considered acceptable. Turkey is a country where the commission of hate crimes is extremely widespread. Accordingly, whereas this institution should present diversity and the opportunity to live with those who are different as an enriching experience and should be helping to lessen intolerance in our society, they have prepared textbooks containing language that transforms Protestants, one of Turkey’s most vulnerable groups, into an object of hatred. There is absolutely no justification for this behavior.

d. The Problem of Compulsory Religion Classes for Primary and Secondary Education

Article 24 of the Constitution states:

Education and instruction in religion and ethics shall be conducted under state supervision and control. Instruction in religious culture and moral education shall be compulsory in the curricula of primary and secondary schools. Other religious education and instruction shall be subject to the individual’s own desire, and in the case of minors, to the request of their legal representatives.

Article 12 of the Basic Law of National Education numbered 1739 states, “In Turkish National Education secularism is fundamental. Instruction in religious culture and moral education is included among compulsory classes to be taught in primary and secondary schools and their equivalents.”

The European Commission against Racism and Intolerance has determined that the content and form of instruction in Turkey’s religion classes is problematic. The Commission

has urged Turkish authorities to “...reconsider their approach to instruction in religious culture. They should take steps either to make this instruction optional for everyone or to revise its content so as to ensure that it genuinely covers all religious cultures and is no longer perceived as instruction in the Muslim religion.”³²

The European Court of Human Rights has made the following assessments regarding content in textbooks used in Turkey for intermediate-level religious culture and moral education classes:³³

In the 4th grade textbook, instruction moved from the concept of religion to examine the relationship between morality and religion, the Creator and the creature, the family and religion, and knowledge of the life of the prophet Mohamed.

The 5th grade textbook begins by explaining the meaning of the expression “I believe in God.” It focuses particularly on teaching the fundamental concepts of Islam: the profession of faith, prayer, the mosque as the place of worship, the nature of the prayers recited during the month of Ramadan, and the prophet Mohammed’s family life. A general overview is given of the prophets whose names appear in the Koran.

The 6th grade textbook begins by covering the different daily prayers. It is explained that every Muslim is obliged to pray five times daily. The corresponding rituals are illustrated in the book, which then deals with subjects such as charity, love for the homeland and the nation, harmful behaviour, friendship and brotherhood, and the four holy books, namely the Torah, the Zabur (psalms), the Gospels and the Koran.

The 7th grade textbook emphasises knowledge of the Koran, the link between religion and high moral standards, pilgrimage and sacrifice, angels and invisible creatures, belief in the other world and the family. In addition, the main religions, namely Judaism, Christianity,

³² http://hudoc.ecri.coe.int/XMLEcri/ENGLISH/Cycle_03/03_CbC_eng/TUR-CbC-III-2005-5-ENG.pdf

³³ ECHR, Case of Hasan and Eylem Zengin v. Turkey, application no: 1448/04, para.22

Islam, Hinduism and Buddhism, are presented over fifteen pages.

The 8th grade textbook discusses the prophet Mohammed's high moral standards, culture and religion, the concepts of religion, reason and science, belief in fate and the link between faith and conduct. Subjects such as "differences in approach in religion," "advice of religions and of Islam," "secularism," and "freedom of religion and conviction" are also covered in this book.

It appears from reading these textbooks that the pupils are also required to learn several suras from the Koran by heart.

On 9 July 1990, the Education and Teaching High Council took a decision regarding religious culture and moral education classes and the right of students to be exempted from these classes. The decision contained these particulars:

Pursuant to the recommendation of the Ministry of National Education, students who are Turkish citizens, who belong to the Christian or Jewish religion, and who are attending primary school or middle school, with the exclusion of minority schools, upon declaration that they are adherents of the religions in question, may not be compelled to attend religious culture and moral education classes. However, should these students desire to attend religious culture and moral education classes, they must provide a written request from their legal guardians.

Turkey's implementation of compulsory religion classes and the system employed for exemption from this class expose severe violations of Protestants' freedom of religion and conscience. As the Association of Protestant Churches stated in their formal request to the Ministry of National Education, dated 13 July 2009, the procedure by which Protestant students are exempted from religion classes is exceedingly problematical:

In this framework, upon application by their families, children who should not be attending the Religious Culture and Ethics (RCAE) classes experience very grave hardships.

Although the children are exempt and they have the right not to attend the class, the administrative staff in many schools remain unaware of this decision and force the students to attend RCAE classes and follow a procedure that is the opposite of the one stipulated, namely they require the families to submit a formal written request for the child not to attend the class. Although they are exempt, because there is no other alternative children have to sit through the RCAE class anyway or, in some cases, spend the class time in the assistant principal's office... To obtain exemption for their children families are forced to tell what religion they are. Further, the children are put on display and, because they belong to a different religion, may encounter exclusion, derision and insults from friends and even from some teachers. In addition, this doubtlessly leads to situations where, in violation of the child and parents wishes, the child has to sit in the classroom and experience oppression in matters of conscience. Families are reluctant to make a complaint about this situation because they do not wish to draw attention to themselves, desiring to protect their children from the intolerance shown towards non-Muslims by some segments of our country's population.

The above assessments made by Protestants have also been officially cited by the European Court of Human Rights, which has found Turkey guilty by reason of its practice of compulsory religion classes. The Court, in the case of Hasan and Eylem Zengin v. Turkey, articulated the following particulars:³⁴

In consequence, the Court considers that the exemption procedure is not an appropriate method and does not provide sufficient protection to those parents who could legitimately consider that the subject taught is likely to give rise in their children to a conflict of allegiance between the school and their own values. This is especially so where no possibility for an appropriate choice has been envisaged for the children of parents who have a religious or philosophical conviction other than that of Sunni Islam, where the procedure

³⁴ ECHR, Case of Hasan and Eylem Zengin v. Turkey, application no: 1448/04, para.76

for exemption is likely to subject the latter to a heavy burden and to the necessity of disclosing their religious or philosophical convictions in order to have their children exempted from the lessons in religion.

Turkey, as it shapes its practices on this subject, should keep in mind the particulars below, set forth by the Council of Europe Parliamentary Assembly in their Recommendations numbered 1396 (1999) and 1720 (2005) concerning religion classes for intermediate-level education:³⁵

14.1. the aim of this education should be to make pupils discover the religions practised in their own and neighboring countries, to make them perceive that everyone has the same right to believe that their religion is the “true faith” and that other people are not different human beings through having a different religion or not having a religion at all;

14.2. it should include, with complete impartiality, the history of the main religions, as well as the option of having no religion;

14.3. it should provide young people with educational tools that enable them to be quite secure in approaching supporters of a fanatical religious practice;

14.4. it must not overstep the borderline between the realms of culture and worship, even where a country with a state religion is concerned. It is not a matter of instilling a faith but of making young people understand why religions are sources of faith for millions;

14.5. teachers on religions need to have specific training. They should be teachers of a cultural or literary discipline. However, specialists in another discipline could be made responsible for this education;

14.6. the state authorities should look after teacher training and lay down the syllabus

which should be adapted to each country’s peculiarities and to the pupils’ ages. In devising these programmes, the Council of Europe will consult all partners concerned, including representatives of the religious faiths.

In conclusion, the fashion in which compulsory religion classes are conducted in Turkey constitutes a violation of Protestants’ freedom of religion and conscience.

e. The Problem of Training Clergy

Non-Muslims in Turkey have no means of training clergy. There is no clarity as to how non-Muslims would go about instituting secondary education or opening a university in order to train clergy. The topic which will actually be decisive for this issue is whether or not the Orthodox Theological Seminary on Heybeliada will be permitted to open again or not. Upon the revocation on 12 January 1971 of certain articles of the 1965 Educational Institutions Law, abstract 625, and the issuance by the Istanbul Directorate of National Education of the “secret” Private Educational Institutions text dated 12 August 1971 and numbered 101787, effective 9 July 1971, the Orthodox Theological Seminary on Heybeliada was closed.³⁶ During the intervening time, despite countless applications to do so, it has not been possible to have the theological seminary re-opened.

According to article 40 of the Treaty of Lausanne, the founding treaty of the Republic of Turkey, Turkey has guaranteed the rights of Turkish nationals belonging to non-Muslim minorities “...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.”

³⁵ <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta05/erec1720.html>.

³⁶ Elçin Macar, *Cumhuriyet Döneminde İstanbul Rum Patrikhanesi*, İstanbul: İletişim, 2004, p. 295.

Closing the Orthodox Theological Seminary and not permitting it to be re-opened explicitly violates the Treaty of Lausanne and also the European Covenant on Human Rights. Only after this violation is rectified will it become clear how non-Muslims in Turkey will be able to train clergy. This uncertainty creates a grave difficulty for Protestant congregations.

f. The Malatya Murders Case

On 18 April 2007 in Malatya, three Protestants were brutally murdered. Because the trial of those who are suspected to have engaged in these murders is ongoing at this writing, legally it is not possible to present a comprehensive analysis of the technical particulars of the case.

Bearing in mind the constraints mentioned above, however, it is possible to make the following assessments: As has come to light during the trial, the suspects carried out the murder after a long period of preparation. Also, when the full extent of all the files are evaluated together with the Ergenekon case files, there are hints and circumstantial evidence suggesting that the Malatya Murders and the Ergenekon terror organization are connected. The “Operation Cage (Kafes) Action Plan” that has come to light during the Ergenekon trial refers to the Malatya massacre as an “operation” of the Ergenekon organization.

Due to evidence that has surfaced both in the course of the Malatya trial and also in the Ergenekon trial, it is imperative that the Ergenekon organization be carefully studied with regard to all the provocations directed at Protestants. Persons who have produced incendiary broadcasts and publications about Protestants, those who produced reports and put on seminars in an effort to create negative public opinion about “missionary activity,” persons who have initiated legal proceedings against Protestant missionaries asserting that they had “insulted Turkishness” – these people are presently being tried as

suspects in the Ergenekon trial. What is more, from the appendices of the “Operation Cage” plan we learn that files were being kept on Protestants throughout Turkey.

When considered within this framework, it can be seen that the “Malatya Murders,” along with the 2006 murder in Trabzon of Priest Santoro and the 2007 murder of Hrant Dink, is part of a chain of carefully planned events meant to create a certain climate in Turkey.

Subsequent to the Malatya Murders, planned murders in Samsun, Diyarbakır and Antalya, to be committed by perpetrators with the same profile (young and ultra-nationalistic), were prevented at the last minute. When the Malatya Murders and the dark web of connections behind it are brought out into the open, Turkey will have taken a significant step toward being a state that operates under the rule of law.

g. Other Problems

Without a doubt the issues discussed above do not exhaust the problems and difficulties experienced by Protestants. They have to specify their religion on their identity cards. The status of their cemeteries is ambiguous. They cannot be hired as civil servants. Those who work in either the public or private sector cannot take off days that are considered holy for Christians. They encounter difficulties in collecting aid and donations for their churches and congregations. When they hold open-air services these are evaluated within the framework of the Meetings and Demonstration Marches Law. When they want to hold camps and related vacation activities, they are confronted with bureaucratic obstructions. When they engage in proclamation of their religious message, they are opposed with violence from police and from the man on the street. And in every aspect of daily life, they encounter discriminatory practices. These are just some of the other problems Protestants in Turkey

are forced to endure.

We chose to focus in more detail on certain problems above because we believe that the generation of permanent, sustainable solutions for those problems will help create solutions for the others. For example, the issue of places of worship is one of the most significant problems that cause Protestants to be stigmatized in the society. Even though the Protestant community in Turkey has made every effort to observe the laws, they have not been able to obtain the places of worship they need. Yet the failure to solve this problem renders the vulnerability of the Protestant confessional community intolerable. On the one hand they are trying to overcome all manner of bureaucratic obstacles placed in their way. On the other hand, various media outlets portray them to the public as illegally “conducting their worship behind closed doors.” There is no way such treatment can be justified. Despite aggressive efforts, they have not been able to obtain legally recognized places of worship

and, as a result, Protestants are denounced in Turkish society.

Likewise, as mentioned above, no legal action has been taken against hate speech directed at Protestants, and this only opens the door to more hate speech and, naturally enough, acts of violence. In order to not leave Protestants and other vulnerable groups susceptible to hate crimes, a hate crimes law is hastily being prepared.

So that Protestant churches can be recognized directly as “churches” without having to use the category of association, foundation, or something else, it is imperative and urgent that a new form of legal personality be promulgated that will address all the needs of churches in a consolidated fashion.

“Solution-oriented” steps taken to address these major problems will not only solve the problems of Protestants, but will engender great hope for the resolution of Turkey’s longstanding freedom of religion problem.

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III) FUNDAMENTAL PROBLEMS OF THE PROTESTANT COMMUNITY

In this section the goal is to try to hold a mirror up to the legal topics and problems dealt with in the previous section by looking at the daily-life experiences and perceptions of the Protestant community. The following observations and assessments are based on information shared during one-on-one and group meetings with members of the Protestant community in Diyarbakır, Ankara, İzmir and İstanbul.

A. The Problem of Legal Personality

During meetings with religious leaders serving in Protestant churches, one of the basic problems mentioned was the inability of congregations to obtain legal personality.

A church leader in Ankara expressed it this way:

The state supposedly accepts us, I mean, when I say “supposedly,” our place of worship is known to the state, there is a file in our name at the Security Branch of the Directorate of Security. Sometimes they send police to guard us, some congregations are given discounts on electric and water. But when we ourselves say we are a church or put up a church sign, there is opposition and they take legal action to shut us down. They say, “You are not a church; take your sign down.” We don’t understand what is going on. They act like you exist but at the same time legally you don’t exist.

Another leader added this comment:

Our situation is very delicate. We are entirely at the mercy of the good will of the government. If the government shows mercy on us, we can stay open but if not, just like it happened in 2001, they can shut down all the churches.³⁷ Legally we have no protection.

³⁷ Starting in December of 2001, primarily in İstanbul, twenty churches throughout Turkey were shut down and legal proceedings were started to close them permanently.

It is evident that among civil servants there is no consistent understanding or practice regarding the legal status of churches. For instance, a church leader from İstanbul relates a personal experience as follows:

Years ago when we were applying to have the electricity turned on, they asked us what our place was and we said it was a church. That’s how they listed it in their records. After a while, we noticed that we were getting a discount on our electricity, we just figured that this was because we were a church. For years the meter reader came from Tedaş [the government-run electric utility] and we never had a problem. Then, years later, the government electric utility officials called us in and said, “It seems you’re not really a church, so you can’t get discounted electricity” and they calculated a huge bill for what we owed from previous years.

It is evident that, independent of the churches’ legal position, what is determinative is what happens in practice and what government institutions accept congregations to be. A church leader from İzmir says, “We have no legal personality whatsoever. This situation makes us uncomfortable, but the municipality accepts our place of worship as a ‘Meeting Place for Religious Purposes’ and lets us have a discount on our water.”

Within the framework of the European Union accession process, in 2004, the Law on Associations was amended. The previous Law on Associations 2908, which forbade religiously-oriented activities, was revoked and replaced with Law of Associations 5253, which does not prevent religiously-oriented activities. Consequently, through the legal process that became possible with this change, 22 Protestant congregations, associations or representative agencies for associations are presently active. When

congregational leaders are asked to share their views about the innovations and experiences engendered by the new Law on Associations, it becomes clear that procedures vary and people have differing views on the usefulness of the law.

A church leader from Ankara relates the following experiences:

In 2005, when then-Justice Minister Cemil Çiçek stated that a congregation needed to possess legal personality in order to establish a place of worship, our application to establish a foundation was rejected. Then, after the Law of Associations changed in 2005, we made application to establish an association. We wrote our objectives and all of our activities in the bylaws we prepared and the state approved us to found our association. This made us very happy. However, some time later legal proceedings were initiated by the prosecutor to shut us down with the justification that people were engaging in worship in an office representing our association. We won the case but some time later the same prosecutor imposed a fine that could be considered heavy on our General Board's meeting place and we were obliged to pay that fine.

A leader from a church in Istanbul explained his problems like this:

For long years we have existed as a church, but because we are not officially recognized we experience problems; they want to shut our meeting place down. We opened court cases to resist being closed, but we lost. To overcome these problems we wanted to establish an association, we applied to the Provincial Directorate of Associations and explained who we were. We told them that we had actually existed as a church for a long time and that we wanted to gain legal personality for our church but the authorities at the Directorate of Associations rejected our request and said, “You can't establish an association with this stated purpose.” After receiving this response, we began to think, “Even if we do establish an association and we still can't be legal, why establish an association?”

A church leader from İzmir, on the other hand, explains that the new Law of Associations gave rise to positive developments:

The police came frequently with the explanation that people in the building we used had “complained” about us. And when they came they would ask all sorts of questions. We told the police that this situation made us uncomfortable and in response the police told us the situation made them uncomfortable, too, but they came because they had had complaints and that if we established an association, these problems would stop. So we established an association and sure enough, the police visits stopped.

However, it is also apparent that establishing associations does not completely solve the problems.

A church leader from Istanbul explained with concern:

We became established as an association in 2008. One day a police officer came to the association on the grounds that he was going to carry out an inspection and he took down a written report of his inspection. I saw that the expression “house church” was used in his written report, and despite the fact that I told him we were not a house church, but an association, he said it wouldn't be a problem and didn't erase it. Later, we received a formal notification and understood that, based on that written report, the prosecutor's office had fined us 1200 TL for being in violation of the Law of Associations. We objected and, based on what we learned subsequently, it was a violation of the law that the policeman even came to our association's headquarters. We have started a court case to oppose the fine and the case is ongoing.

A leader of a church in Diyarbakır expressed his experience in this way:

Our place of worship was approved by our Metropolitan Municipality and by the Provincial Municipality to which we belong. We applied to the Diyarbakır Provincial Governorship, which was the final approval we needed and the governorship told us we needed to be an association. So we established an association,

but now the governorship wanted us to deed the building that we used as a place of worship over to the association as its property. But we have a hard time trusting the government in this regard, because we are afraid in the future they will shut us down and seize our building.

It is also worth noting that with churches becoming established as associations, audit activities began in short order.

A church leader from Samsun relates his experiences with being audited:

We established an association in 2006. A while later we were inspected by the Directorate of Associations and in the inspection report it said that because the decor of our meeting hall looked like a church, we had 30 days to change it.

A church leader from Istanbul:

We established an association, it hadn't been three months from our founding, when authorities from the Directorate of Associations came. They said they had been in the area for another nearby association and while they were in the area they wanted to take a look at what we were doing.

Leaders of many of the churches that have established associations tell us that in general they are pleased with the attitude of those who work for the Directorate of Associations and that they have been helpful. However, they add that while many associations have gone for years without being inspected, associations belonging to Christians start being inspected right from the year they are founded. They perceive these inspections as a sign that the government regards them with suspicion and wants to keep them continuously under control.

As the examples above demonstrate, at the level of implementation the situation is chaotic. Virtually every church is treated differently than the others. Many churches state that they are not officially recognized yet nonetheless many are registered with the electric, water, telephone and gas utilities under the churches' names and that these utility bills come in the churches' names. Yet

the fact that the churches are labelled as pirate churches, house churches, renegade churches, and so on, and that they are not accepted by local authorities, is a source of discomfort all the churches have in common. The accounts related point out that the procedures followed by police and civil authorities are far from predictable, transparent and consistent. Decisions are made according to unclear criteria. One government agency and its personnel give approval to a situation, while another says it is unacceptable. One thing became clear during the meetings: Civil servants in particular are largely permitted to act at their own discretion and have the tendency to use this discretionary authority in order to restrict Protestants' religious freedom. If a civil servant is opposed to or prejudiced against a group like the Protestant community he can thwart all their requests and put pressure on them.

In our country the Protestant community can only gain legal personality through establishing a foundation or an association. Establishing a foundation is a route not much favoured at this point because from a financial standpoint it is quite costly and it is also more complicated. Further, it has not been possible to establish a foundation with the exception of Istanbul Protestant Foundation. The Kurtuluş Churches in Ankara used the example of the Istanbul Protestant Foundation's charter as the basis of their application. Despite this their application was rejected on the grounds that their charter included the word "Protestant" and that foundations could not work on behalf of only one group.

The consensus among church leaders is that, at this time, the best solution is to establish an association. Despite the problems cited above, many church leaders indicate that they experienced fewer problems after they established an association, that government officials accepted their new identity, that their problems in a number of areas were resolved

and that they had been encouraged by the authorities to establish associations. What the Protestant community really wants is for the government to recognize them as a religious congregation and to create a legal structure that will be accepted and implemented by all. It became clear that they think that possession of legal personality will greatly help in their struggle for acceptance in the society and the resolution of other problems they face.

B. The Problem of Places of Worship

The concept of church is rooted in the Greek word “ekklesia”. Congregation bears the idea of meeting, independent of the physical space. This word has passed from Greek into Turkish as “kilise”. However, when the word “kilise” is used in Turkey, it is understood as a historical building with a bell tower. This perception is the focal point of the Protestant community’s problem concerning places of worship.

The Protestant community does not have a long history in our country. In the 1970s, the number of Protestants was extremely small and places of worship were not a problem, because at that point in history they mainly worshipped in their homes. However, as this confessional community started to grow in the 1980s, having a place of worship started to become an issue. The Protestant community does not own historic church buildings from the Ottoman period. When Protestants sought to solve this problem, most of them met in their homes or started to rent or buy residential, office or warehouse space. Besides the fact that this approach did not fully meet the needs of the Protestant confessional community, it also gave rise to a variety of social and legal problems.

Protestants feel the need for group worship as part of the practice of their faith. In conversations with church leaders and church members, responses to questions on this issue made it clear that for virtually all the

churches the problem of a place of worship was their most fundamental problem.

A church leader from İskenderun:

“We may be the first congregation in our country to worship in Turkish. We have been in existence for 50 years. When our congregation was first established we had a church building in the classic sense of the word. In 1971 the government condemned our building and expropriated it. We kept on meeting there. But then on Republic Day, 29 October in 1971, when all government offices were closed for the day, demolition teams came and demolished our church. Because no government offices were open, there was nowhere we could lodge a complaint. They did this intentionally. All we had left from that church was the church bell.”

The pastor in İskenderun showed the church’s bell and photographs of the ruins and continued:

After this we opened court cases; some we won, some we lost. But in any case they had destroyed our building. A while later they showed us a place to meet. We started meeting there. But then a while later they told us that facility was going to be used as housing for government employees and made us move out. Some time later we purchased the place we now have and in which we have worshipped for 15 years. The actual status of this space was commercial, for business, but we needed a place to meet. Near the beginning of 2002 they came and closed this place down on the grounds that it was an illegal place of worship. It stayed closed until 2005, when we succeeded in getting it opened again. But this time, in 2006, they shut it down again on the same grounds. After it had been closed for one month, we established an association and it was reopened. We are open at the moment but there is no way to know what will happen.

The leader of a church in İzmir describes the problems they had with their place of worship:

We are in the Ödemiş sub-province of İzmir. We have 20 to 25 members. We were holding our meetings in a freestanding building. We

had made application to the Sub-Provincial Municipality to specify a place for us to meet, but we couldn't get a positive response. In 2006 our meeting place started being subjected to attacks. At first they were throwing rocks but then after a while the attacks became more violent and they began throwing Molotov cocktails. The Security Forces took measures to protect us but were unable to apprehend the attackers. Some time later, we received a letter from the district governorship. In brief it said that, because our place of worship was not legal, they could not offer us protection and that we were forbidden to engage in group worship within the boundaries of the Ödemiş sub-province. We were very surprised. We had done everything we possibly could to be legal. They are the ones who didn't accept our application and they were the ones who closed our place of worship on the grounds that it wasn't legal and then banned us from worshipping as a group. We made application to the court and the court had this order quashed.

Another church leader from İzmir describes their experiences:

We've been using the meeting place we presently use since 1994. In 1999 an official from the Security Forces summoned us and wanted us to shut this place down. We said we could not accept this, that we needed a meeting place in which to worship. We pointed out that this had to do with the Zoning Law, that this required a decision from the Administrative Court, and we made application to the Administrative Court. The official from the Security Forces said that he was going to close this place down and that we'd see it. One month later, during our worship service, the police – accompanied by newspaper and television reporters – raided our meeting place. They placed the whole congregation present that day under arrest, the congregation was held in detention for a full day, the next day we were released and our meeting place was closed. For days the newspapers and the television were full of unfounded reports about us. Because we had continued to use our meeting place despite his warnings prior to shutting us down, we were also fined for defying the police. We opened a court case to contest being closed down. At that point in

history, the prime minister of a foreign country was going to visit Turkey because of the major earthquake that had been suffered. So that the closing of our church would not create problems at the international level, after three months they reopened our place. We requested a suitable place from the municipality and the governor's office but we received a negative reply. Some time later, we lost the court case we had opened and we went to the ECtHR. As many laws were changed in the context of the European Union Conformity Laws, the ECtHR sent our file back with a decision that said we should re-apply for a place of worship. In 2006 we established an association and for now that is how we are carrying on.

It is worthy of note that local civil servants render decisions and take other steps that restrict and obstruct. A church leader from Ankara describes their struggle:

In Ankara for many years we've been meeting in the same building. One day some officials came from the municipality and notified us that we couldn't meet here, that there was a place of worship within 50 meters and so for this reason we were going to be shut down. We were very surprised because within 50 meters of us there was only a mosque. We said we couldn't close our facility. They left when we said, "If you insist on closing us down, show us a place we can meet. Otherwise on Sunday we'll worship at the mosque or out on the street."

A similar approach was seen in Adana:

In Adana we operate as a representative branch of an association based in Ankara. We applied in writing to our sub-provincial municipality, asking that the freestanding building we used be approved as a place of worship. We hadn't received a written reply to our request, so after a while we inquired about the outcome of our application. We received an oral response. They said, "This is a Muslim neighborhood. You can't sell snails [which are forbidden by Muslim dietary laws] here."

An Istanbul church leader shares their experience:

For many years we have been using the same

building we are using now. Our relationship with our neighbors is fine. The sub-province we belong to was newly established. In early 2010 a letter came from the new Sub-Provincial Directorate of Security. The letter said, in brief, that the building we were using was a “house church” and for this reason we had to close down; if we didn’t close ourselves down we’d be fined for violation of the Law on Misdemeanors. We did not close down. One day the Directorate of Security called me in. I went in with our lawyer. A police officer at the Directorate of Security told me they didn’t want to bother with these matters either, but it was their duty and so they were going to fine us and he wrote up the fine. We paid the fine and for right now we are continuing with our worship.

Another instance provides a glaring example that religious groups are viewed within a hierarchy. A church leader from Istanbul explains what happened to them:

We made application to our sub-provincial municipality in Istanbul, asking them to show us where we could have a place of worship. The municipality was positive toward our request and showed us a place to use. However they said that this location belonged to the National Estate Authority and told us to talk with them. We made application to the National Estate Authority and they also were positive, however they said they were going to ask the opinion of the Directorate of Religious Affairs. Some time later we got a response from the Directorate of Religious Affairs. In their response they said a mosque was needed there. But in fact there was a mosque very near there. Then we looked and, so as not to give that place to us, they’d already started construction of a mosque. Sometimes part of the bureaucracy is positive, but one way or another we just can’t get a positive outcome when it comes to reality.

A church leader from Ankara says that when they made application to their sub-provincial municipality for a place of worship, the municipality showed them a place they could use, but the Ankara Governorship objected on the grounds that, “according to population

records no Christians live in this region.” According to the governorship’s decision, a person’s belief only gains reality when it is written on his identity card. What can be seen in this situation is that the governorship, in making this decision, ignored the reluctance of the congregation’s members to change their religious affiliation on their identity cards due to concerns about discrimination and their safety. They ignored the question of whether or not there was actually a congregation there.

In light of the examples above, the inadequate regulations and the inconsistent, restrictive decisions rendered by so many government departments and civil servants, we suggest that Turkey’s Protestant community is doomed to have their need for places of worship remain unmet. The fate of existing churches has been left entirely to the discretion of government offices and local law enforcement. This state of affairs alone makes the Protestant community extremely vulnerable. Under a government that is intolerant of these groups, virtually all meeting places face the threat of being closed down. The closing in 2001 of nearly 20 churches’ meeting places is the most tangible manifestation of this situation. Despite the fact that the 2006 amendment of the Zoning Law makes it seem possible to establish churches, it is evident that in practice this possibility hardly exists. Rather than solving this problem, legal regulations presently in effect have made it more acute and confusing. Local administrations, and in particular municipal governments, concerned with losing votes because people see them as involved in opening churches or letting churches be opened, respond negatively to requests for places of worship. This behavior reveals the depth of the problem and the need for a multi-pronged solution.

At the root of the problem is a certain perception: Government institutions view the existence and activities of the Protestant

community and other non-Muslim groups as a threat that should be opposed. The inability to open places of worship in practice and related problems are the tangible manifestation of this attitude.

The single example of a registered place of worship is the approval in 2006 of the Istanbul Protestant Foundation's building as a church. Apart from this, no other Protestant church has been able to establish an official place of worship. Both before and after this church was approved, many other applications went unanswered or were turned down for a variety of reasons. First of all, efforts need to be focused on seeking positive changes in how the government and civil servants responsible for making decisions view congregations of this sort. Civil servants are obligated to serve all citizens with impartiality, regardless of their religion. It is a serious problem that these civil servants, rather than facilitating such applications, are obstructionist in their attitudes and decisions.

C. The Problem of Education

a. Training Clergy

The necessary legal basis for Christians to officially train clergy in educational institutions does not exist. In meetings with church members it was observed that they have come to accept the fact that Turkey has regulations only for the training of Muslim clergy as normal. One church leader said, "It is highly unlikely that Christian clergy can be trained in government-run schools," and added, "The state has been unable to solve the problem of religion in Turkey". He criticized the government's practices, saying, "The government pays the salary of Muslim clergy. So it would seem the state has a religion. If it is secular then it should pay the salary of all clergy".

Responses to the question, "Were it possible to train Christian clergy in Turkey, what kind of arrangement would you want?" revealed

that Protestants had different opinions and were open to a variety of solutions. One viewpoint was not enthusiastic about government-run training of Christian clergy: "Qualifications for this training is important. Are Muslims going to give this training? Who would the teachers be? It shouldn't be connected with [the Directorate of] Religious Affairs." Another viewpoint envisions schools founded by Christians using government resources, with the government exercising a supervisory role as in the cases of private prep schools. A frequently proposed solution envisions two simultaneous tracks. The first track would have churches continue their present practice of training clergy in-house according to a master-apprentice system based on mini-seminars and a program of study. The second track would see Christian Theology departments offering bachelors-, masters- and doctoral-level training in state-run universities.

When it comes to the solution for this problem, the Protestant community offers no single prescription or request; nevertheless, they have little hope that the government will train Christian clergy or create a way for such training to take place. At the moment they try to solve the problem in a way that will depend on their own resources as a community. On the other hand, should the government take positive steps related to this situation, they are open to dialogue about various alternatives that could lead to a mutually satisfactory solution.

While for Turkey's traditional churches the problem of training clergy is just one of a number of major concerns, for Protestants this is a pressing, urgent issue. One reason for this is the variety of existing theological and ecclesiastical traditions. Although Protestants in Turkey have differing practices, in general, all church members are expected to be involved in spiritual service. Their tradition tends not to require a formal or highly rigorous spiritual education, nor the possession of a seminary degree. Rather,

current needs are met by a master-apprentice system of training within individual churches or through training received at theological schools in other countries. The Protestants that were interviewed considered it impossible that a school providing Christian theological education would be opened in Turkey. Protestants' view that “it's not going to happen” is a striking and saddening indicator of the extent to which they have internalized the idea that they are citizens but not equal members of society.

b. Compulsory Religious Education and Children of Christian Families

Understanding the children's situation and hearing their voice in the context of religious freedom was identified as a priority of our field research. Accordingly questions

from those of their family constitute a special situation. Two male students have parents who are not Christians. They learned about Christianity from their older brother and came to believe. However, their identity cards still say “Muslim” because as long as they are under the age of 18 they do not have the right to change their identity cards. As a result, they are not exempt from religion class. Both are third year high school students. One of them told his religion teacher that he is a Christian. He has not had any problems at all. He says, “My religion teacher is understanding.” Another had been a very troubled youth, but when he became a Christian his life changed very much for the better. He explained that when people asked him why he had changed he would explain that he had become a Christian. This is how he related an experience he had:

A girl who is a high school freshman in Diyarbakir has the right to be exempt from religion class because she and her parents are Christians. Despite this, she says, “I want to take the religion class”. When asked why, she replies, “I want to object to incorrect things they say about Christians in the class. They say ‘Christians are killing Muslims.’ I say, ‘In Malatya was it Christians killing Muslims?’ And they say, ‘But do you know what they did? They made lots of people into Christians!’” This happened in her old school. In her new school, she continues to take religion class. This time her teacher debates with her. The teacher says, “The New Testament says Mary had relations with Allah.” The student replies, “No it doesn't, teacher. Have you read the New Testament?” The teacher says, “I have.” But now he is angry. Finally, as she heads down the hall, he shouts after her, “Become a Muslim, I'm calling you to Islam.” Her father relates that he went to her school and met with her teachers. After this she stopped taking religion class, but because of the argument she had had with her teacher, her friends developed a negative attitude towards her. She feels there is no respect for her or her beliefs.

designed to help understand the situation of children were asked of parents and children who participated in the interviews. Responses revealed that, in the context of state-run schools' compulsory religion classes, the children experienced great difficulty, hardship, pressure and hopelessness. In Turkey, persons whose identity cards say Christian or Jewish have the right to be exempt from compulsory religion classes.

The circumstances of children and youths whose individual beliefs have moved away

One day some of my old friends wanted to get together. While we were walking along together they pulled me into a construction site. They asked, “Are you a Christian?” One had a club. Four of them held me, two of them beat me. One of them told the others, “Stop it.” I said, “This is what I am.” They said, “Get out of this city.” I had this kind of an experience one time. I didn't make a complaint. I went back to school. I give New Testaments to people who ask for them. I tell them about my faith.

First grade student F. comes from a Christian family. She explains that they made a formal

request to the school to have her exempted from religion class, but because they were told, "We'll leave her back a grade," she continued to take the class and the tests. When reminded she has the right to be exempted from religion class, she said that she didn't know this. When asked if she is treated badly by her friends because she is a Christian, she told, sadly and fearfully, of an experience where her friends told her, "For you even drinking water is *haram* [unlawful]."

A last-year high school student explained that her mother had become a Christian later in life and her father is an atheist and for this reason her identity card still says her religion is Islam. So, even though she is a Christian, she is not exempted from religion class. She explained that when he was in eighth grade, when her friends learned she was a Christian they wanted to hassle her and beat her. She says, "I try to be careful." Once she received a warning because she gave her friend a New Testament. She further explained, "In religion class when the teacher gives incorrect information about Christianity I object."

Most of the children interviewed in Diyarbakır think their presence in class helps prevent the teacher from giving wrong information about Christianity. Their answer to the question, "If religion class was an elective for everyone, what would you decide to do?" was striking and thought-provoking. They said, "We'd still take the class because we'd want to counter the wrong things they say about Christianity." When they speak up this way, they end up entirely isolated, and afterwards they have to listen to negative comments from their friends and have their beliefs disrespected. Nevertheless, they still want to defend their faith and explain the truth about it.

H. relates that there was a news item about him in Haber Türk newspaper:

My teacher beat me because I didn't say the creed (of Islam). Actually he hit all the kids in the class. Actually my family and I are Christians. My father made a formal request to

have me exempted but the school disregarded it. At school they call me "infidel" and during the first day of classes they called me "Chess Bishop". They call me "Christian-o Ronald-o."

A father from Istanbul wanted to have his daughter exempted from religion class, but his wife said, "She should take the class otherwise she'll be ostracized." He explained his concerns this way:

Nonetheless, because my daughter is known to be a Christian the things the teacher and her classmates say and do are hard on her. The principal doesn't know what to do. He says "We can't do anything." In other words, even though she took the class she's experiencing rejection. Next year we're going to request that she be excused.

Another young person, in order to avoid persecution, took the class, did not acknowledge his Christian identity and participated in all the Islamic religious activities.

It is clear that the role of teachers and administrators is key. A father from Istanbul explained that he made a formal request to have his two primary school aged children excused from the class. His son had no problems, but his daughter was labelled an "infidel", had lots of problems and came home crying. When the teacher was notified of the situation she talked to the students, took steps to remedy the situation and the problem was resolved.

The issue of religion classes as practiced in Turkey's schools has long been the subject of debate. It is evident that the thoughts, experiences and desires of children can contribute to this discussion. It is possible that these young people have their own beliefs and also their own opinions on the issue of religion classes. It is also clear that religion classes should not be evaluated just on the basis of the content of their books. Even if there were no problems with the content of the books, the "content" the teachers add to the books' content - their attitudes, their comments about other beliefs and their

attitudes towards children of other beliefs - are very important and influential. The reports of these children and youths indicate that while some teachers are very understanding, others act in an almost childish way when they argue with these students.

D. Discrimination

The most prominent impression regarding discrimination is that Protestants have become so used to it they don't complain about it and consider it “normal”, something for which there is no solution.

In the case of people losing their jobs because of discrimination, proving the reason they lost their job is that they are Christians is extremely difficult. Among the participants interviewed there was no one who had even attempted to do so. Participants also told us that, besides the possibility of losing one's job, they were also passed over for supervisor and manager positions because of their beliefs. One woman who worked in a very prestigious government institution was told by an manager who was also her friend that although she had the needed qualifications, she was not given a top-level position because she was a Christian. She has not complained because she believes that if she complains she will not be able to find a job in a similar institution. Later she was able to find a job in the private sector and work at the highest level as she desired.

Two people who are civil servants emphasized the importance of unionization, saying that where the unions are strong it is more difficult for employees to experience discrimination because of their beliefs. There was agreement that certain professions in the government sector were not to be given to Christians and that they were being obstructed from getting into such positions.

Another reason people say they hesitated to complain about discrimination is a concern to “protect their families.” Especially in small

towns where relationships operate in narrower social circles, people fear that complaining about discrimination will have a negative effect on their families. An interesting example of this is when family members who are not Christians have problems because there is an individual in the family who is a Christian. In the family information document required in job applications, information about other family members including statements such as “has changed his or her religion” interferes with the right to privacy. What is more, this not only creates a hardship for the non-Christian family member, but as a result increases the persecution the Christian experiences within the family.

Every day civil servants make decisions that affect Christians. Along with the problem of official standards not suitable to Protestants (e.g. unachievable requirements for places of worship), such administrative decisions include processes left to the civil servant's discretion and which can result in postponement or decisions unfavorable to Protestants. A Turkish citizen married to an American became a Christian. When the American spouse applied for Turkish citizenship, this Turkish citizen was interviewed and asked if the American spouse had played a role in the conversion to Christianity. The American spouse's application for Turkish citizenship was rejected on grounds of “public safety.”

Along with individual experiences of discrimination, there are also instances of discrimination towards congregations that are seeking to exercise their rights. A church leader relates that an application to the Metropolitan Municipality about their building went unanswered for several years. When he would follow up on the situation and try to get information, he would just be told, “We're still working on it.”

Despite positive developments in the legal regulations concerning discrimination, there

are still serious problems in actually obtaining justice. In the specific case of the Protestant community, the biggest problems are that Protestants are used to being discriminated against, that they are not knowledgeable enough about their legal rights against discrimination, and that they fear if they take legal action against discrimination it will only result in further marginalization.

E. Perceptions; Perceptions on Government, Social and Media Perspectives

In general, when people in Turkey hear the word “missionary,” images of a person or group that is trying to destabilize Turkey and foment territorial division come to mind. One respondent told us, “We’re not interested in getting land. We just want to show Jesus Christ to people”.

A church leader from Istanbul says, “Some civil servants are helpful, but in general they think that Christians are a “Trojan horse” within the state.” He thinks that they should no longer be dealt with [in the Directorate of Security] under the rubric of “combating terrorism.”

Another respondent says that talk about “outside forces” reflects experiences from the past. A widely-held perception among Protestants is that the government views the subject politically and assumes Protestants have political aims. One person says, “We have no political agenda” and asks, “How can we overcome this?” He believes that Protestants today are bearing the burden of the past’s negative events and the negative attitudes those events engendered.

The point is made that education plays an important role in passing on prejudices to the younger generation and that in this regard it is of special importance that historical narratives be reviewed. Even though what Protestants do has no political agenda, it is apparent that they hold political significance for government agencies and the society.

Another church leader describes a personal experience: “The Director of Security summoned us and we went in. He wanted lots of information, ‘How many people do you have meeting,’ and so on. And later he said, ‘In the old days we would have shut you down but now you’re free’.”

A church leader relates that a plain clothes security policeman came to his work place and told his employer “this man is a traitor to his nation” and wanted him fired. The church leader continued, “Some people think they are above the law. And we can’t prove anything. Later, when my employer didn’t do what they wanted, they gave him trouble.”

Without a doubt one close, long-term encounter every Christian male has with the government is his military service. People have had different experiences in this regard, depending on the approach of the base and soldiers with which they were involved. On the other hand, there is an attitude encountered during military service that has an “official” side. This is seen most concretely in seminars on threats to national security which soldiers must attend during training. A number of people told of attending presentations on missionary activity and even of seeing photographs of some church leaders they knew during the presentation. One person said that during one such presentation a church leader whom he knew and respected, someone who was obliged to carry on his church ministry accompanied by government bodyguards, was described as a “separatist trying to divide the country.” This situation is fraught with contradictions. On the one hand, a Christian who has never been prosecuted for any crime is held up by a government agency as a threat to national security. Yet on the other hand, this person, because he has received threats and the police have uncovered a plan to assault him, is being protected by the same government. This is further evidence of the lack of a consistent response to Christians on the part of government agencies and personnel.

It was found that when Protestants were faced with such statements about missionaries from the media, politicians or

was the case. Turkish Radio and Television (TRT) is mentioned as an example. Irritation was expressed that even on Christian

A young Christian explains that during his military service a New Testament was found in his locker during inspection. His commanding officer called him in and showed him a presentation about missionaries. He said, “Is that what you are?” The youth was startled to see his faith community portrayed part of a destructive plot. He replied, “Sir, I’m not like that. I love my country”. At this point the commanding officer called the youth’s father. The father knew his son was a Christian and no problem resulted from the call. The commanding officer then told the youth, “As far as I’m concerned you’re a disgrace.” A short while later the young soldier’s assignment was changed. He finished out his last several months of military service in a particularly difficult assignment.

government agencies like the Directorate of Religious Affairs, feelings of hopelessness and powerlessness predominate even amid attempts to set the record straight. In the face of such assertions, most Protestants have no way to make a statement, to explain themselves, or to rebut perceptions and statements they consider incorrect. They cannot make their voices heard on any television channel. They cannot get a hearing from politicians. They cannot gain access to government agencies. They say that in the past films and other materials taken during raids of their places of worship were handed over to the media. The view that news about Protestants and missionary activity are used to increase ratings is extremely widespread. One respondent summarizes the situation: “We act timid. We can’t do anything to counter the statements and articles that are full of errors and insults.” They also perceive a forceful Internet-based slander campaign that spreads misinformation in the society and sows seeds of suspicion and hostility towards the Christian community. In particular language that amounts to “blasphemy” should be regulated by relevant government agencies.

There is a widespread view among Protestants that they are not viewed as equal citizens by the state. It was apparent that virtually all the respondents *assumed* this

holidays there was no special programming on these stations run by a government which claims to treat all religions equally. Further, when TRT airs programs about Christians or missionary activity, Christians are not invited to join the discussion or express their views. This is taken as an indication that this agency is not impartial. On the other hand they relate that when they are invited by commercial television channels to participate in programs they are turned into targets. One respondent commented, “The person presenting the program does not behave impartially. Out of a desire for ratings, he turns the program into a circus.” Accordingly, opportunities to appear on television programs are greeted with hesitation and unwillingness.

A respondent says, “Politicians use language that vilifies Christians to gain popularity.” This is seen as a function of the general antipathy to Christians in the society. For the sake of popularity, politicians engage in populist discourse about socially sensitive issues like Christians and missionaries. As a result negative presuppositions are reinforced, causing a downward spiral of intolerance.

There is an impression that the attitudes of some government officials and local administrators changed after the Malatya murders. Churches that were interviewed indicated that for the last several years there has been a more tolerant approach than

there used to be on the part of the police and appointed and elected local officials. Nonetheless, an Istanbul church leader says, “They act nice, but there are no results”.

In one area the local municipality was agreeable to an application to request that a particular lot be re-zoned for use of a religious building. They changed the zoning, but a short while later construction of a mosque was started on the lot in question. Hence when the process depends on someone’s permission or a number of bureaucratic steps and administrative decisions, even if some government employees exhibit tolerance, getting through the whole process and successfully “exercising one’s rights” becomes essentially impossible.

Christians feel deep sadness because of the intolerance and distrust they face from the society at large. One respondent expressed her feeling in this way:

It is as if the real, definitive citizens of this country are Muslims and we are always viewed with suspicion and constantly need to prove we are ‘acceptable’ citizens. We cannot freely live out our identity. Many people constantly censor themselves. Why? Because if they say they are Christians or demand equality, the society, the government and the media are ready to clamp down on them and vilify them. And they have the power to do so. Christians, on the other hand, have neither the means nor the influence they need to represent themselves. The Turkish state definitely does not stand at an equal distance from all religions. To the contrary, it supports one particular religious persuasion with its money, its political discourse and with all the resources of the state. But it treats other religious persuasions as if it is either a benefactor or a restrictive

referee. In other words, it does not treat them with impartiality and equality. It has been instilling this attitude in the people for decades. So intolerance has been taught to the society, it is a learned behaviour. If you ask what the solution is, for there to be a solution, the government has to first accept that there is a problem. But whenever acts of intolerance occur, the government says it is “an isolated incident.” However, many surveys have determined that there is significant intolerance towards non-Muslims in Turkey.

It has been observed that this general atmosphere of intolerance pushes some who are inclined to be tolerant towards intolerance. For example, a secular foundation that has rented space to a Christian publisher for years, when branded in the media as “helping the missionaries,” wanted to terminate the publishing company’s rental contract. Property owners don’t want to rent their real estate holdings to a Christian bookstore or church. Intolerance creates more intolerance. The leader of a church in Istanbul observes, “Our society relates to us in a prejudiced, spiteful and belittling manner.”

One respondent engages in some self-examination: “We turn inward. Maybe we contribute to the negative outlook people have towards us because we don’t help people get to know us.” It was observed in particular that the methods used to spread the Christian message may not bear in mind society’s sensitivities. It is further recalled that some of these activities have been of a nature to antagonize the populace (such as showing the Turkish flag with its star changed to a cross). It is pointed out that some foreigners behave in a provocative way by distributing Bibles in all sorts of places.

How do you view the future? “Because of our faith, we have hope.”

IV) Recommendations

Recommendations to the government

- Freedom of thought, religion and belief should be ensured in Turkey in a manner compatible with the standards of international law. To this end the rights articulated in the UN Covenant on Civil and Political Rights, Article 18, the European Convention on Human Rights, Article 9 (to which Turkey is signatory) and the 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (which Turkey accepted), should be promoted and treated as a priority among democratization objectives.
- The government should genuinely implement the principle of impartiality and the value of maintaining a stance that is equally distant from all philosophical thoughts, religions and beliefs.
- The religious inequality created by the public services provided to Turkey's Sunni Muslim populace, in particular by the Directorate of Religious Affairs, Imam and Preacher High Schools and Islamic Seminaries that are under the Council of Higher Education, should be taken into account and means should be sought to achieve equality for citizens of other religions and beliefs in this regard.
- Politicians should desist from using language that contributes to the vilification and "otherization" of Protestants. Protestants should not be viewed as a threat to national security.

Recommendations Regarding Legal Regulations and Practice

- Although amendments made to the Law of Associations have partially met Protestants' needs for legal personality, problems of implementation should be eliminated.
- In order to provide solutions amenable to democracy and the rule of law, officials of the Republic of Turkey should create and keep open channels that will allow routine exchange of views with the Protestants' representatives and the legal representatives of legal entities established by Protestants.
- Needed legal regulations concerning hate crimes should be enacted. In addition, the Ministry of Justice should track and record hate crimes and publish these data on an annual basis. In light of data so obtained, policies and practices should be created and implemented to protect those segments of society that are subject to such crimes, and to eliminate such intolerance.
- Measures should be taken to allow Protestants to practice their religious worship and "proclamation" activities in a manner appropriate to a democratic society and in keeping with standards accepted by international human rights law. These measures should include training about freedom of religion for government offices and the police.
- Identification of persons' religion or belief should be eliminated from civil registry records and identity cards.

- The Ministry of the Interior and the Ministry of Justice should make known to their relevant personnel the rights non-Muslim citizens possess in light of freedom of religion and belief and, to avoid rights violations, should take and enforce preventative measures.
- Protestants' most widespread problem today is that their places of worship do not possess legal status as places of worship. The obstructions that keep them from obtaining places of worship should be removed.
- Legal regulations and implementations pertaining to places of worship should be made more flexible, taking into account the beliefs, needs and circumstances, not just of Protestants, but of all of Turkey's religious communities. In particular, impracticable requirements, such as municipalities' 2500 m² requirement, constitute a major problem with regard to the right to establish a place of worship. For instance, a legal way should be provided for Protestant congregations, which consist on the average of 30 to 40 persons, to establish smaller places of worship.
- Municipality decisions pertaining to allocation of space for places of worship should take the needs of minority religious groups into account and should be impartial.
- The standards by which civilian authorities grant permission should be made transparent: They should be open, legal, known by all and able to be understood in advance.
- Means should be created to allow Christian congregations to make use of historic churches not presently being used for worship and which are included in the inventories of municipalities or the Ministry of Culture.
- It is noted that the Protestant community is subject to discrimination in the areas of religion and belief but lacks awareness and does not know about what legal recourse is available to combat discrimination. In order to combat discrimination, mechanisms should be developed that simplify oversight of civil servants.
- A national initiative should be developed which will apply the standards of international law to the battle against discrimination.
- The ongoing trial concerning the murders at Zirve Publishing should not be limited to the immediate perpetrators but should be prosecuted so as to bring to light all who played a part in the murders.
- The government and its relevant agencies should establish a dialogue with Protestants, at the national level with the Association of Protestant Churches and at the local level with individual congregations.

Recommendations Regarding Education

- Religious Culture and Knowledge of Ethics class should no longer be compulsory and alternative elective classes conducted at the same time should be included in the curriculum.
- Textbooks should be reviewed and, in general, rhetoric and statements removed which are hurtful, slanderous and hostile to any segment of the society. With regard to Christians, there is a particularly urgent need to remove from the eighth grade textbook the section on Missionary Activities in the chapter on "National Threats," because it is incompatible with the human right of freedom of thought, religion and conscience and it makes targets out of religious groups accused by government agencies of "missionary activity."

- National Education curriculum and books should be reviewed with particular attention to historical narratives so as to avoid nurturing prejudice and suspicion against various ethnic and religious groups in contemporary life.
- The situation of Christian children and youths who are exempted from compulsory religion class should be monitored closely. To this end the Ministry of National Education should inform, direct and supervise teachers and principals who are responsible for implementation.
- Appreciation of a multicultural setting which will permit students of differing identities to freely express their identities should be implemented in schools through curriculum content, teacher training, procedures and various activities in all relevant arenas. There is a pressing need that concrete steps be taken for the realization of this goal.
- There is need of sweeping change in religious education in Turkey so that congregations of all faiths will be able to meet their need for clergy. Restrictions and inequalities in this area should be eliminated as quickly as possible. In the specific case of Protestants, clergy need to be trained and graduate level Christian theological education provided in order to meet the religious needs of Christian citizens. A dialogue should be started, including with Christians, in Turkey to generate solutions for these needs.

Recommendations to the Press and the Media

- There is no doubt that impartial and objective news reporting plays an important role in maintaining peace and

mutual understanding in pluralistic societies. For those who are weak within the society, faithful application of the principles of objective newsreporting are vitally important. These small groups are unknown to the general populace and it is through television, newspapers and Internet sites that opinions are formed. Accordingly, alienating and slanderous news about Protestants should also be avoided.

- To further protect democracy and human rights in Turkey, instead of creating initiatives restricting freedom of expression, the press should, as a profession, create its own internal regulatory mechanisms.
- To meet the need for objectivity, in news items concerning Protestants care should be taken to also reflect the views of Protestants.
- Like all groups that experience the consequences of prejudice without having the means to make themselves heard in society, Protestants need the society to receive correct information about them in order to be assured that they will be treated with mutual understanding and tolerance. To achieve this outcome the media should be encouraged to include Protestants' problems and interviews with members of this community in their programming.
- Broadcasters, first and foremost TRT [government-run Turkish Television and Radio], should have special programming for other religions and faiths in Turkey, including Protestants. In the course of such programming, care should be taken to accurately reflect the theological understanding and traditions of the religion and faith in question.

