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Conceptions of Religion in the Secular State: Evolving Turkish Secularism

Seval Yildirim*

In 1689, John Locke, a philosopher of liberalism, wrote:

“[t]he Care therefore of every man’s Soul belongs unto himself, and is to be left unto himself. . . . The Publick Good is the Rule and Measure of all Law-making. . . . The only business of the Church is the Salvation of Souls.”¹

Locke’s delegation of matters of faith to the Church, matters of public good to the state, and the care of the soul to the individual, forms the basis of contemporary liberal democracy. Locke’s vision has an easily identifiable binary between the State, that is and must remain secular on the one hand, and the Church, that is religious on the other. Time and experience has proven that Locke’s simplistic binary was, at best, specific to Christian Europe at the time and does not adequately explain other contexts. Even in countries like the United Kingdom or the United States, where Locke’s ideas have been adopted into law,² the relationship between religiosity and secularity is anything but simple and the boundaries between the religious and the secular are anything but clear. From the difficulties in defining what constitutes public good to balancing the potentially conflicting demands of various factions of society, the liberal democratic state continues to grapple

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1. JOHN LOCKE, A LETTER CONCERNING TOLERATION 35, 39 (James H. Tully ed., Hackett Publ’g Co. 2010) (1689).

2. For example, The United States Constitution provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” U.S. CONST. amend. I. The United Kingdom is a signatory to the European Convention on Human Rights, which provides a right to freedom of religion. European Convention on Human Rights, art. 9, Nov. 4, 1950, E.T.S. No. 5.

with the myriad issues secularism raises. This short comment identifies some of these problems and critiques certain points in current discourse on religion in the secular state.

Much of the current discourse on secularism accepts that there is a clear distinction between the secular and the religious. Used as both nouns and adjectives, *religious* and *secular* are terms often left undefined beyond dictionary definitions.³ For example, what characteristics must an individual have to be religious or secular? What if I believe in a religion, practice the mandates of my faith dutifully, but think that an ideal state is one that both protects my religious liberties from undue interference and simultaneously refrains from interfering in my religious community's internal affairs? Does it suffice to conclude that I am privately religious but believe in a secular government? What if my faith mandates that I believe in a government that remains free of any religious affiliation and I am born in a country where the government already fulfills my religious view? In other words, what if I believe in a secular government as a religious necessity? Though the questions may be complex, one thing is clear—religion has framed the discourse. Whether we speak of religiosity or secularity, religion is necessarily at the center of how we define our polities, governments, and individual identities. To that extent, demanding that there be a clear binary between religiosity and secularity is simplistic and often fails to explain, or even define, the reality on the ground.

The development of secularism in the Republic of Turkey provides a good example of the complexities of the religion and state relationship. Among Muslim-majority countries, Turkey was the first to declare itself a secular state in its constitution.⁴ Secularism, or *laiklik*, is one of the unalterable principles in the Turkish Constitution.⁵ Initially a top-down

3. *But cf.* Seval Yildirim, *Expanding Secularism's Scope: An Indian Case Study*, 52 AM. J. COMP. L. 901 (2004) (discussing different definitions and systems of secularism).

4. The declaration of Islam as the state religion was removed from the constitution in 1928 and secularism was added as a constitutional principle in 1937. Talip Kucukcan, *Sacralization of the State and Secular Nationalism: Foundations of Civil Religion in Turkey*, 41 GEO. WASH. INT'L L. REV. 963, 973–75 (2010). However, the separation of religion from the state, i.e. the process of secularization can be traced back to the later stages of the Ottoman Empire. The delay in eliminating the official recognition of Islam as the state religion should be viewed as the product of negotiation between various factions within the nation-building elite.

5. *See* Seval Yildirim, *Aftermath of a Revolution: A Case Study of Turkish Family Law*, 17 PACE INT'L L. REV. 347 (2005) [hereinafter Yildirim, *Aftermath of a Revolution*] (discussing facts and details of Turkish secularism); Seval Yildirim, *The Search for Shared Idioms: Contesting Views of Laiklik Before the Turkish Constitutional Court*, in MUSLIM SOCIETIES AND THE CHALLENGE OF

implementation by the nation-building elite, Turkish secularism has evolved to include expressions of religion in public space, which would have been unthinkable in earlier eras of the Turkish Republic.⁶ Indeed, since its birth in 1923, the Turkish Republic's history clearly demonstrates that secularism and secularization are two distinct concepts, which do not necessarily coincide.⁷ The top-down implemented Turkish secularization project consisted of demolishing certain state structures (such as the Caliphate, the leadership of the Sunni Muslims), and importing European ones, including European legal codes.⁸

Despite the rigor of this secularization project, the people of the new nation lacked a secular consciousness. They had not experienced their version of Enlightenment, where the church and state relationship had been a subject of discourse—at least in no similar terms to what had occurred in Europe.⁹ Emerging out of the Ottoman Empire, where the head of the political state and the religious order was one and the same, the Sultan, the people of Turkey were *told* to be secular and to reformulate their identities accordingly—all in the name of modernization and secularity.¹⁰ For example, the 1928 alphabet reform abrogated the Ottoman Arabic alphabet and adopted a modified version of the Latin alphabet.¹¹ My grandmother, Nesime, went to bed one night as a proud, literate woman (not too common in those days), and woke up the next morning illiterate, since she could not read the newly adopted Latin alphabet. She resented this theft of her literacy so much that she refused to learn the new alphabet and used her fingerprint as her signature until she died. There were many other Nesimes among the new nation's masses.¹² The masses perceived the top-down modernization efforts as steps away from their faith.¹³ Thus, individual and grassroots

SECULARISM: AN INTERDISCIPLINARY APPROACH 235 (Gabriele Marranci ed., 2010) [hereinafter Yildirim, *The Search for Shared Idioms*].

6. See generally, M. Hakan Yavuz, *ISLAMIC POLITICAL IDENTITY IN TURKEY*, Oxford, 2003, 46–48.

7. Kucukcan, *supra* note 4 at 974–75.

8. See Yildirim, *Aftermath of a Revolution*, *supra* note 5, at 347.

9. See Kucukcan, *supra* note 4, at 963–65.

10. See, e.g., Kucukcan, *supra* note 4, at 963–65; Hale Yilmaz, *Learning to Read (Again): The Social Experiences of Turkey's 1928 Alphabet Reform*, 43 *INT'L J. MIDDLE EAST STUD.* 677, 693 (2011).

11. See Yildirim, *Aftermath of a Revolution*, *supra* note 5, at 356;

12. Yavuz at 47.

13. *Id.*

resistance to many top-down modernization efforts continued.¹⁴ For example, despite decades of state discouragement of religious head coverings and legal prohibitions against such coverings in public spaces, the majority of Turkey's women continue to cover their hair.¹⁵

Because Turkish secularism does not preclude state interference in religious affairs, it has meant different things to different citizens. The Turkish state oversees religiosity through the Directorate of Religious Affairs, a government office, whose tasks include the general oversight of all mosques and the compensation of all Muslim religious personnel.¹⁶ Moreover, like their Muslim counterparts, religious minorities are also subject to state regulation, which has occasionally meant discrimination and even harassment for these communities.¹⁷ For Turkey's non-Sunni Muslim populations, at times, life has been just as difficult as for other religious minorities.¹⁸ From the closing of Sufi religious houses as part of the modernization efforts in the early years of the republic, to ongoing discrimination of the Alevi population, even Muslim groups who have not conformed to the state-formulated version of "true Islam" have longed for a different conceptualization of Turkish secularism.¹⁹ Until recently, even

14. See, e.g., Seval Yildirim, *Global Tangles: Law, Headcoverings and Religious Identity*, 10 SANTA CLARA J. INT'L L. 45 (2012) [hereinafter Yildirim, *Global Tangles*] (discussing the history of Turkish laws prohibiting religious headcoverings in public spaces such as universities and courts). A recent survey out of the University of Michigan's Institute for Social Research found that 46% of Turkish people surveyed believe the less conservative *hijab*, which fully covers a woman's hair and ears but not her face, is the most appropriate attire for public places while 0% prefer a fully-hooded *burqa* and 32% believe it is appropriate for a woman to not cover her head at all in public. Jacob Poushter, *How People in Muslim Countries Prefer Women to Dress in Public*, PEW RESEARCH CENTER (Jan. 8, 2014), <http://www.pewresearch.org/fact-tank/2014/01/08/what-is-appropriate-attire-for-women-in-muslim-countries/>.

15. See Yildirim, *Global Tangles*, *supra* note 14, at 54 (citing a 2006 study that showed about half of Turkish women cover their hair with the number higher in rural areas).

16. See Kucukcan, *supra* note 4, at 975 ("[C]onstitutional mandates and duties have empowered the Directorate as a public institution that receives its entire operating budget from the state and employs approximately some 80,000 people throughout Turkey. The Directorate administers all mosques in Turkey, trains Imams, and organizes religious courses for young people and adults during the summer holidays."). Susanne Gusten, *Turkey's Elephant in the Room: Religious Freedom*, N.Y. TIMES (Sept. 28, 2011), <http://www.nytimes.com/2011/09/29/world/europe/turkeys-elephant-in-the-room-religious-freedom.html>.

17. For example, the 1700-year-old Greek Orthodox Patriarchate of Constantinople has come to the brink of extinction since its seminary in Istanbul was closed down forty years ago, drying up its source of clergymen. Gusten, *supra* note 16.

18. See *id.*

19. See Report Reveals Discrimination Against Turkey's Alevis, available at <http://bianet.org/>

Sunni religious groups have attempted to change the definition of Turkish secularism to include public expressions of piety, such as the Muslim headscarf.

Yet other Turkish citizens, those who find religiosity anti-modern, backward, and contrary to international norms of modernity, have defended the rigid and fascistic notions of exclusion in the name of upholding secularism, which, to these citizens, means individual freedoms and liberties.²⁰ In response, throughout the republican era, the Turkish electorate has elected parties who identify themselves with Islam. The last in this line of parties is the Adalet ve Kalkınma Partisi (AKP), or Justice and Development Party, which was first elected in the 2002 elections, and later re-elected in 2007 and 2011.²¹ AKP has successfully redefined Turkish secularism in some ways, including the effective end of the headscarf ban in public spaces.²² This shift in what public religious expressions Turkish secularism would tolerate was starkly evident when four female parliamentarians attended the parliamentary meeting wearing their headscarves.²³ This was indeed a historic moment for Turkish secularism, given that, in 1999, another parliamentarian, Merve Kavakci, was not permitted to take the parliamentarian's oath while wearing her headscarf.²⁴ In fact, Kavakci was effectively ousted from the Parliament amid much commotion, and later had her Turkish citizenship revoked on a technicality.²⁵

Finally, AKP demonstrates the difficulty with identifying a political party as "religious." Much of the media in Turkey and elsewhere has identified AKP as an Islamist party.²⁶ AKP has also been promoted as a

english/human-rights/144019-report-reveals-discrimination-against-turkeys-alevis.

20. For my critique of this rigid understanding of secularism as rendering pious Muslims to the periphery of Turkish society, see Yildirim, *The Search for Shared Idioms*, *supra* note 5.

21. Despite the Gezi Park protests and recent corruption charges against various members of the government, AKP still won most of the seats at local election in late 2013. See <http://www.hurriyet.com.tr/english/domestic/11321558.asp?gid=244> and <http://www.aljazeera.com/news/europe/2014/03/turkish-pm-claims-landslide-election-win-201433072930325489.html>.

22. Sebnem Arsu & Dan Bilefsky, *Turkey Lifts Longtime Ban on Head Scarves in State Offices*, N.Y. TIMES (Oct. 8, 2013), <http://www.nytimes.com/2013/10/09/world/europe/turkey-lifts-ban-on-head-scarves-in-state-offices.html>.

23. See *Four Turkey MPs Wear Headscarves in Parliament*, BBC NEWS (Oct. 31, 2013), <http://www.bbc.co.uk/news/world-europe-24761548>.

24. See generally Yildirim, *Global Tangles*, *supra* note 14.

25. See generally Yildirim, *Global Tangles*, *supra* note 14.

26. Anna Louie Sussman, *With Reelection, Turkey's Islamist Party May Further Consolidate Power*, ATLANTIC (June 12, 2011), <http://www.theatlantic.com/international/archive/2011/06/with->

model for “moderate Islam” by the Obama administration, among others.²⁷ Exactly why the electorate should think of AKP as a Muslim or Islamist party before any other qualifications remains unclear. AKP’s party agenda is a very progressive one, complete with plans to fully implement Turkey’s obligations under international human rights regimes.²⁸ This does not mean that AKP has implemented all the progressive social justice initiatives outlined in its program, but it shows that the party at least recognizes the need to include such objectives in their brand. AKP has remained eager for Turkey to join the European Union; it has amended the Turkish Civil Code to be more gender-equal, and the Turkish Criminal Code to reflect progressive court decisions.²⁹ As a result, adultery is no longer a criminal offense in Turkey.³⁰ Married couples enjoy absolute equality in entry into marriage, divorce, decision-making during the marriage, and child rearing and custody.³¹ Turkey is one of only a few Muslim-majority countries where sexual minorities are not criminalized. This is not to say that there are no problems regarding gender and sexual justice in Turkey—there are numerous and serious issues regarding treatment of both women and sexual minorities³²—but these are remnants of Turkey’s past and not only the

reelection-turkeys-islamist-party-may-further-consolidate-power/240312/; Jonathan Adelman, *The Waning of the Islamic Tide in the Middle East: Just Maybe*, HUFFINGTON POST (Jan. 25, 2014), http://www.huffingtonpost.com/jonathan-adelman/the-waning-of-the-islamic_1_b_4589100.html.

27. See, e.g., John Hughes, *Turkey is Critical to a More Moderate Islam*, CHRISTIAN SCI. MONITOR (June 21, 2010), http://www.csmonitor.com/Commentary/John-Hughes/2010/0621/Turkey-is-critical-to-a-more-moderate-Islam;Prime_Minister_Objects_to_“Moderate_Islam”_Label, HURRIYET DAILY NEWS, <http://www.hurriyet.com.tr/english/domestic/11360374.asp>. Undoubtedly, using concepts like “moderation” in relationship to a religion is very problematic. It implies that if not exercised in moderation, there is something inherently flawed or dangerous about the faith. Another problem is that the term “moderation” is used in relation to certain religion (like Islam) only. The idea of a moderate Islam or a moderate Muslim is clearly a political (i.e. not a factual) one born of the Islamophobic narratives particularly dominant after the 9/11 attacks. For a more detailed argument of this point, see generally Seval Yildirim, *Discussing Islam in the Post-9/11 Epistemological Terrain*, 19 PACE INT’L L. REV. 223 (2007).

28. *Party Programme*, AK PARTI, <http://www.akparti.org.tr/english/akparti/parti-programme> (last visited Mar. 12, 2014).

29. See Yildirim, *Aftermath of a Revolution*, *supra* note 5, at 363–68 (discussing 2002 amendments to the Turkish Civil Code).

30. Owen Bowcott, *Turkey Moves Closer to EU After Retreat on Adultery Law*, GUARDIAN (Sept. 24, 2004), <http://www.theguardian.com/world/2004/sep/24/turkey.eu>.

31. See Yildirim, *Aftermath of a Revolution*, *supra* note 5, at 365–68.

32. See, e.g., John Beck, *Turkey’s Violent Homophobia*, DAILY BEAST (July 1, 2013), <http://www.thedailybeast.com/articles/2013/07/01/turkey-s-violent-homophobia.html>; *Violence Against Women Still Rampant in Turkey*, TODAY’S ZAMAN (Nov. 25, 2013),

product of AKP policies.³³

What is a clear product of the AKP regime is a relentless neoliberal project, which includes privatization of public assets, urban re-development projects that seek to demolish vast areas including historic buildings and parks, and a very permissive atmosphere for foreign direct investment.³⁴ Although these projects might seem desirable to some, various parts of the Turkish electorate have disagreed. Coupled with AKP's attempts at implementing certain conservative laws and regulations (such as time restrictions on the sale of alcohol in retail stores),³⁵ it was these neoliberal projects that gave rise to thousands of citizens protesting across Turkey from late May through July 2013.³⁶ The protests were sparked by the brutal police attack on a small demonstration protesting the upcoming demolition of a small park, Gezi Park, at in Istanbul's Taksim Square.³⁷ The protests brought together a vast coalition of interests, from the pious group, Antikapitalist Muslumanlar (Anti-capitalist Muslims), to queer rights groups, to religious and ethnic minority organizations, to Turkish nationalists and communists.³⁸ These groups, which otherwise would

<http://todayszaman.com/news-332357-violence-against-women-still-rampant-in-turkey.html>. Melis Figanmese, *Working to End Violence Against Women in Turkey*, HUFFINGTON POST (May 15, 2013), http://www.huffingtonpost.com/melis-figanmese/working-to-end-violence_b_3279717.html (citing a United Nations report from 2011 stating that "39 percent of women in Turkey had suffered physical violence at some time in their lives, compared with 22 percent in the United States and between 3 and 35 percent in 20 European countries."). In 2009, a gay honor killing surfaced publicly in Turkey for the first time. Dan Bilefsky, *Soul-Searching in Turkey After a Gay Man Is Killed*, N.Y. TIMES (Nov. 25, 2009), <http://www.nytimes.com/2009/11/26/world/europe/26turkey.html>.

33. "While Turkey's aspiration to join the European Union is pushing the Muslim-inspired government to accept and even promote civil liberties for women and homosexuals, some traditionalists remain ill at ease with a permissive attitude toward sexuality and gender roles." Bilefsky, *supra* note 32.

34. See Özlem Onaran & Anastasia Giamali, *Authoritarian Neoliberalism Hits a Wall in Turkey*, NEW LEFT PROJECT (June 6, 2013), http://www.newleftproject.org/index.php/site/article_comments/authoritarian_neoliberalism_hits_a_wall_in_turkey (arguing that the primary problem with the AKP regime is its neoliberalism).

35. Gunes Komurculer, *Restrictions on Alcohol Sales Go into Effect Today in Turkey*, HURRIYET DAILY NEWS (Sept. 9, 2013), <http://www.hurriyetdailynews.com/restrictions-on-alcohol-sales-go-into-effect-today-in-turkey.aspx?PageID=238&NID=54074&NewsCatID=344>.

36. Constanze Letsch, *Turkey Protests Spread After Violence in Istanbul over Park Demolition*, GUARDIAN (May 31, 2013), <http://www.theguardian.com/world/2013/may/31/istanbul-protesters-violent-clashes-police>.

37. *Id.* For the timeline of the protests, see, <http://showdiscontent.com/archive/gezi-parki/>.

38. *Id.*

oppose each other, were instead united in their opposition to AKP.³⁹ Although there were groups that voiced their objections in terms of their commitment to secularism and in opposition to what they perceived as AKP's Islamism, many other groups formulated their grievances as resistance to AKP's neoliberal policies or as resistance to capitalism and the rise of consumerism in Turkey.⁴⁰ After all, Gezi Park was threatened with demolition because the AKP government planned to build a state-of-the-art shopping center and luxury residences in its place.⁴¹ Gezi Park thus became a symbol of resisting a much larger neoliberal project.

Throughout the protests and during AKP's lifespan, religion has been a trope used by various sides. AKP uses religious rhetoric and pursues conservative policies in order to sustain a pious voter base that was marginalized prior to AKP's rise to governance. Religious affiliation also becomes a convenient and effective cover-up for AKP's neoliberal policies. Some Turkish circles are content to no longer have their representatives ousted from Parliament for covering their hair, and in exchange are willing to overlook the government's problematic economic policies.

As guilty as AKP is for utilizing religion to further its political and economic project, its opponents have also employed Islamophobic rhetoric to convince the public that the pre-AKP era was one of freedoms and liberties. Moreover, although religion is a primary trope in this discourse, so is the rhetoric of individual freedoms. The pre-AKP period was one of military conflict between the armed Kurdish nationalist movement and the Turkish military.⁴² It was an oppressive time for various groups, including pious Muslims who wanted to participate in public life without hiding their religious identity.⁴³ Turkish history is full of disappearances under police custody, mistreatment of religious and ethnic minorities, income disparity, not to mention overt military coups in 1960, 1971, and 1980.⁴⁴

39. *Id.* Based on in-person interviews in Turkey during July 2013.

40. *See* Letsch, *supra* note 36.

41. *See* Letsch, *supra* note 36.

42. AKP has announced efforts to end the Kurdish insurgency, albeit without much progress so far. *Turkey announces reforms to increase Kurdish rights*, AL JAZEERA AMERICA (Sep. 30, 2013), <http://america.aljazeera.com/articles/2013/9/30/turkey-announcespackageofreformstoincreasekurdishrights.html>.

43. Yildirim, *Search for Shared Idioms*, *supra* note 5.

44. *See, e.g., Turkey ordered to pay damages 20 years after mly disappearances*, INTERNATIONAL NEWS (Apr. 16, 2014), <http://www.thenews.com.pk/Todays-News-1-244399-Turkey-ordered-to-pay-damages-20-years-after-mly-disappearances>.

The above short history of Turkey's trials and tribulations dealing with the state and religion relationship shows that in a relatively young country like Turkey, perhaps the real issue has little to nothing to do with religiosity or secularism, but rather with a maturing process riddled with the growing pains of a young democracy. Our societies would be better served if we were more reluctant to accept that a clear binary exists between the religious and the secular. Secularism could imply various possibilities in governance, and religion is often a trope used for different political projects.

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