

**STATE, POLITICS, AND RELIGION: EFFECTS OF POLITICAL AND SOCIAL
CHANGE ON THE RELATIONSHIP BETWEEN STATE AND RELIGION IN
TURKEY, 2002-2012**

by

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3. Religion as missionary (religion as a mission)

When we look at how religions interact with politics and state, we can identify three possibilities: 1. Religions are used for political agenda, 2. Religions are not used for political agendas, and 3. Religions are used to guide an individual's own sense of politics, but individuals don't perceive it as necessary for political behavior to have a religious mandate.

It is always assumed that religions with prophetic characteristics tend to be involved in politics. However, Theodore E. Long shows that this is not always true (1986: 3-16). According to him, this assumption is faulty on two accounts. First, it diminishes the religious characteristic of prophecy by reducing it solely to its political function and ignoring its rich yield in other spheres of life. Second, it disregards the multi-faceted nature of the interaction between religion and politics.

According to Long, two main sets of independent variables determine this relationship: societal conditions and the characteristics of prophecy itself. Societal conditions are a) the degree of institutional differentiation, particularly of religion, b) the degree of religious pluralism, c) the degree of religious liberty, d) the degree of rationalization, and e) the degree of societal crisis. Characteristics of prophecy are a) the level of organization and institutionalization, b) its social resources, c) its social location, and d) its type of religious orientation (ibid.). So, modernity or development of a society influences the degree of acceptance of the religious prophecy, but prophecy can also interact with other social, political, and individual interests to impact society.

As we have seen until now, religious institutions and their constituents, and the state have an influence on each other. Although the church has mastered the state at times in history, through much of history the state has dominated the church, as explained by Bellah (1992: 167). Therefore, I will look at how the state regulates religious institutions and their constituents.

4. Regulating Religion

Law, school education, and official religious organizations are instruments by which the state may seek to control religious ideas and institutions. Also, covert state institutions such as secret intelligence services and indirect methods such as tax exemption help the state to regulate religion.

This regulation is also enshrined in international laws. For example Article 18 (1966) of the International Covenant on Civil and Political Rights (ICCPR), the most accepted text about religious rights, adopted by 155 states, declares: “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.” Article 9 (1950) of the European Court of Human Rights (ECHR) states the same principle.

Even though UN and ECHR articles seem generous toward religious freedoms, “public order” and “the fundamental rights and freedom of others” are open to a wide interpretation to restrict religious freedoms.²

As expressed by Finke and Harris, despite 83 percent of all nations promising religious freedoms in their constitutions, 64 percent of those nations have two or more laws restricting the practice, profession, or selection of religion (2009: 7). Even though they proclaim an explicit commitment to guaranteeing fundamental human rights, most nations violate even their own list of rights. So, there is a significant gap between constitutional words and political deeds (Markoff and Regan 1987: 164-165).

In short, constitutions or any other laws which generate religious freedoms are not sufficient by themselves to secure religious freedoms.

² For instance, see the case of *Karaduman v. Turkey* (app. no. 18783/91, ECHR) and the case of the *Leyla Sahin v. Turkey* (app. no. 44774/98, ECHR). In the first case, a veiled female student completed her university degree with her headscarf, but was refused the degree certificate because of her identity photograph, which showed her in a headscarf. In the second case, a fifth-year veiled medicine student was expelled from university because of her headscarf.

In both cases, the ECHR was favorable to the headscarf ban. In the first case, “a student, who chooses to attend a secular university, should accept the regulations of the university. These regulations provide a system to allow for students from different beliefs to coexist. Particularly in countries where the vast majority of the population belongs to one particular religion, exhibition of the rituals and symbols of this religion without regard to any restrictions of place and form can cause pressure on students who do not practice this religion or instead, belong to other religions.” In the second case, “... when examining the question of the Islamic headscarf in the Turkish context, there had to be borne in mind the impact which wearing such a symbol, which was presented or perceived as a compulsory religious duty, may have on those who chose not to wear it” and “notion of secularism to be consistent with the values underpinning the Convention. Upholding that principle could be considered necessary to protect the democratic system in Turkey.”

See McGoldrick (2006) and Elver (2005) for more detailed information.

Moreover, sometimes changing laws does not guarantee religious rights. For instance, in Turkey, the parliament voted in 2008 to lift the ban on female students wearing the headscarf at universities and approved the constitutional amendment by 411 votes to 103 votes. In spite of this amendment, many academic institutions defied the law by forbidding female students to wear the headscarf. Eventually, the Constitutional Court made a very controversial decision by cancelling the constitutional amendment and annulling the law that lifted the headscarf ban.

Immediately thereafter, the Supreme Court of Appeals' chief prosecutor appealed to the Constitutional Court, demanding the disbanding of the ruling Justice and Development Party (AKP), accusing it of "being a hotbed of anti-secular activities," and demanding a five-year ban from involvement in politics for senior AKP administrators, including Prime Minister Erdogan and President Abdullah Gul (*Today's Zaman*; July 31, 2008).

Therefore, as I discuss within this chapter, we may accept that religion is multiple in the ways people use it, but we are less used to the idea that the state can also be 'multiple,' in the sense of consisting of different organs that have different agendas and styles of control. As a result, when we talk about state and religion relations, we should not understand the "state" as synonymous with "government" and should not think that laws and their interpretation and implementation are the result of governments' actions alone. Too often people associate the government as the entire state. But a state's decisions should not be understood as the actions of a government alone. A government is not always the most powerful decision-making body in a country and does not act in a vacuum; a state's decisions can come from the influence of civil society, too, which consists of the entire ruling class and institutions. Even though differences are present from country to country, judicial bodies, universities, the military, the media, the high affluent class, large national and international companies, and sometimes religious leaders and artists help compose the state ideology and its actions along with the government.

One other way to regulate religious ideas and institutions is school education. Even though some states support religious education, they do not tolerate every religion or new religious movement (NRM). Allowing or not allowing state or private religious schools, compulsory or voluntary religious courses in public schools, religious or secular elements in curricula, and supporting religious schools are some ways that are used by the state to control religious education.

C. BACKGROUND

When the Ottoman State collapsed in 1923, modernists and Islamists struggled together to re-establish the country of Turkey. After the formation of the Republic of Turkey (1923), many Islamists withdrew from politics because of the new state's attitude against religion. These discriminatory attitudes forced Islamists within Turkey to lead their lives "underground" (Narli, 2003: 125). Furthermore, due to the secular input from Mustafa Kemal Atatürk, a leader during Turkey's War of Independence and one of the founders of Turkey, many other religious individuals withdrew their support from the secular factions of the nation.

Berna Turam, a scholar of political sociology, acknowledges the dissatisfaction of the religious population within Turkey when he writes, "A large group of founding fathers regarded religion as 'an important force in establishing the larger Turkish nation'" (2004: 353). Many devout citizens, including Said Nursi, who was the founder of the Nur movement and the ancestor of the Gulen movement, believed that unity could only exist if religion and the teaching of it became an integral part of the country. Without a strong religious foundation, the non-Turkish Muslims of the region (i.e. cities with a majority of Kurdish people) "would not feel true brotherhood for the Turks." These diverse groups needed to find a way to co-exist because the success of Turkey depended upon cooperation and solidarity among the different nations living within Turkey (Nursi 1958 [2004]).

Despite the recognition that the acceptance of Islam would lead to brotherhood, Turkey initially moved towards secularization by reducing the power of Islam within the state and even eradicating it from Turkish life. When modern Turkey achieved independence in 1923, the leaders did the following to minimize or reduce the role of religion in the country: abolished the caliph (a ruler of the Muslim community similar to the Pope within the Catholic community) in 1924; closed dervish lodges and Islamic monasteries in 1925; revoked the second section of the Constitution that mentioned "the official religion of Turkey is Islam" in 1928; banned the veil and fez in 1934; and constitutionalized that "Turkey is a secular state" in 1937. All of these actions, especially the abolishment of the caliph, increased the concerns of devout people about this new government. As the people grew more anxious about the government's lack of a

religious ideology, they organized a rebellion in early 1925 in eastern Turkey. The secular establishment of Turkey exemplifies this rebellion as how religious movements tend to struggle with the government to return to Islamic laws and an Islamic state within Turkey.

Hence, Kemalists/secularists have seen religion as a threat for their power and have interpreted all demands for greater religious freedom as an attack on secularism and on the Republic itself. As a result, the secular groups perceive the expression of religious interests through religious organizations or political parties as alarming, rather than as a natural outcome of electoral politics or democratic rights (Toprak 1981: 3). Therefore, religion itself has not led to the disproportionate impact of fragmentation on Turkish politics. Instead, it is the perceived threat of religion to Kemalist secularism that has been responsible for religion's politicization (Toprak 1981: 123).

As the above paragraphs indicate, religious movements functioned under pressure during the first three decades of modern Turkey; because of this tense situation, religious groups often went underground. After 20 years of one-party rule, the establishment of new parties was again allowed in 1946. Four years later, one of these new parties, the Democrat Party, which was more tolerant of religion, won election by a significant majority; religious people and groups then began to reappear. Many scholars interpret this religious emergence as the Islamic revival; however, it seems that this reappearance is more related to the end of the one-party rule and the subsequent growth of freedom and democracy.

After the establishment of the multi-party system, parties were forced to compete for power, and Islam became an important factor in attracting votes. The pious rural periphery, which had largely been excluded from politics since the foundation of the republic in 1923, now became an important political constituency whose interests had to be taken into consideration by conservative political parties (Rabasa and Larrabee 2008: 35).

Despite the multi-party system, Turkey's democratization process has not been easy. Since the 1950s, tensions have marked the relations between the civilian government and the military in Turkey. The country has experienced three military interventions (coups) since the establishment of multi-party democracy: 1960 (between 1960-61), 1971 (between 1971-73), and

1980 (between 1980-83), and one “post-modern intervention”¹² in 1997. After these interventions, the military returned power back to the politicians in a few years.

According to Dagi, the Turkish military embodies two conflicting political traditions. First, there is a deep-rooted tradition of intervention in politics, which is largely brought about by the military’s self-perception as “the guardian of the state” and its distrust of politicians. This self-perception legitimized and raised the military’s intervention. Second, there is the legacy of the military as a “modernizer” (1996: 124). This second reason for intervention has similarities with the intellectual class described by Kurzman (2008). The military, as a part of the enlightened-intellectual class, had and continues to have the mission to modernize the state and people. The intellectual class feared that any attempts towards democratization prior to the establishment of mass education would have dire consequences. When this part of the intellectual class did not like the democratic results, it did not hold back from intervention to enlighten society to benefit the masses. It is not surprising to see the same thoughts among today’s intellectual class in Turkey. According to this class, ordinary people are *cahil* (ignorant/incapable)—they lack the ability to make a wise decision.

The military’s interactions with political Islam have varied. The 1960 and 1971 interventions were conducted basically because the political elites had drifted from Kemalism and had, therefore, lost their legitimacy in the eyes of the intellectuals and military elites (Heper 1994: 19).

After the 1960 intervention, the military turned power back over to the politicians in 1961 and returned to the barracks, but only after instituting a number of reforms that strengthened its political role. One of the most important reforms was the creation of the National Security Council (MGK), a body dominated by the military and entrusted with ensuring that the government’s domestic and foreign policies were in line with the basic tenets of the Kemalist revolution, particularly secularism. While technically an advisory body, the MGK institutionalized the role of the military in the political process and provided a mechanism by which the military could transmit its views directly to the civilian leadership (Rabasa and Larrabee 2008: 36). Therefore, the 1960 Constitution legitimized the bureaucracy and the

¹² The 1997 intervention was different than the previous ones. This time the military never came to power. Instead of dissolving the parliament or withdrawing the constitution, the Turkish military pressured pro-Islamic Prime Minister Erbakan to step down. The military used politicians to implement their requests by pressure.

intellectuals as one source of sovereignty in addition to the Turkish people (Mardin 2006 [1973]).

Even though secularist thinking catalyzed the 1960 intervention, Islamic groups increased their voice again in a few years. When the military thought that the Islamists' voice had increased too much, the 1971 intervention attempted to stop raising Islamic ideology again.

After the 1971 intervention, left and communist movements increased in the 1970s. The 1980 intervention's first aim was to stop these extremist left and communist groups. As expressed by the first communiqué the goal was "to preserve the integrity of the country, to restore national union and togetherness, to avert a possible civil war, to re-establish the authority of the state and to eliminate all the factors that prevent the normal functioning of the democratic order" (Dagi 1996: 125). Hence, the military used Islam and Islamic values against these groups to create balance. Great emphasis was given to religion in the national education system: *Religion and Ethics* courses were made mandatory in elementary schools and high schools and many Quran-based schools/courses were opened. However, after a decade, the military and other secular groups realized that this balance broke down to favor Islamic groups.

The 1997 intervention tried to stop the increasing power of political Islam. This intervention was named "the post-modern intervention/coup" because this time the military never came to power. They used politicians to implement their requests by pressure. Many Quran-based courses closed, middle-level section of imam-hatip schools were closed, and women's headscarves were banned in universities and public places.

The short democratic life of Turkey shows that it swings between secular/military intellectualism and Islamic values. After the Justice and Development's (AKP) success in general elections in 2002, 2007, and 2011, it seems this pendulum again is swinging toward the Islamic side.

According to one of the prominent Turkish sociologists, Nilufer Gole, in the post-1980 period, a dialogue was established among the proponents of different ideologies. For the first time, Islamists and secularists debated around the same table. These debates assured pluralism (1994: 214).

Actually, we can see this optimism in the writings of many scholars, journalists, and writers at the beginning of the 1990s. In 1995, Ustun Erguder wrote in his article on *the Turkish Party System and the Future of the Turkish Democracy* that:

Turkey seems to be completing its first ten-year cycle without a military intervention. No matter which date you take as your milestone... Turks appear to have broken the pendulum between take-overs and transitions. The question facing an analyst is not the probability or the timing of another military intervention. I believe Turkey has buried military interventions, for the foreseeable future, in the depths of her history.

When we think that after two years from these statements Turkish democracy lived through a post-modern intervention, we can suggest that political scientists' foreseeable future was very limited about Turkish democracy and its relationship with the religion.

Actually, the 1997 intervention was different than the previous ones. Instead of dissolving the parliament or withdrawing the constitution, the Turkish military pressured pro-Islamic Prime Minister Erbakan to step down. For this reason, the events were labeled a "post-modern intervention/coup."

In 1997, the military used the National Security Council to implement their requests instead of intervening directly. The Islamist Welfare Party gained 21.4 percentages of votes in 1995 elections and its party leader Prof. Necmettin Erbakan became Prime Minister in a coalition government. The secular establishment of Turkey did not welcome this incident but did not intervene directly. However, in the last days of January 1997 something happened that we could call "the beginning of the end." The Sincan Municipality in Ankara held an event about Jerusalem, attended by the mayor and the Iranian Ambassador. A play staged that night changed the entire milieu in Turkey. It was claimed that the Iranian ambassador made a call for the implementation of Sharia. The newspapers argued that the Mayor said: "We will achieve our goals by remaining patient. The headscarf is our flag." (*Sundays Zaman*; March 01, 2009).

After this event, the military urgently called on civilians to take immediate action. A few days later, in February 4, tanks traveled down the streets of this city. The General Staff announced that this was a normal activity, recalling that this was a routine repeated every six months. However, this time, reporters were called to record the scene. It was obvious that this action was not a routine. It was a warning to the government. Consequently, the February 28 process began at the end of this month.

The General Staff invited members of the Constitutional Court, the Supreme Court of Appeals, the Council of State, public prosecutors and judges, university rectors and journalists to its headquarters where they were briefed about recent developments and fundamentalism. It was argued at the meeting that Turkey was transforming into a different country like Algeria. The

military representatives stressed that they would rely on coercive measures if needed. (*Sundays Zaman*; March 01, 2009).

On February 28, 1997, the MGK presented the cabinet with a long list of demands—18 in total (so-called “official advice”). The aim of these demands was to restrain the influence of Islamists in the economy, in education and inside the state apparatus (Zurcher 2004: 300). To summarize: schools controlled by religious sects should be inspected and transferred to the Ministry of Education; a transition should be made to eight-year obligatory elementary education (its aim to close middle-level section of imam-hatip schools and preventing to attend year-run Quran-based courses); Quran courses should be inspected and supervised; media outlets supporting military personnel who have been fired because of involvement in fundamentalist activities should be placed under scrutiny; codes on attire should be observed; acts and statements insulting Ataturk should be punished. In addition, a committee was set up to effectively implement the MGK's decisions.

Eventually, on June 18, 1997, the Welfare Party (RP) leader and Prime Minister Necmettin Erbakan resigned from his post. Afterwards, the Constitutional Court closed the party for "acting against the secular principle of the republic" on January 1998. The court, whose decisions are irreversible, also banned Erbakan from politics for several years (revoked in 2009), along with some other RP politicians.

After 1997, the military changed its defense concept. At this time, priority was given to combating internal threats coming from Islamic fundamentalism rather than guarding against external dangers. Nevertheless, the military was aware that previous interventions had failed to provide a lasting solution. For this reason, the military did not want to intervene without trying all other methods such as pressuring media and civil society organizations; and they succeeded.

During the decade following this intervention, an atmosphere of fear seems to have maintained its effects on Turkey. Almost all decisions made by the National Security Council (MGK) were still in effect in the country until mid-2000s.

warning, *a serious warning*, has been issued to the party, and I hope this conclusion will be evaluated and actions will be taken accordingly" (*BBC News* 07/31/2008. *Hurriyet* 07/31/2008. Most English translations lost the repeating of the word “warning” two times, and so, judge Kilic’s emphasis on it).

In other words, the Constitutional Court was seriously warning the ruling AKP (which won national elections in 2002 by 34%, municipal elections in 2004 by 42%, and national elections in 2007 by 47%) to ignore elector and more generally public demands on religion; otherwise, suffer its consequences, including dissolving the party.

In its early years of the government, the AKP learned a new political theory. Even if there was a public demand, and moreover if this demand was so strong and widespread that would be interpreted as a social consensus, making totally legal changes needs approval of another consensus: institutional consensus.

Social Consensus vs. Institutional Consensus

*To live, like a tree, single and free,
And like a forest, in brotherhood.*

(Nazim Hikmet Ran)

Whenever problems related to headscarf banning in universities and religious education were discussed in politics, there was a magic word to solve these problems: *social consensus*. For instance, one of the former PMs and then-deputy of PM, Mesut Yilmaz, in 2002, was saying the headscarf issue would be solved legally only after a broad social consensus, months before the AKP came to rule (*Hurriyet* 04/29/2002). Seventy percent of Turkish women were wearing headscarves but, for some reason, Turkish politics did not find a social consensus to lift headscarf banning in universities and was still demanding a broad social consensus.

The AKP leaders referred to social consensus countless times to solve headscarf banning and religious education issues (see such as, *Hurriyet Daily News* 3/10/2002; 6/25/2002; 10/21/2002; 11/08/2002; 11/24/2002; 10/15/2003). When the AKP got majority in the Parliament in 2002, it interpreted it as one of the signs of social consensus.

The first legal attempt to solve one of these problems was the education bill that would reduce the effects of the coefficient factor in favor of IHLs. As I mentioned previously, this bill first came to intention in September and October 2003 and later between April and June in 2004.

In that time, just before this bill was voted in the Parliament, the General Staff stated that the military is against this bill in May 2004. PM Erdogan criticized that the General Staff has no business becoming involved in political decision-making and clarified, “A social consensus is not a consensus between institutions but of the nation” (*Hurriyet Daily News* 05/11/2004; 05/16/2004).

In his next day’s column, Mehmet Barlas from Sabah newspaper was reminding PM Erdogan of the importance of institutional consensus in Turkish politics “‘Nation’ brings to power, but ‘Institutions’ end power!..” (Barlas, *Sabah*, 05/12/2004).

Actually, two weeks before YOK and the General Staff expressed their concerns about the coefficient factor, the President of the Constitutional Court, Mustafa Bumin, stated that removing headscarf banning in universities is unconstitutional and any attempt to remove it by changing laws or the constitution would return from the Constitutional Court in his speech for the 42nd anniversary of the court. PM Erdogan was listening to the speech before him. After the speech, PM Erdogan stated to press when it was asked his opinions about the speech:

I was claiming a theory before 2002 elections; it was social consensus. Today, I am more clearly state that there is a social consensus and also consensus of the Parliament and other institutions. It seems that social consensus and institutional consensus are not running together (*Hurriyet* 04/25/2005; see for more details Ergul 2005; Hale and Ozbudun 2010: 72).

The AKP learned the importance of institutional consensus in a hard way. Even its first week in the Parliament, Turkish politicians and the media were talking about how “being in power and being able to implementing this power are totally different” by referring the AKP government (see *Hurriyet* 11/14/2002). This difference showed its results during the early attempts on religious education. The AKP was in power and had all legal rights but this power was not enough to reduce effects on the coefficient factor in IHLs.

Discussions on institutional consensus had gone on for a long time but gradually faded while power of institutions shrunk against the government. The concept of social consensus has not lost its popularity but proved that it was an ambiguous and vague term. Every side of discussants referred to his/her opinions as representing the society.

The AKP believed that it represented a social demand on religious education. On the other hand, its opponents accused the AKP of behaving in majoritarianism instead of pluralistic democracy. In the early years of the AKP, there was a strong argument that participation in 2002 elections was limited; turnout was just over 79%. Because of 10% threshold in elections, only

two parties entered the Parliament. Therefore, the AKP's 34% vote did not represent the whole society although the AKP had overwhelming majority in the Parliament. Making legal changes on headscarf banning in universities and religious education while relying upon the majority in the Parliament would miss social consensus.

In 2007 elections, the turnout was over 85%. The AKP raised its votes to 47% but its seats retreated to 341 since a third party passed 10% national threshold. Secularist CHP got 112 seats with 21%. Nationalist MHP got 71 seats with 14%. Independent candidates won 26 seats with 5%. Even though 10% national threshold was still high and could have some critics, nobody could question that this Parliament did not represent the society since over 85% of voters participated in the elections and around 87% of votes were presented in the Parliament, among 550 parliament members.

Even this kind of high representation did not stop arguments on majoritarianism, majoritarian imposition, tyranny of the majority, pluralistic democracy, social consensus, and giving some elected leader examples such as Hitler, Milosevic, and Ahmadinejad.

In February 2008, the AKP with help of the MHP and some independent parliament members (MP) decided to lift headscarf banning in universities by making a constitutional amendment. Article 1 of Law no. 5735 added the phrase "in using all forms of public service" following the phrase "in all their procedures" in Article 10.4 of the Constitution which would have become "State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their procedures and in using all forms of public service." Article 2 of Law no. 5735 added the following paragraph as the seventh paragraph to Article 42 of the Constitution "No one shall be deprived of the right to higher education for any reason not explicitly written in the law. Limitations on the exercise of this right shall be determined by the law."

411 MPs voted 'yes' versus 103 'no' out of 550 MPs on 09 February 2008. The next day, the headline of a top-selling newspaper, *Hurriyet* (Liberty), was "411 HANDS RAISED TO CHAOS" (*Hurriyet* 02/10/2008). The chief editor of the newspaper was expressing his fears on "tyranny of the majority" in his column (Ozkok, *Hurriyet*, 02/13/2008). The next month, in her live TV program, a famous movie star questioned how vulgar people brought the AKP to power and how her vote would be considered equal to the vote of shepherd on a mountain (*Hurriyet* 03/28/2008).

In that environment, the Constitutional Court was an assurance for secularists and the court annulled the constitutional amendment to lift the headscarf ban in universities on June 5, 2008. The Court stated,

Under Article 148 of the Constitution, constitutional amendments can be examined and reviewed only as to their form. The review of constitutional amendments is restricted to assessment of whether the requisite majorities were obtained for the proposal and in the ballot, and whether the prohibition on debates under urgent procedure was observed. This provision bestows no competence on the Constitutional Court to review the constitutionality of constitutional amendments as regards their substance.

In other words, the court officially accepted that it had no legal right to examine this bill's substance. However, for the sake of secularism the court ruled beyond its power,

Article 4 of the Constitution prohibits the proposal of amendments to the first three. Parliament therefore had no power to propose such an amendment. The Court accordingly decided that it was within its jurisdiction to examine whether a constitutional amendment directly or indirectly changed the irrevocable provisions of the Constitution. President Mr H. Kiliç and Justice Mr S. Adali expressed dissenting opinions on this point, on the ground that the Constitution did not allow the Constitutional Court to review constitutional amendments with regard to their substance and such a decision can not be made without substantive review.

In summary,

The Court gave a ruling as to substance, stating that the aim of the legislation was revealed both in the reasoning of the law and during parliamentary debate on the lifting of the ban on wearing the headscarf at universities. The Court reiterated that the prohibition on the wearing of the headscarf at universities was found legitimate by the European Court of Human Rights in *Leyla Sahin* in order to protect the rights of others in a Muslim majority country. The Court therefore ruled that lifting the ban on wearing the headscarf at universities is contrary to principle of secularism, and that the amendments in Articles 10 and 42 of the Constitution indirectly amended Article 2²⁰, which is irrevocable. Therefore, Law no. 5735 is out of line with Articles 4 and 148 of the Constitution. The Constitutional Court overturned the contested provisions of Law no. 5735. President Mr. H. Kiliç and Justice Mr. S. Adali expressed dissenting opinions on this point, to the effect that the amendments were not contrary to the principle of secularism (Constitutional Court, App. No. 2008/16 D. No. 2008/116).

The next month, as I mentioned before, after the headscarf amendment in Parliament, the Chief Public Prosecutor opened a case against the ruling Justice and Development Party (AKP),

²⁰ ARTICLE 2. "The Republic of Turkey is a democratic, secular and social state governed by the rule of law; bearing in mind the concepts of public peace, national solidarity and justice; respecting human rights; loyal to the nationalism of Atatürk, and based on the fundamental tenets set forth in the Preamble."

demanding the dissolution of the party and disbandment of its party leaders from politics in 2008. The Constitutional Court ruled financial sanctions because of violating the secularism principle on the issues of “the headscarf ban in universities, the age restrictions concerning the Quran courses, and the coefficient limitation applied to IHLs.”

The AKP government always condemned the Council of State’s decisions on the coefficient factor and the Constitutional Court’s decisions on the headscarf amendment and presidential elections in 2007. However, these condemnations did not change anything since the AKP did not have any power on the judiciary, especially on the higher courts.

From time to time, independence of courts is among debated issues in Turkey. However, neutrality of courts has not found the same interest as much as independence of the court system. One columnist in *Milliyet* newspaper, Taha Akyol brought attention to this issue by comparing *Milliyet* newspaper’s coverage on independence and neutrality of courts. News related to independence of courts appeared 333 times while neutrality of courts appeared only twenty times between 1997 and 1999. This gap has been reducing lately: ten years later, between 2007 and 2009, these numbers changed to 113 and 68 respectively. Mr. Akyol continued this examination on inauguration speeches of the presidents of the Supreme Court of Appeals at the beginning of legal years between 1969 and 2007 by omitting the term of judge Sami Selcuk between 1999 and 2002. This nearly forty years term revealed that these presidents used independence of courts 436 times but neutrality of courts only 49 times. Judge Sami Selcuk was an exception and mentioned neutrality of courts 83 times in his three years term, 1999-2002 (Akyol, *Milliyet*, 01/13/2010).

In 2010, the AKP brought several constitutional amendments to Parliament including an increase for members of the Constitutional Court and the High Council of Judges and Prosecutors (HSYK), which oversees judicial appointments. In this amendment, the members of the Constitutional Court increased from eleven to seventeen and Parliament had a right to elect three of them; the rest were appointed by the President as happened before.

Although judges have tenure in the Turkish judicial system, HSYK controls the careers of judges and prosecutors through appointments, transfers, promotions, and discipline penalties. The amendments increased members of HSYK from seven to twenty two. Ten members of HSYK were chosen by votes of all judges and prosecutors, approximately 12,000, at the national level. The other ten members are appointed by the President, the Court of Appeals, the Council

of State, and the Justice Academy. The remaining two members were the minister and the under secretary of justice.

Supporters of the bill welcomed the changes since in the previous system the Council of State and the Supreme Court of Appeals were choosing five members of HSYK. In the meantime, HSYK was appointing all members of the Supreme Court of Appeals and three out of every four members of the Council of the State. That was causing an unbroken cycle in the higher court system where diverse ideas could not find a place in higher judicial system. Therefore, the bill was suggesting a more diverse and neutral ground.

Opponents of the bill were arguing in opposition that the government increases its influence on the judiciary system. Other parties in Parliament did not support these amendments and highly criticized the intention of the AKP.

Parliament passed the amendments package with only the AKP's support in 2010. The package got 336 votes, below the two-thirds majority to pass directly but enough to send to a public vote after the President's sign. The amendment package went to public vote on September 12, 2010, in the 30th anniversary of the September 12, 1980 military coup. The government had a few more selling points for the amendment package that included removing judicial immunity for the leaders and top officials of the September 12, 1980 coup as well as those civil and military bureaucrats serving under the military regime: removing "the decisions of the Supreme Military Council are outside the scope of judicial review," limiting military courts' scope to military related issues, and opening other cases to civil courts including coup attempts.

The amendment package got 58% of the vote with 74% participation threshold and it was constitutionalized. In result, the composition, powers, and structure of higher courts were changed considerably by the constitutional amendments in 2010. After that point, the AKP would be both "in power" and "able to use this power." In 2011 elections, the AKP increased its votes to almost 50% and solidified its power by being the first party that increased its votes during three consecutive elections in Turkey. After these developments, the YOK removed the negative effect of coefficient factor for IHLs on November 30, 2011. The Council of State did not rule stay of implementation of the decree for plaintiffs and was still examining the changes as January 01, 2013. In 2012, the government re-opened closed middle-level sections of IHLs (known as 4+4+4) that were closed during the February 28 process. Enrolled students to IHLs started to increase again which gave the first impressions that IHLs would return to their old days

as before 1997. The government did not make any legal changes for the headscarf ban in universities, but the headscarf ban in universities disappeared de facto.

As a consequence, some scholars and commentators interpreted these changes as the erosion of the secularism principle. However, these changes indicate more friendly interpretation and implementation of the secularism principle rather than an alarming future. Since the early Republic, the Turkish state embraced an assertive, Jacobin, authoritarian, and French type of secularism; however, this secularism has evolved to libertarian and American types of passive secularism under the AKP government since 2002 (see Kuru 2013). Perception of religion as a threat for the state is diminishing and religion is being accepted as a part of social reality that is also a part of the state. In that way, the state is relieved from seeing a component of its entity as a threat to other components.

As with every social change, this change was also slow and unpleasant. In a general rule, upper classes are open to new ideas and lead social changes. On the other hand, lower classes are more inclined to resist the change. However, in the Turkish case, this was the opposite for changes in the secularism principle. There was a social pressure to change the understanding of secularism, but upper classes were resisting it. This resistance made the change harder than other social changes. I mentioned Bourdieu's cultural capital as a possible reason for resisting this change previously. Georg Simmel's upper class taste would give some insight for this resistance also. Simmel noted that fashion is a product of class distinction and a way emphasizing separation of classes.

Social forms, apparel, aesthetic judgment, the whole style of human expression, are constantly transformed by fashion, in such a way, however, that fashion-i.e., the latest fashion-in all these things affects only the upper classes. Just as soon as the lower classes begin to copy their style, thereby crossing the line of demarcation the upper classes have drawn and destroying the uniformity of their coherence, the upper classes turn away from this style and adopt a new one, which in its turn differentiates them from the masses; and thus the game goes merrily on. Naturally the lower classes look and strive towards the upper, and they encounter the least resistance in those fields which are subject to the whims of fashion; for it is here that mere external imitation is most readily applied. The same process is at work as between the different sets within the upper classes, although it is not always as visible here as it is, for example, between mistress and maid. Indeed, we may often observe that the more nearly one set has approached another, the more frantic becomes the desire for imitation from below and the seeking for the new from above (Simmel 1957: 545).

Even in fashion, this class distinction is rigid and imitation by lower classes is unacceptable. When demarcation of this line disappears, the upper class looks for new styles. This is an easy way to draw a demarcation line in fashion; change fashion every year and become free from the lower classes. However, what is there to do about other things that the upper class cannot change as easily as fashion and should share the same taste with the lower classes? Or more painfully, what is there to do if the lower classes start to earn the same income as the upper classes and become new upper classes; and then, the previous upper classes should share everything without any demarcation with these new upper classes? These definitely cannot be acceptable to the upper classes. As a quick conclusion, IHLs helped to break this demarcation; then, the graduates of these schools are not welcomed by the upper class.

TESEV reports shows that IHLs increased schooling of female children. Especially before the 1990s, conservative families have an inclination to not send their female children to school after elementary schools. There were several sociological reasons for these decisions including raising them as future housewives, wearing headscarves in adolescence, and so on. IHLs broke this tendency. Most female students would be able to wear their headscarves during their high school education until 1997 without much incident. However, these female students did not want to stop their education after high school while seeing their male peers continue to a university education. Conservative families became more tolerant to their female children's higher education since they became used to it during children's high school education. When the number of veiled students started to increase in universities, it increased reactions of secularists. Veiled students' demands never ended. First, they demanded high school but it did not stop there. Later, they asked for universities, jobs, and participating in leisure activities such as driving expensive cars, eating in expensive places, and shopping in famous brands. Their visibility increased enormously in the upper class lifestyle.

Also one more thing changed; conservative families left their old moderate life style. Naturally, there were conservative families that had high income as much as the upper class previously. However, these families did not participate in the lifestyle of the upper class so they were invisible to the upper class. Their children, especially after university education, did not want to stay inside of their circle but instead have entered the secular upper class's lifestyle circle: in malls, coffee shops, beaches, five star hotels, on planes, visiting European states, having the best education, and going to better schools. This list never stopped. The secular upper

class wanted to treat them as they used to because they still saw them as people from the lower classes, but this treatment started to fail since they were not shepherds on mountains; they knew their civil rights. Also AKP government's power accelerated appearance of conservative life style in the public sphere along with modernization, globalization, and economic, historical, and political conditions. However, this appearance in the secular public sphere does not indicate an increase in religiosity of the Turkish public, just that old housewives' daughters refused to sit at home.

Changing fashion was an easy way to put boundaries between classes but it was not easy to put a boundary between the same income level people. You can upgrade from an economy seat to a business on a plane but still might find a veiled woman next to you. In a capitalist market, every customer has the same value before a clerk. While you try your new season Chanel high-heels, you realize that a veiled woman buys the same pair next to you in the Istinye Park Mall. Fashion changes and these veiled women follow the fashion. A veiled woman likes a cup of Starbucks coffee at Bosphorus while looking at two continents as much as a secular person in the same coffee shops. The beautiful sights of Bosphorus and Istanbul would not be only available for old elites anymore. I gave veiled women examples since they are easier to identify but the same is valid for conservative males.

One of my interviewees, Retired Colonel Ertugrul Oner mentioned how he was feeling when he saw a veiled woman in these sights before, "In the past, when a veiled woman entered a coffee shop while we were sitting there, we were leaving the place if we cannot say anything. Sitting in a public transportation with them [veiled women] was hard for me. However, it seems we are used it now." He mentioned a similar story when he talked about neighborhood pressure in both devout and seculars, "[in the issue of neighborhood pressure] it is not necessary to touch physically or being arrested by police. You can make it with a glance or an attitude. We did it to veiled women once. I said 'they are permitting everybody to enter in here!' [by bullying in a coffee shop] (*onune geleni de buraya aliyorlar*). Girls left the place. If I saw them now, I apologize. It was anger of that time..." (Oner, *personal interview*).

The demarcation intention was one reason among several for secular reactions. Power struggle between center and periphery groups seems a more prominent reason among them. Simmel explains the upper classes' resistance to change with their fear of loosing their privileges;

The upper classes, however, were most intensely affected and transformed by new influences, just as the upper branches of a tree are most responsive to the movements of the air. The highest classes, as everyone knows, are the most conservative, and frequently enough they are even archaic. They dread every motion and change, not because they have an antipathy for the contents or because the latter are injurious to them, but simply because it is change and because they regard every modification of the whole, as suspicious and dangerous. No change can bring them additional power, and every change can give them something to fear, but nothing to hope for (Simmel 1957: 555).

The upper classes had a fear of losing their power in the state. This power included both administrative power in the state and economical power by exploiting state opportunities and facilities. Incentive funds of the state would not be available to only a few particular groups anymore. Taking advantage of state funds is ending and those state funds should be shared with new incoming conservatives. It might be wondered how IHLs cause these outcomes. Certainly, simple high school graduates would not cause these outcomes, but IHLs were the first step to these outcomes. The wealthy secular regime wanted to nip these perceived threats in the bud.

If IHL students never pursued their careers in universities and state apparatuses, there would be no harsh precautions on these schools. If the reader remembers one of then-President Sezer's veto reasons for the IHL bill, President Sezer said,

Vocational schools were founded to provide blue-collar workers for the industry sector. Encouraging their graduates to apply to universities instead of fulfilling the mission of their schools [being a blue-collar worker for industries, for example] wastes resources and reduces the educational quality of the universities. For these reasons, this bill does not carry out the principle of 'being appropriate for the common good' that should be the general purpose of every law (TBMM records 06/01/2004).

Sezer was saying as long as you stayed as blue-collar worker, there is no problem but please do not pursue more. Don't try to share administrative and economical power of the state.

During my interviews I felt the tenseness of power struggle sometimes. Several interviewees questioned if I was an IHL graduate. Most of this questioning might be considered a part of general conversation. When IHLs or religious education related questions came up, it would be natural to ask if I was a graduate from one of these schools. However, in one instance, I could not pass without mentioning one of my experiences.

I demanded an interview from one of the city representatives of the Association of Kemalist Thought (ADD) in Istanbul. I talked with the person on the phone and explained that I am doing research on changes between state and religion relations during the last decade. He

accepted my interview demand and I went to his office at the scheduled time. After a few greeting words, just before the interview started, he asked to get to know me more. He already knew my research subject and the university where I am doing my Ph.D. He took a notepad and pencil and started to write down this information and, while writing, he repeated loudly to confirm it. I confirmed that he was right. His second question to get to know me more and in more detail was surprising. He asked me which high school I went to. I replied I went to high school in Istanbul. He repeated the question “*which school?*” He never asked me my undergraduate education or M.A. thesis before or after this question; only about high school. A high school was more than enough to know a person. There was no need for further query. He later demanded to see the interview questions. Long story short, eventually he did not want to participate in the study. I thanked him for his time and left.

When I went outside of the office, I recorded a voice memo of myself posing questions about the reasons of asking a Ph.D. student about his high school without asking any more questions about his education or research. One of the interviewees, Oktay Eksi, MP from CHP, even asked me my elementary school. However, I did not find it strange since he asked my complete educational history without omitting any step.

Why is questioning high school education important? What has been taught in these schools? IHLs are state-run schools. The state decides their curriculum and appoints their teachers. 60% of their curriculum is similar to general high schools while 40% of the curriculum is related to vocational courses such as Quran and Hadith. In other vocational high schools this ratio is the opposite, where courses related to the vocation almost get 70% of the curriculum while 30% of the curriculum is related to general course work (TESEV 2004: 99). That means that IHLs have the least vocational training among all vocational schools. This is also another sign that these students mostly do not have any intention to continue in this field but would like to have a few extra elective courses related to religion.

Secularist people are against IHLs on two bases. First, as was mentioned among President Sezer’s veto and court decisions, it is assumed that IHLs would harm the unification of education reform. Educating children under two types of education, where one is related to religion and the other is totally secular, would cause a clash between these individuals. The other most common argument is that IHLs cause most of the problems related to religion in Turkey

today and form a background for Islamists or, at the least, a background for conservative parties and other Islamist movements.

These fears have some validity but are not a hundred percent correct and include some exaggerations. For instance, an interviewee was relating PM Erdogan's rhetoric talent to his IHL education by saying there is a rhetoric course in these schools. This example suggests that some people have a fear that every graduate of an IHL has a potential for being another Erdogan.

IHLs cause most problems is also a vague argument. IHL graduates' tendency for supporting Islamist and conservative parties would be correct. However, is this a problem by itself? Since mostly conservative families send their children to IHLs, it is likely that these students have conservative tendencies. This tendency is not because of school education but because of family values. In Turkish politics, secular parties have a 20-25% vote capacity. Where do the other 80% of voters get their high school education? Not in IHLs and they are still voting for moderate and conservative parties. Then-President Ahmet Necdet Sezer mentioned IHLs have around 500,000 graduates since their establishment in 1924. Let's assume none of them died and all of them voted for the conservative AKP. The AKP got almost 21,500,000 votes in the 2011 elections. Where did these other 21 million voters graduate?

Other problem allegations are vague also. Nobody has shown a scientific study that IHLs by themselves cause problems. For instance, only one interviewee, Prof. Umit Ozdag, gave a concrete example for IHL related problems:

We, a few social scientists and a psychiatrist, did research on violence in schools, including IHLs. A school is in a wealthy neighborhood; there is no problem. A school is in a poor neighborhood; again there is no serious problem in the issue of violence. A school is between these economical neighborhoods; it is like dynamite waiting to explode. You see these kinds of profiles. A student has a potential for violence if his/her parents were divorced and [the student] failed the class for one year. When we almost completed the study, psychiatry Prof. Erol Goka, who is an important intellectual, suggested to look at IHLs also. We looked at IHLs and saw an enormous violence tendency. We could not believe it. We asked teachers and they confirmed the results. Later, we saw another study on Catholic (rahip) schools. These schools also have this violence tendency. The reason for this violence is that 14, 15, 16 years olds form their sexuality just like how in science-fiction movies a thing changes its shell; this is a similar era for them. While they are forming their sexuality, it has been continuously said that this is a sin, this is immoral, don't do something. These wear them out psychologically without any doubt. This causes the potential for violence. This is not related to Islam. This is that a biological process and a spiritual process come across (Ozdog, *personal interview*)

I couldn't confirm Prof. Umit Ozat's surprise about violence in IHLs in the literature. Prof. Erol Goka and others had a research about violence in the family and in public on behalf of the Prime Ministry Institution of Family Research in 1997 by using a violence scale that was improved by Prof. Goka et al on violence in secondary education. This study was looking at middle schools and showed that violence in imam hatip schools (2,32 units in total) are lower than all other state schools (2,42) including vocational schools (2,50) and girls' schools (2,40). The violence in imam hatip schools was only above private schools (2,20) (GOKA et al. 1998: 169). Later studies also show that violence in IHLs is significantly lower than all other high schools (see Efiltili 2008: 219-224).

It would be possible that, when Prof. Ozdag referred to his surprise in finding more violence in IHLs than he expected, he might not have meant this violence was more than in other schools. My point is not questioning Prof. Ozdag's statement's validity but I would like to draw attention to the fact that he was the only person giving a concrete example without any ambiguity that IHLs are sources of some problems.

While class-related power struggle between new and old power groups continued, almost always old power groups continued to lose their strength. In this power game, prominent actors were the government, presidency, military, judiciary, media, universities, and prominent business associations. Before the 2002 elections, all of these actors were composing one group against religious education and headscarf banning.

This group lost its first prominent actor in the 2002 elections. The AKP won elections with an overwhelming majority. The national ten percent threshold helped this victory. The AKP did not need any coalition to build its government. In a coalition government, other coalition members would restrict actions of the government. Being in governmental power alone brought discussions about tyranny.

Indeed, it is hard to claim that there was a tyranny of the majority in the issue of religious education and lifting headscarf banning in Turkey. First of all, the AKP has been in power since 2002 but had not been able to implement its power mostly until the 2010 constitutional amendments that passed by the public vote. Second, Tocqueville (1997 [1899]) was suggesting implementing justice for the sake of the majority of mankind instead of the majority of people to prevent the despotism of the majority. It would be very hard to claim that the majority of mankind is against admitting veiled students in universities or the majority of mankind supports

discriminating high school students based on their few elected religious courses during their university application. Third, establishing a tyranny of the majority is very hard in Turkey since Turkey has a multiparty democracy and most governments came to power in coalitions. Coalition partners should share the power of the government. Most coalitions end by deciding to go for early elections. Turkish voters' loyalty to one party is also questionable. For instance, the Democratic Left Party (DSP) got 22% of the votes in the 1999 elections with the highest vote percentage in that election and became the ruling party with the support of two other parties in a coalition government. Just three and half years later in the 2002 elections, DSP's vote was 1%. The majority made a ruling party disappear from Turkish politics in three years. How is it possible to talk about a tyranny of the majority for an electoral vote with constantly changing voter tendency? Ali Carkoglu's study on profiling ideological and economical pragmatism of the Turkish voters in the 2007 Parliament elections reveals that economic pragmatism appears more significant than ideological predispositions, especially for the AKP constituency. According to him, if the AKP government continues its economical success, it would be continuously rewarded at the polls. However, if it fails, then it would be swiftly punished by voters (Carkoglu 2008). Ersin Kalaycioglu also has a similar conclusion for the 2007 elections. Accordingly, voters chose the AKP as a reward for its past economic performance as well as expected economic stability. The AKP voters do not support the AKP on religious grounds any more than supporters of another right-wing party. The economy has played a more important role in the 2007 elections than cultural, primordial, and ideological factors (Kalaycioglu 2010). Fourth, changes in IHLs' coefficient factor or lifting headscarf banning in universities do not mean that every student should go to IHLs and should wear a headscarf. If the majority wanted to implement going to IHLs or wearing headscarves compulsory, these would be considered a tyranny of the majority. Giving options to people who would freely choose is not totalitarianism but a requirement of the democracy.

Supporters of IHLs' coefficient factor and headscarf ban assert that allowing headscarf in universities would cause peer pressure on non-veiled students to being veiled. One of my interview questions was on "neighborhood pressure" a term that was coined by Serif Mardin to express social pressure.

During adolescence, peer groups help socialization of young people and influence their decisions by creating a sub-culture. Young people might feel pressure to adjust their behavior to

align with youth culture. This can be called peer pressure. Secularists argued that since the majority of Turkey is Muslim, allowing the wearing of headscarves would cause this peer pressure among students and they would feel obligated to be veiled. This is a possibility. However, the opposite has the same possibility that veiled female students would feel peer pressure to take off their headscarves. If there is no physical pressure to wear or not to wear a headscarf, this peer pressure should be considered under democratic diversity. Also, secularist arguments missed two other facts of peer pressure in adolescence. First, youth culture challenges adult and social values of society and creates a distinct taste in music and clothes. In this case, the peer pressure does not influence students to wear headscarves but opposite, since it is the practice of the majority. Second, peer pressure does not influence all adolescent segments in society. Peer groups are divided by class and education, and their influence is limited inside of their groups. Also, any peer pressure does not clear away free will—or agency—completely. If a person follows a particular behavior only because of peer pressure, the person leaves it after the group has dissolved or she/he has changed the group.

Last but not least, the opponents of IHL and wearing headscarf in universities are missing another social reality that education and religiosity are inversely correlated. Many studies support that when education increases, religiosity decreases (see Figure 1; Inglehart 1997: 151-159; Norris and Inglehart 2007: 25). If IHL students and veiled students had a tendency for religious fundamentalism or any kind of religiosity that the Turkish state would not welcome, impeding them from entering universities would not solve problems but increase them because of lived disappointments. If the state has a fear of their religiosity, allowing them in higher education is the best way for reducing that religiosity. Through these educations most students leave behind the dogmas that they held at the beginning.