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The systematic persecution of religious minorities

By The Hon. B. Theodore Bozonelis

Order of St Andrew the Apostle/ Archons of the Ecumenical Patriarchate (14.02.2018) – <http://www.publicorthodoxy.org> - Despite the world-wide recognition of the status of His All-Holiness Ecumenical Patriarch Bartholomew as the spiritual leader of all Orthodox Christians, the government of Turkey will give no legal standing and status to the Ecumenical Patriarchate, the historical Holy Center of Orthodox Christianity at the Phanar, in Istanbul. The lack of legal standing and status in essence nullifies property and other fundamental civil rights in Turkey for the Ecumenical Patriarchate which precludes its full exercise of religious freedom. The Ecumenical Patriarchate cannot own in its name the churches to serve the faithful or the cemeteries to provide for their repose. Since it lacks a legal standing, the Ecumenical Patriarchate is powerless to pursue legal remedies to assert property rights or even seek to repair deteriorating property without government approval.

Instead and in lieu of legal standing, Turkey has established a system of minority (community) foundations for Orthodox Christians and other non-Muslim religious minorities to hold properties supervised and controlled by the Turkish government's General Directorate of Foundations. The Directorate regulates all the activities of religious community foundations which include approximately 75 Greek Orthodox, 42 Armenian and 19 Jewish foundations. The 1935 Law on Religious Foundations, and a subsequent 1936 Decree, required all foundations, Muslim or non-Muslim, to declare their properties by registering the same with the General Directorate of Foundations.

Through its controls, the government of Turkey has nationalized and/or declared certain Greek Orthodox and other religious minority foundations as non-functioning with no right of appeal. This resulted in the systematic seizure of thousands of properties of Christian and other non-Muslim religious minorities in the years that followed, including thousands of income producing and valuable properties of the Ecumenical Patriarchate. In 1936 the Ecumenical Patriarchate, its churches and institutions, owned approximately 8,000 properties. In 1998, 2,000 remained and today fewer than 500 properties are owned by minority foundations loyal to the Ecumenical Patriarchate, most of which are churches, cemeteries, or other properties which produce no income.

With Turkey seeking accession to the European Union, it sought to improve the property restrictions on non-Muslim religious minority foundations. In this regard, the 1935 Law on Religious Foundations was amended during the years of 2002 to 2008 to allow religious minority foundations, with restrictions, to acquire properties and apply for the return of confiscated properties. Within this historical context, Turkey's then Prime Minister, Recep Tayyip Erdogan (now President), also announced by Decree, not parliamentary law, on August 27, 2011, that 162 recognized minority foundations may apply to regain religious properties declared and registered in 1936 and confiscated from

them by the state or they could seek compensation. The Decree provided that applications to regain properties generally had to be made within 12 months--by August 27, 2012-- and regulations for implementation were adopted October 1, 2011.

Of the 162 recognized minority foundations, more than 70 Greek Orthodox foundations claimed and timely submitted applications for more than 1200 properties in issue. Of these applications, more than 300 were accepted, and some 900 were rejected. Of the applications that were accepted, few resulted in the actual transfer of title and few were income producing properties. Although disputed by Turkey, religious minorities reported that administration by the General Directorate of Foundations was slow and arbitrary as even accepted applications were not always processed. The August 27, 2012 submission deadline also did not allow sufficient time to submit the required volume of paper work for most of the property applications. This was further complicated by the fact that local Turkish Government offices did not timely respond to requests for title documents which prevented processing within the deadline.

In addition, the Decree is limited. Properties not declared by religious minority foundations under the 1936 law are not covered. Also, certain religious institutions, including Catholic churches, do not have foundations or a legal status and are not covered. Most important, it does not address the properties of seized religious minority foundations that the government took over because of its claim of lack of foundation management or charitable purposes. Further, under the Decree, the determination of compensation, when in issue, is not made by an independent body but rather by the government.

Accordingly, despite Turkey's claims that the value of properties returned to all non-Muslim religious minorities exceeds one billion dollars, the application procedures in reality proved to be more form over substance. In the end, it was not just the number of properties returned to foundations loyal to the Ecumenical Patriarchate or other religious minority foundations that mattered, but the quality of properties returned. If properties are not income producing, they cannot be properly maintained. In this regard and of most importance, the Turkish government continued to delay or allow the election of religious minority foundation board members to manage the properties. Without functioning religious minority foundations, the return of property is meaningless because the properties, under existing Turkish law, cannot be managed effectively. Turkish law also restricts the eligibility of Orthodox Christians who wish to serve as religious minority foundation board members to manage the foundations. Clergy are not allowed to serve. With the significant decline in population of Orthodox Christians eligible to be elected board members, the religious minority foundations will not be able to sustain returned properties. With the lack of legal standing and status, the government then has the ability to declare the property abandoned and seize the same without compensation.

While Turkey points to the fact that its Sunni Muslim majority religion also lacks a legal personality, the Sunni Muslims are treated in a more favorable manner. For all practical purposes Sunni Muslims have a "legal status" exercised through The Diyanet or Directorate (Presidency) of Religious Affairs of the government which is all Sunni Muslim, and in effect controls the exercise of religious freedom in Turkey. The Diyanet administers mosques which must be all Sunni and oversees all its religious training schools. It obtains billions of dollars from the government to function. Imans and other religious employees are paid by the government. Without any such financial support combined with the lack of a legal status, non-Muslim religious minorities, including the Ecumenical Patriarchate and Turkey's Alevi Muslim minority, have difficulty in exercising religious freedom without sufficient foundation properties to produce income. The General Directorate of Foundations in its administration has limited the financial viability of religious minority community foundations.

The European Court of Human Rights (ECHR) has been an alternative avenue to pursue Christian and other non-Muslim religious minority property rights in Turkey. For example,

after extensive litigation, the Ecumenical Patriarchate obtained a ECHR Judgment in 2008 for the return of the Prinkipos (Buyukada) Orphanage Building. The Judgment produced in November 2010 a deed title for the property in the name of Rum Patrikhanesi, Patriarchate of the Roman Greeks, the official name for the Ecumenical Patriarchate used by the government of Turkey. The deed title as issued and accepted by the Turkish courts in the name of Rum Patrikhanesi in effect created a de facto legal status. It established a legal argument to further the cause of obtaining official recognition of a legal personality for the Ecumenical Patriarchate and all religious minorities.

Also, in March 2011, Turkey implemented a ECHR Judgment of March 2009 which returned property rights to the Greek Orthodox minority foundation, Kimisis Theodokou Greek Orthodox Church, on the island of Tenedos (Bozcaada).

Further, a significant ECHR case was settled in 2013 whereby the General Directorate of Foundations returned the historic former Ayia Foka Greek Elementary School building in Istanbul to the foundation despite the fact that it was utilized as the offices of the government's European Union Ministry.

However, the government of Turkey has refused to recognize these developments as confirming legal status and has failed to register additional properties in the name of the Ecumenical Patriarchate. The lack of legal status persists. This is in stark contrast to Turkey's international and national human rights obligations.

Turkey is a member of the United Nations, Council of Europe, NATO, Organization for Security and Cooperation in Europe (OSCE) and in 2005 began formal accession negotiations to join the European Union. Moreover, by virtue of its membership in all these organizations, Turkey has taken on binding obligations to protect the rights of religious minorities.

As a participating state in OSCE, Turkey has obligations under Article VII of the Helsinki Accords to guarantee and protect the rights of national minorities. The Concluding Document of the 1989 Vienna Meeting of the organization requires participating states to protect the rights of religious communities. As a member of the Council of Europe, Turkey has ratified the European Convention on Human Rights and Fundamental Freedoms. Article 9 of the Convention requires Turkey as a member state to protect freedom of religion, including the right to manifest religion in worship, teaching, practice, and observance, subject only to limitations as necessary in a democratic society in the interests of public safety, for the protection of the public order, health or morals, or for the protection of the rights and freedoms of others.

In the Treaty of Lausanne of 1923, Turkey guaranteed freedom of religion to its non-Muslim religious minorities. Articles 40 and 42 granted non-Muslim religious minorities autonomy and legal status.

"All facilities and authorisation will be granted to the pious foundations, and to the religious and charitable institutions of the said minorities at present existing in Turkey, and the Turkish Government will not refuse, for the formation of new religious and charitable institutions, any necessary facilities which are guaranteed to other private institutions of that nature." (Article 42, para. 3).

With the lack of legal standing on property rights for the Ecumenical Patriarchate and other non-Muslim religious minorities, these rights have not been respected by Turkey. History has also shown that the Ecumenical Patriarchate itself has been further deprived of other significant properties by virtue of its religious identity.

During the time of the Treaty of Lausanne negotiations, the Turkish delegation demanded that the Ecumenical Patriarchate be removed from Turkey as it symbolized the last remnants of an international Christian and Greek religious presence in Turkey. Further, at that time, a bill was introduced in the government of Turkey to establish a so-called

Turkish National Orthodox Church to counter the Ecumenical Patriarchate. This attempt to create a Turkish National Orthodox Church with government support was led by a since excommunicated village priest known as "Papa Eftim," who in 1922 proclaimed a "Turkish Orthodox Patriarchate" with no authority, recognition or congregation.

The status of the Ecumenical Patriarchate to be recognized and remain in Turkey was finally settled by the Treaty of Lausanne in 1923 and reaffirmed by a League of Nations Settlement in 1930. However, this unrecognized priest, with Turkish government support, had seized in the interim Ecumenical Patriarchate churches and properties in the Galata region of Istanbul that his family descendants continue to hold to date. The Ecumenical Patriarchate has repeatedly called upon the government of Turkey to return the churches and properties unlawfully seized but to no avail.

Further complicating religious freedom, property and fundamental rights for Christian and other non-Muslim religious minorities is the recent political unrest in Turkey. In July 2016, an attempted coup against the government of Turkey took place by an alleged faction of the military which Turkey blamed on Fethullah Gulen, a Muslim cleric and his followers. The government called on Turkish citizens to flood the streets and thwarted the coup. Thereafter, Turkey called for the extradition of Fethullah Gulen who now resides and is based in the State of Pennsylvania. A massive government crackdown occurred, that resulted in an estimated 9000 police fired, 6000 military arrested, 3000 judges suspended, 21,000 teachers suspended, and 1500 university deans ordered to resign. Turkey ordered a 3-month state of emergency followed by the government shutdown of 45 newspapers, 16 television channels, and 15 magazines.

As the above significant events unfolded in Turkey, false and derogatory articles were reported in Turkey and Greece seeking to tie His All-Holiness Ecumenical Patriarch Bartholomew to Fethullah Gulen and the failed coup. The intent was to disparage the Ecumenical Patriarchate and further inflame an anti-Christian climate in Turkey. Although the Ecumenical Patriarchate is committed to the resolution of all issues of religious freedom and property rights peacefully and within the existing government in Turkey, the false reporting threatens the progress to seek additional property rights and religious freedom for Orthodox Christians and other religious minorities.

In April 2017, Turkey's Constitutional Referendum vote approved calls for 2019 elections that will replace Turkey's parliamentary system with an all-powerful presidency and abolish the office of prime minister. The result will likely be to cement the absolute control of President Erdogan and his political ruling party. With absolute control coupled with Sunni Muslim dominance, Alevi Muslims, Christian, and other religious minorities fear further restrictions on religious freedom.

Turkey should embrace the historical roots of Christian heritage and other faiths in its lands. It should look upon His All Holiness Ecumenical Patriarch Bartholomew, and all religious minority leaders, and their institutions, for their accomplishments and their desire to live in peace with equal property and fundamental rights. Turkey seeks to join the European Union and has binding obligations to ensure religious freedom for the Ecumenical Patriarchate and other religious minorities that must be enforced. However, the recent political movement in Turkey toward Sunni Muslim uniformity in the government, education, and institutions throughout the country is cause for concern. The need continues for world-wide diplomatic efforts from other countries to exert political pressure on Turkey to require the government to comply with its binding human rights and religious freedom obligations. Legal standing and status for the Ecumenical Patriarchate and other religious minorities that will provide meaningful property rights is the first step.

Why can't Armenians elect a Patriarch?

By Dr. Mine Yildirim

Forum18 (15.02.2018) - http://forum18.org/archive.php?article_id=2352 - The state has, again, blocked the process for the election of a new Patriarch for Turkey's Armenian Apostolic community. The Istanbul Governorship intervened again in early February as the community appeared to be on the point of initiating the long-delayed election. In light of the interference, the Armenian Patriarchate's Clerical Council felt compelled to back down, annul its 2017 election of a Locum Tenens (temporary leader) and acknowledge the authority of the Patriarchal Vicar-General, Archbishop Aram Ateshian.

The Istanbul Governorship – a state institution under the Interior Ministry responsible for state administration in Istanbul province, where the Armenian Patriarchate is based – argued that the Armenian community cannot elect a new leader as the previous Patriarch – unable to fulfil his functions since 2008 because of illness – is still living (see below).

Despite Turkey's international human rights obligations protecting the right of religious communities to elect their leaders, it is "established practice" that the state interferes in how some religious communities elect their leaders, particularly the Armenian, Greek Orthodox and Jewish communities. The state also appoints the head of the Presidency of Religious Affairs which is the state institution providing Islamic religious services including the administration of mosques and teaching (see below).

The state blocking of the election of a new Patriarch leaves the Armenian Apostolic Church community – the largest Christian community in Turkey - facing uncertainties and controversy. Within the community many views have been expressed in the past 10 years about how to elect a new leader in accordance with the community's traditions. But state interference has been a crucial factor obstructing progress being made in electing a new Patriarch (see F18News 11 August 2010 http://www.forum18.org/archive.php?article_id=1477).

Momentum for new election blocked

Momentum to initiate patriarchal elections gained pace in 2017 within the Armenian community, despite state reluctance to give the "go ahead" since 2008. The state's response did not show cooperation and facilitation of the right of religious or belief communities to elect their own religious leaders. On the contrary, the state obstruction which followed illustrates well the challenges faced in this process.

The head of the Surp Pirgic Armenian Hospital Foundation – the largest Armenian community foundation - Bedros Sirinoglu raised the election issue, among other community matters, when he met President Recep Tayyip Erdogan in January 2017. The President responded that the state would tackle the issues of the elections of the Armenian Patriarch and of the boards of directors of non-Muslim community foundations. He said this would happen after the April 2017 referendum on wide-ranging changes to the Constitution to increase the President's powers.

Yet since the referendum, the state has taken no steps to resolve the problem either of electing a new Armenian Patriarch or the community foundations' boards of directors.

Non-Muslim community foundations are not religious communities but are associated with them (see F18News 6 October 2011 http://www.forum18.org/archive.php?article_id=1621).

While the authorities need to adopt a new regulation for non-Muslim community

foundations to hold elections for their board members, legally this is not required for the election of the Armenian Patriarch. Therefore while on the one hand it is difficult to understand the need for President Erdogan's involvement in the process, on the other, the lack of legal certainty resulting from a lack of legal framework explains the Armenian Church's need to ensure state cooperation.

The crucial impetus was the resignation in February 2017 of Bishop Sahak Mashalyan as head of the Clerical Council. His resignation caused much reaction from the Armenian community pressing for the election. His subsequent withdrawal of his resignation led the Clerical Council the same month to declare the seat of the Patriarch vacant and start the election process by electing a Locum Tenens (Deghabah), who would oversee the election of a new Patriarch.

After the Clerical Council's decision to hold patriarchal elections, four prospective candidates for election were mentioned: Patriarchal Vicar-General Archbishop Aram Ateshian, Bishop Sahak Mashalyan, Archbishop Karekin Bekdjian (the spiritual leader of Germany's Armenian community), and Archbishop Sebouh Chouljian (spiritual leader of the Gugark region of Armenia). All four have Turkish citizenship, which is a prerequisite for being eligible to become the Armenian Patriarch of Istanbul.

On 15 March 2017, the election of the Locum Tenens (temporary leader, Deghabah, Turkish: Patrik Kaymakam) took place. The spiritual leader of Germany's Armenians Archbishop Bekdjian was elected at 15:00. Immediately following the announcement of the election results, Archbishop Ateshian shared with the press an official letter the Istanbul Governorship had sent that same day to the Patriarchate of Turkey's Armenians stating that "legally it is not possible to start the election process".

The letter, sent at 13:47 that day, states that "it is understood that there is a desire to de facto start the Patriarchal Election procedure". The letter said the election was not legally possible, claiming the process could cause splits in the community by giving way to restlessness, and that the Patriarchal Vicar-General is on duty. It added that the community knows full well the procedural principles and jurisprudence applicable to patriarchal elections. This letter obstructed the election process.

In spite of these developments, Archbishop Ateshian did not resign from his position as Patriarchal Vicar-General. This led the Clerical Council to remove him from his position on 28 June 2017, with 22 members in favour and 2 against this decision.

Since then, the Armenian community has repeatedly appealed both for dialogue with the state authorities and available judicial remedies to be able to hold elections.

In February 2018, the Election Steering Committee in charge of holding the elections for Patriarch filed a complaint against the Interior Ministry for failure to respond in time to its application to proceed with the election.

On 6 February 2018, the Istanbul Governorship wrote to the Armenian Patriarchate stating that, as Patriarch Mesrop is still alive, the conditions for the election of a new Patriarch have not materialised. The letter argued that health reasons do not justify considering the position of the patriarch vacant and that Archbishop Ateshian continues to hold his position as Patriarchal Vicar-General.

After sending the letter, the Istanbul Governorship invited the heads of the Armenian community foundations for a meeting on 7 February, where Interior Minister Süleyman Soylu met and "listened to them". At the meeting, a prominent lawyer in the Armenian community Sebu Aslangil outlined the legal objections to the Governorship letter, the local Armenian weekly newspaper "Agos" reported the following day.

Aslangil reiterated that the state's decision not to allow the Armenian community to proceed with elections amounted to compelling the Clerical Council to elect someone whom they had already removed (a reference to Ateshian). He added that the letter's reference to the "so-called locum tenens" (Archbishop Bekdjian) was not an appropriate way to refer to a person elected by the Clerical Council.

Interior Minister Soyly replied that the state has a responsibility to uphold the law and accordingly to protect the Patriarchal Vicar-General, "Agos" added. However, Soyly said he was aware of the problems and will take them into account. It was agreed to meet again in a month.

After receiving the Istanbul Governorship's letter, Bishop Mashalyan convened the Clerical Council on 9 February, with Archbishop Ateshian presiding.

"The election of a patriarch is initiated and concluded with acting together with the state, this fact has always been evident in Patriarchal history," declared the Clerical Council's statement issued after the meeting. "Therefore the official letter is taken into account in this context. Since the state's will is that the conditions for the 85th patriarchal elections have not materialised, it is stated in the letter that the election of a Locum Tenens has no basis. Therefore the decision to retire Patriarch Mesrop II and declare his seat vacant does not comply with the rules."

Notably, the Clerical Council also remarks that when the conditions are conducive the necessity of a new Patriarch Election remains.

Archbishop Bekdjian did not participate in the meeting due to his expressed intention to resign from the Locum Tenens position. In his farewell message, published on 13 February, he stated that even though the state's obstruction appears to target him, in reality it aims to "sabotage the 85th Patriarchal Election and is the product of a long and planned campaign".

Why was patriarchal vicar elected in 2010?

Patriarch Mesrop became unable to carry out his duties for health reasons in July 2008 and is still incapacitated. He was elected against the wishes of Turkey's government and became incapacitated under much pressure from the government, media and the public, as well as the Armenian diaspora (see F18News 21 October 2008 http://www.forum18.org/Archive.php?article_id=1206).

It is believed that according to Armenian Apostolic Church tradition, a Patriarch must either die or resign from his position before the election of a successor can be held. For two years following 2008, discussions took place within the community on whether elections would be held or not. Two competing views emerged: one wanting to elect a new Patriarch and the other a Co-Patriarch.

However, in 2010 with a decision of the Istanbul Governorship Archbishop Ateshian became Patriarchal Vicar-General, a post the state invented as opposed to the election of a Co-Patriarch which, the state argued was not found in the Armenian tradition. (see F18News 11 August 2010 http://www.forum18.org/archive.php?article_id=1477).

In October 2016, the Clerical Council decided to retire Patriarch Mesrop on the grounds that he had been unable to perform his duty for 7 years. The election process for a new Patriarch was initiated following this decision.

Impact on the community

The inability to elect a Patriarch has harmed Turkey's Armenian community in many ways. "Not having a head [leader] for ten years deepens existing problems, leads our people to hopelessness and our youth to a search for new horizons," Bishop Mashalyan, whose resignation as head of the Clerical Council in 2017 played an important role in triggering the new election process, told Forum 18 in February 2018. "On top of this, the election atmosphere - always on the agenda, but never resolved - provides the ground for church divisions and conflict."

Bishop Mashalyan added that although the Church is able to continue its routine work, making decisions on issues "important for our community" and developing new projects are impossible. "The representation of our Patriarchate weakens and crucial contact with the state cannot be made," he told Forum 18. "The uncertainty of these extraordinary circumstances can no longer be tolerated."

Is state permission needed to elect Patriarch?

Views differ on whether the state needs to give permission for the community to proceed with the election of the Patriarch. During the Ottoman Empire, the 1863 Armenian Nation [Millet] Regulation formed the legal basis for the election of a new Patriarch. Whether this Regulation applies in the modern Turkish Republic is far from clear.

The Regulation enshrines extensive rules on the internal management of the Armenian community, including the election of a new Patriarch. The non-religious autonomous administrative organs that are referred to in the Regulation were, however, annulled during the Republic. Hence, whether and to what extent the Regulation is legally binding remains unclear.

On the other hand, practice in the Turkish Republic demonstrates that the state has interfered in every election process. Throughout the Republic, five elections for a new Armenian Patriarch have taken place. Each time the state authorities have interfered regarding the timing of the election or the election rules.

Views also differ within the Armenian community, it appears. Archbishop Ateshian argues that in order to proceed with the election, the first step is to obtain permission from the state. According to Bishop Mashalyan, such permission is not needed, and notifying the state and obtaining a date for the election is enough.

Bishop Mashalyan sees the lack of legal personality and the lack of a legal framework that regards the Armenian community as a collective whole as the main obstacles. For example, without legal personality judicial applications become meaningless. He considers, "the good will of Ankara" as "the only contingent". He maintains hope saying, "the state's reply is delayed, but there is no refusal".

As on previous occasions, according to Bishop Mashalyan, the election is to be held in accordance with the Ordinance and date given by the Interior Ministry with the signature of the Cabinet approving the application by the elected Deghabah (Locum Tenens) and the Election Steering Committee.

Another way of moving forward might be the resignation of Archbishop Ateshian as Patriarchal Vicar-General. However, in a lengthy public statement published on Facebook on 3 January 2017, he reiterated that the state does not recognise the Locum Tenens. "Since the Locum Tenens is not officially recognised, isn't it better that someone [himself] who is recognised is in this position?" he asked.

If and when the Locum Tenens were to be approved by the state, Archbishop Ateshian promised to leave his position. Since the Governorship's letter does not recognise the

election of the Locum Tenens, Archbishop Ateshian believed that he should remain in his position as Patriarchal Vicar-General.

According to the "Agos" newspaper, his statement signalled that Ateshian regards the dynamics of bureaucratic relationships as more important than the will of the General Assembly of Clergy and the people's demands. It appears that this approach has prevailed at this time.

No uniform legal framework for election of religious leaders

No uniform legal framework applies to the election of religious leaders in Turkey, which leaves some communities vulnerable. The state interferes the most in the elections for leaders of the non-Muslim communities as viewed by the state as being protected under the 1923 Lausanne Treaty (Armenians, Jews and Greeks and to some extent and more recently Syriacs).

The Prime Minister appoints the head of the Presidency of Religious Affairs (Diyanet), a government agency which is the largest provider of Sunni Islamic religious services (see F18News 4 May 2011 http://www.forum18.org/archive.php?article_id=1567).

The state has not interfered in the selection of leaders of other religious communities - including Alevi Muslims, Protestants, and the Baha'is. But their leaders do not enjoy state recognition (see F18News 11 August 2010 http://www.forum18.org/archive.php?article_id=1477).

In contrast to the state obstruction of the election of the Armenian Patriarch, Turkey's Jews re-elected their Rabbi Rav Ishak Haleva on 14 May 2017. Yet even this process, which from the outside appeared to run smoothly, still included state involvement.

The Jewish community previously changed its rules about electing the Chief Rabbi, requiring election every seven years. When the seven-year term came to an end, the community applied to the Istanbul Governorship on 4 April 2017. The Election Steering Committee met and announced the election rules on 28 April. Accordingly, candidates could announce their candidacy by 5 May. In the absence of any other candidates, Rav Ishak Haleva, who has been the Chief Rabbi of Turkey's Jews since 2002, was elected again.

Interference incompatible with international human rights law

The situation of the Armenian community illustrates clearly the vulnerability of religious communities. First, the lack of an effective legal framework enforces dependency on political will, which can often change. Such an arrangement is not compatible with the norms enshrined in the European Convention on Human Rights.

Since in Turkey no religious or belief community has legal personality as such, religious or belief communities cannot form legal entities with their internal governing processes. As a result, they are dependent on the approval of the state authorities. The right to acquire legal personality is indispensable for numerous aspects of the exercise of freedom of religion or belief in its collective dimension.

In a case originally launched by Hungary's Mennonite Church, the European Court of Human Rights (ECtHR) held in April 2014 that "there is a positive obligation incumbent on the State to put in place a system of recognition which facilitates the acquisition of legal personality by religious communities" (Application No. 70945/11 et al, <http://hudoc.echr.coe.int/eng?i=001-142196>).

Similarly, the then United Nations (UN) Special Rapporteur on Freedom of Religion or

Belief, Heiner Bielefeldt, drew attention to legal obligations flowing from the provisions protecting freedom of religion or belief. "Such an administrative decision [on legal personality] should not be misconceived as an act of mercy, however," he noted in his December 2011 report (A/HRC/19/60, <http://undocs.org/A/HRC/19/60>).

"Under international law, States are obliged to take an active role in facilitating the full enjoyment of human rights, including freedom of religion or belief," Bielefeldt noted. "By not providing appropriate legal options that, de jure and de facto, are accessible to all religious or belief groups interested in obtaining a legal personality status, States would fail to honour their obligations under the human right to freedom of religion or belief."

Secondly, the right of religious or belief communities to choose or elect their leaders and teachers is an integral part of the right to freedom of religion or belief in its collective dimension, as noted in General Comment 22 of the UN Human Rights Committee. If states take steps to interfere in this right, it is the obligation of the state to demonstrate, among others, that this restriction is prescribed by law, pursues a legitimate aim to protect public safety, order, health or morals, or the fundamental rights and freedoms of others and is proportionate to the aim pursued.

It is hard to see that the steps taken by Turkish state authorities in the case of the election of the Armenian Patriarch could pass a rigorous scrutiny of the restrictions test.

Thirdly, if and when differing views exist within a religious or belief community on, for example, when and how elections of their leaders should be carried out, it is not the role of the state to impose a certain way. On the contrary, the ECtHR holds that "the internal structure of a religious organization and the regulations governing its membership must be seen as a means by which such organizations are able to express their beliefs and maintain their religious traditions" (Hasan and Chaush v. Bulgaria, 30 October 2000, Application No. 30985/96, <http://hudoc.echr.coe.int/eng?i=001-58921>).

In light of this, the role of the Turkish authorities should be to respect the will of the Armenian Apostolic community and cooperate with it to ensure that the elections run smoothly. This would provide conditions conducive for the internal mechanisms of the community to manage tensions and conflicts without state interference.

In addition, the Turkish authorities need to ensure that the collective dimension of freedom of religion or belief is effectively protected, including by creating a legal framework for religious communities to acquire legal personality and ensuring that non-Muslim community foundations can elect their board members.

European Parliament urges Turkey to guarantee religious freedom and to release Pastor Andrew Brunson

HRWF (09.02.2018) - On 8 February, the European Parliament adopted a resolution on the current situation of human rights in Turkey. A section was devoted to religious freedom:

Whereas despite the fact that the Turkish Constitution provides for the freedom of belief, worship, and the private dissemination of religious ideas, and prohibits discrimination on religious grounds, religious minorities still face verbal and physical attacks, stigmatisation and social pressure at school and in public life, discrimination and problems regarding the ability to legally establish a place of worship;

The European Parliament notes with concern the deterioration of Turkey's long-held secularist principles and values; is seriously concerned about the lack of respect for the

freedom of religion, including the increased discrimination against Christians and other religious minorities; condemns the confiscation of 50 Aramean churches, monasteries and cemeteries in Mardin; calls on the Commission to urgently address these issues with the Turkish authorities; urges the Turkish Government to release pastor Andrew Brunson and to allow him to return home.

Full text of the Resolution: <http://bit.ly/2EQyrDs>

Bomb scare intimidates another church in Turkey

By Barbara G. Baker



Trabzon's Santa Maria Catholic Church (World Watch Monitor, 2007)

World Watch Monitor (07.02.2018) - <http://bit.ly/2sfihAT> - Turkish police were called to Trabzon's Santa Maria Catholic Church on Sunday morning (4 February) to examine a smouldering device spotted in the garden by alarmed church staff.

After discovering a partially burned homemade pipe bomb, which had failed to explode, local authorities promptly checked the church's security camera footage. Although they enquired around the surrounding Iskenderpasa neighbourhood of the Black Sea coastal city, no evidence was uncovered to identify a possible suspect.

Significantly, the incident took place the day before the 12th anniversary of the murder of Santa Maria's parish priest, Italian Fr. Andrea Santoro, shot dead while kneeling at the church altar after Sunday mass on 5 February, 2006.

But the Trabzon bomb scare was just the latest in a steady succession of threats and violent incidents targeting Christians over the past year in Turkey.



The altar at which Fr. Andrea Santoro was shot dead after Sunday mass on 5 February, 2006 (World Watch Monitor)

Against Turkish Protestants alone, reported attacks in 2017 ranged from broken church windows and Islamic slogans inscribed on a church wall to stolen or torn-down church signs. They included death threats against church leaders – shoved under a church door, or one mailed to a Christian radio station. A partly burned New Testament was left in front of one Izmir church. In some cities, various public institutions again hung up antagonistic banners near the end of the year, opposing local Christmas and New Year’s observances.

In their [annual report on human rights violations](#), released on 30 January, Turkey’s Association of Protestant Churches blamed many of last year’s attacks on increasingly provocative reports appearing in national, local and social media outlets, reminiscent of similar slander propaganda just before the April 2007 [“Malatya Massacre”](#) of three Christians in southeast Turkey.

Hate speech against churches and their leaders, sometimes linking them with terror organisations or foreign countries, appeared throughout the year in print publications as well as over television, the Internet and social media. Although legal cases were opened in four different cities against some of the negative media, local courts rejected Christians’ complaints on the basis of “freedom of the press”.

In early December, a Protestant pastor and another church worker in Balıkesir received death threats. As in similar reported incidents, security forces promptly initiated protective precautions and a local prosecutor launched an investigation. But, typically, the perpetrators are yet to be identified or prosecuted.

According to the report, Turkish Protestants who do not have a historical church building like the centuries-old Christian communities face continual problems in establishing their own places of worship. Comprising more than 150 small and large fellowships, the Protestants have only 10 official church buildings, most of them historical buildings. Although they have established some legal status through 36 church “associations” linked with another 30 representative branches, their purchased or rented facilities do not have the legal rights of officially recognised places of worship. Another 25 small groups meet in house fellowships.



A 2011 photo of the Surp Giragos Armenian Apostolic Church in Diyarbakir (World Watch Monitor)

Over the past five years, the Turkish government has started returning some confiscated non-Muslim properties to their previous owners; it has also permitted the renovation of several ancient houses of prayer, including Edirne's Grand Synagogue and Diyarbakir's Surp Giragos Armenian Church, the largest Armenian cathedral in the Middle East.

Most recently, Turkish President Recep Tayyip Erdoğan presided over the reopening ceremony on 6 January of the newly restored, 120-year-old Bulgarian Iron Church of St. Stephan in Istanbul. [In his comments, Erdoğan noted](#) that one of the responsibilities of the state is "to ensure that all can freely practise their religion".

But along with all of Turkey's other Christian communities, the Protestants are legally prohibited from opening seminaries or Bible schools to train their own religious leaders. Both the historic Greek Orthodox Church's Holy Theological School of Halki and the Armenian Apostolic Church's seminaries have been shuttered by government decree since 1971, leaving these ancient church communities without any way to provide local theological education for their priests and church members.

Because of this prohibition, the Protestant churches have been supported by some foreign church workers to assist in teaching, apprentice training and spiritual-growth seminars.

Expatriate Christians targeted

In a noticeable upswing from previous years, Turkey's foreign church workers were last year deported, denied entry into Turkey or refused renewal of their residence permits. Expatriate Christians residing in Mersin, Gaziantep, Trabzon, Izmir, Erzurum, Bursa and other cities were deported or told to leave the country within 10 days after their residence permits were cancelled.

After nearly nine years of Christian ministry in Turkey, South Korean pastor Shinyung Kang of the Izmir Karsiyaka Protestant Church was fined as an "illegal religious worker" and deported on 25 March.



Andrew Brunson has been detained for the past 16 months, losing a lot of weight, as shown in the only photo of him released during his incarceration (Photo: World Witness)

But even more alarming to foreign Christians living in Turkey, [US pastor Andrew Brunson of the Izmir Dirilis \[Resurrection\] Church](#) has been jailed ever since 7 October, 2016. Accused by a “secret witness” of membership in a terror organisation, the pastor had ministered in Turkey for 23 years. No legal indictment has been issued against the pastor, and his court file remains sealed.

New written appeals on Brunson’s behalf [have been filed](#) during the past two weeks by the European Centre for Law & Justice before the Council of Europe and the UN Human Rights Council, calling on Turkey to abide by its international commitments to respect and apply fundamental human rights and religious freedom.

“Pastor Brunson’s detention appears to be related to his work as a Christian minister,” the statement to the UN read. “By detaining and imprisoning Pastor Brunson because of his religious expression, peaceful association and assembly of religious believers, Turkey is violating not only its obligations under the UN Charter, but its own Constitution.”

Despite Protestant concerns over unchecked hate speech, violent incidents and unresolved legal issues for its congregations and church leaders, on a positive note the report encouraged government and public institution dialogue, which it declared would go a long way towards overcoming prejudice and solving problems. “Those experiences that have been lived out show that when the channels of communication are open, many problems are quickly solved,” Turkey’s Association of Protestant Churches said.
