

MEDITERRANEAN COUNTRIES NON- GOVERNMENT INITIATIVES SEARCH PANEL

FROM A PERSPECTIVE OF HUMAN RIGHTS AND FREEDOM DEMOCRACY AND LAICISM

I) GENERAL DESCRIPTION

Due to regional characteristics as well as causes originating from the historical background, Mediterranean countries are in warm relationships regarding getting closer in terms of lifestyles, way of thinking and culture. While such relations are in economic, cultural and educational issues, we are also observing in the recent years that with respect to non-government organizations established in order to realize various objectives, non-government organizations of different countries are coming together under various platforms. Such closeness amongst different communities are qualified to be inscribed in history as steps ensuring future generations live a happier and more prosperous life in the region.

Today, one of the aforesaid meetings is being realized in Istanbul. By putting on the agenda the issues of HUMAN RIGHTS, DEMOCRACY and LAICISM, possibly the most important of the recent years, it is desired to contribute to the realization of warm relations between the Mediterranean countries. Selection of Human Rights, Democracy and Laicism as the topic of the panel is not a coincidence. These matters are directly concerned over a very wide range with each and every layer of human life. For this reason, communities are involved in a work in terms of implementation as well as interpretation concerning these concepts according to their structures. Inter-

societal unity provides for the relations to be laid out on a consistent basis, therefore, it is a duty of the intellectuals to place emphasis again and again on such concepts that are of particular essence in human life, to generate ideas and ensure that these ideas are developed.

It is a fact that since the contents of these concepts are not adequately adopted and construed in every community; the application fails to be at the desired magnitude. Such concepts have become the subject matter of different interpretations and applications from one community to the other in the course of history. Generation of different opinions in terms of a philosophical perspective constitutes to an extent, a certain type of richness. In several countries, democracy and human rights are considered as western type, as a natural outcome of their origins¹. However, in both military regimes as well as civilian regimes with no political consistence and stability, it shall by no means be possible to refer to the parallelism of rules in respect of such countries.

Issues of democracy, laicism and human rights constitute the context of several international conventions². Some very important studies are currently being carried out with respect to for whom, how, why and under which conditions is the application desired to be created by these concepts, what are the rights and facilities, prosperity, and above all, concerning freedom. Incessant activities carried out by the international organizations are setting examples to the peoples as well as to the states. Such studies are facing us as the most essential indicator that the process of enlightenment is still ongoing.

Assuming that everything is for the mankind and man is the most valuable being, all such rights worked with excitement, what kind of a status do they exhibit despite all such efforts consumed? Viewing all from the very existence of mankind on this planet, negative payback of all such violence, wars, conquests, executions without investigation and questioning, administrations heeding no rule whatsoever, applications under feudal systems applications abiding no law and order, government applications in departure from

1 Tanör, Bülent: Turkey's Human Rights Problem, Istanbul 1994, p. 149 a.o.

2 Some of these references: International Convention On Avoiding All Kinds Of Discrimination Against Women (1979), Convention Regarding Rights Of Children (1989), International Convention On Civil and Political Rights(United Nations 1996), Framework Agreement For Protection Of National Minorities(European Council 1995), European Human Rights Agreement (1950), including any declarations as well as supplementing protocols might be listed hereunder. However, it worthwhile pointing out that there are hundreds of convention with respect to Human Rights and most of these have been undersigned and approved by the Government of the Republic of Turkey .

international conventions, and breaches have always been and is still being placed as a burden on the most valuable asset, mankind.

How should one construe those human rights violations are realized on grounds of departure from democracy and for the sake of realization of fundamental human rights and freedom as well as ensuring democracy? How would it be explained that in countries and states where no enlightenment is experienced, scientific national defense system not established in a conscious manner, or intentionally weakened, people living atrocities in the third millennium?

Atrocities and violence in the antique ages were for the sake of the combat of human beings against nature and exist in front of nature. Should it not have been left behind those periods lacking feelings of affection, peace and justice in parallel to the age of enlightenment?

However, it is not possible to negate the fact that several elements like inequality, injustice, oppression and poverty are yet not brought to an end. It has never been and is being possible to arrive at the point desired to arrive at through international instruments, in other words about the results in actual implementation of the instruments generated for providing rights and means to man just for the sake of being man and befitting him. While attempting to explain briefly why this is not possible, it would not be misleading to state that the application of such rules are being made by the same valuable being, man himself. Referring to a quotation from J. J. Rousseau, and basing on the fact that man is innately good, but becoming evil later³, and in the development of mankind as emphasized by Mustafa Kemal Atatürk, their avoiding mistaken behavior would only be possible by adopting the guidance of logic and science. In other words, for man to sustain existence in an order that befits human rights and dignity, we should agree to the fact that in the application of rules anticipated in relation with democratic order, only in case human beings possess correct and scientific knowledge as free-thinking individuals, and these rules would then be applicable for the benefit and rights of mankind.

Governments that are implementers of democratic order are yearning to find the best possible system to that effect. Democracy and laicism are in full force and effect as unavoidable rules in the third millennium. It is not to be

³ Hançerlioğlu, Orhan: Dictionary of Philosophy, Istanbul,1999, p. 187

negated that the best available system is a system incorporating democracy and laicism, because it is not yet found a better system amongst the patterns of administration succeeding to place an obstacle in front of the atrocities persisting ever since the existence of mankind on earth.

The context assumed by democracy in the present day has been greatly amended ever since the century it was born. As rights pertaining to man, the valuable being have always been attempted to be provided by the states, several contracts have been made in relation therewith, and states are working to implement as well as protect human rights in their countries.

In order to place free thinking man, human rights as well as issues concerning democracy and laicism on a foundation, it should be briefly referred to the concept of State that is so much interrelated to man.

For many centuries, several philosophers made certain descriptions to that effect, thus attempting to base the existence of state on a specific basis. Facing with the reality that such opinions bear certain positive as well as negative aspects, considering how it would be possible to explain in the best possible manner the presence and origins of STATE, being a very important institution for man;

The conclusion derived from all of the available opinions is that the resolution with respect to the foundation problem of the state is explainable only theoretically. In a general sense, and for expression all kinds of statutory structures, it might be stated as follows:

“State as a social organization is an institution generated in order to serve man, adopting as its objective welfare and happiness of mankind, formed by those of the same or different cultures, religions, races and formations coming together over a homeland and country lived at, in order to establish a system where security is ensured in a persistent order against atrocities, plunder, looting, struggles, terrorism and unfairness. Such an organization is not a natural phenomenon, but rather an institution established as a social happening and in order to sustain in an egotistical manner the existence of man as a social being, beginning from the very moment of birth and develop, to ensure a living of peace and tranquility, and most important of all, to let live within a large family due to the requirement for love and affection. “

Mankind has very well grasped the fact that as a social being it has certain duties in the society. Developing man sensed the requirement that a sustainable society is a prerequisite whenever equipped with a sense of duty under highlights of reasoning and science. Social life being well-balanced is of primary essence, and in ensuring any such balance, it is not necessary to be of the same race or ethnical origins for generation of any state. Human beings have changed and are still changing their habitat worldwide for several reasons. Due to wars, migrations, marriages, economic reasons, climatic conditions, natural disasters and such similar events, era for generation of states in the form of homelands where people of the same race or ethnical origins live is past, and even states formed by people of any single race has never existed. For the aforesaid reasons, despite being of different ethnical origins or races, with diverse languages, religions, beliefs, philosophical opinions and traditions, since people have voluntarily abandoned their individual rights and freedoms to the organization of the institution referred to as the state in order to live together within a community at their own free will, such entity comprising of individuals, with rules of its own, which we refer to as a state of law.

People lead the purpose of living by paying respect to their mutual rights and interests under such an institution that they have generated and abandoned their freedoms in the meaning of being administered for the sake of being governed under due respect to their rights and freedoms. Thereby, human beings entering under the protection of the political authority of the social institution called the State, are deemed to have transferred some of their rights to such authority.⁴ Regulation as well as protection of the rights and freedoms of man as the valuable being are provided and ensured by the state. What are the human rights requiring to be protected, and why are they required to be protected?

II) HUMAN RIGHTS AND FREEDOMS⁵ AND FREE PERSON

Upon combination of the concepts of Man and Right, has emerged the very popular concept of our times, in other words the concept of Human Rights. Let us attempt to make a definition of the same.

⁴ Okandan, Recai Galip: General Public Law, Istanbul, 1959, pp. 137-151

⁵ Şeraiti Ali Dr. History of Religion, Ist. 2001 Translation p. 253 a o

As two inseparable phenomena, Human and Right, consists of an integral mass of rules enabling people live together in a social community, one being a biological reality and yet the other as a social asset, put forth by human beings themselves.

Concept of human rights is not a very simple concept, but rather includes a very profound philosophy, as well as characteristics basing on human and nesting attitudes originating very human itself.

Ever since its existence on the planet called earth, the known as well as scientifically conceptualized past of mankind has been one of perpetual struggle.

On this planet that we have lived for thousands of years, the present day is arrived at by leading lives in different manners, by erecting several civilizations within an adventure where major catastrophes took place on causes origination both from nature as well as due to roles played by the human factor or arising from the inter-relations by and between the communities, and thereafter new restructuring processes have been experienced.

It has been possible for the generation of several national as well as international rules thanks to the existence of people who are developed and adopted a contemporaneous approach, who have a tendency to view social events from a humanistic perspective, who are free and in possession of a certain level of consciousness, as well as presence and efforts of several governors and philosophers alike. There has always emerged a savior at times when people lost all hope from life in facing atrocities. Such saviors are either appearing in representation of a specific religion or statesmen like khans, kings, princes, emperors becoming governors upon saving the people from the hands of oppressors, or people like philosophers and scientists providing ideas and opinions to the governments.

And Human Rights is similar to a ship cruising to the realm of contemporaneousness by adopting the rules set forth by such savior emerging at a time when people lose their hopes.

Human rights and freedoms appear as rights created in order to ensure that man lives a life that befits human pride and dignity, and benefits equally from the rights and benefits within any community. We are quoting that everything is

for man, so who is this “man”? We are referring to man, the essential being, yet what does it look like in the historical background? How is it? Looking at it from a panoramic perspective, up till the middle ages, and even in the middle ages, man as a being, its identity were by no means of any importance, because the identity and position of man was already specified in advance by God.

By means of the Renaissance, religious life was made free and it was started to be discussed that belief in the divinity was not through divine teachings from the heavens, but rather as being an outcome of the mind, and likewise religious beliefs are proceeds of the human mind, any religions emerging throughout history have all been created by the human mind. We are observing that the relationship between man and religion is possibly interpreted ideologically as the existence of God and requirement of acting respectfully towards such concept, and that thinking like that would make man virtuous.⁶

In ancient times where there was no democracy, it was essentially not possible to refer to any rights and freedoms. In this respect, in the age of enlightenment, it has been pointed out to the importance with respect to the requirement for arriving at scientific know-how through reasoning as well as experimenting, and that man should be placed at the core in solving of the problems by reasoning through the human mind. While man was acting individually for its very basic fundamental requirements as a living creature, in the course of its gaining a formation within a community, has adopted religious, ethical, legal as well as political ideals. In parallel to the acknowledgment of the importance of man, in order to realize the good in the formation of the society, inquiring the aspects with respect to human freedom and security have all the same gained particular essence.

In parallel to the human rights and freedoms becoming universal qualities, rights have become valid as long as and to the extent they are legally provided for. Yet it is worthwhile pointing out that every freedom might not possibly be deemed as a right, liberties might only be referred to in respect of rights approved by a

⁶Gökalp, Ziya: Ziya Gökalp Is Saying- Istanbul,1950, p,3 a.o; Serter, Nur: Human Identity Dressed Up, Istanbul, 1996, p.183 a.o, p.133 a.o; Gökberk, Macit: Philosophy of Enlightenment, Revolutions and Atatürk, Atatürk Under Highlights of Contemporaneous Thinking, Istanbul 1986 , Eczacıbaşı Publications, p. 286 a.o.

⁶ Kaboğlu, İbrahim; Law Of Freedoms,2002, p.268 a.o.; Thinkers On Liberalism, Locke, Montesquieu, Rousseau have produced ideas in connection with this issue.

legal order. It is by no means possible for any rights under protection of legal order to be usable in respect of freedom. Human rights and freedoms are privileges legally secured by rules set forth by the State. Freedom as a basic right defines and determines the limits of the behaviors of mankind. Freedom of any individual is the authority possessed in deciding whether or not to use such rights granted to its part. Man is using such rights and freedoms it is possessing within the institution referred to as the State, confined to the limits set forth by the latter.⁷

In this respect, man and state are totally intermingled.⁸ For man to sustain its living as well-equipped with contemporaneous values, it is unavoidable that social rules are likewise evolved in accordance with the nature of man. Belief and worshipping, as a phenomenon that cannot possibly be neglected in the social structuring innate to the nature of mankind, have persisted to be influential following diverse trends throughout the ages. Reaching the third millennium, without negating the fact that the factor of religion is displaying a performance for directing societies with an ever-increasing acceleration, and not forgetting the role of this trend, if man waives using its mind, its development ceases and turns into a mechanical being. In sociological context, man might be influenced by the phenomenon of religion which is an inseparable part of the society, as well as the oppressive and dogmatic attitude, single toned way of thinking of the religious authorities, and very easily assume the habits of mixing matters that are of this world as well as pertaining to the spiritual one. For man to reach a positive pattern of thinking for both own self and the society, social structuring of the society is of particular essence. Otherwise, the freedom of religion and the conscience influencing and managing the entire helix of rights, leads man and consequentially the society to the negative side. It is of primary importance that for avoiding any such outcome and for a society that is happy, in possession of liberties, where equality and justice are ensured, people bear free thinking formation.

Man, very well aware of the fact that free thinking would possibly evolve and develop in a democratic system, should assume and absorb the meaning as well as value of the rights and liberties it already possesses and yearning to possess. Man should be able to release itself from the adverse trend in the society, use its logic and reasoning in the search for truth, and should reject any

⁷ Ibid.,p.16 a.o

⁸ Ibid., p. 67 a.o, The author is making explanations inspired by the teaching of Platon and Sokrates.

information that is subjective and repetitive, which are not scientific. Should learn to pass through the filters of the mind such hearsay orations and interpretations that are beyond reason and scientific facts, taught as a repeated ritual, without being influenced by the outside world, and being mistaken to that effect. It shall only be possible than that he/she would become a valuable being, and be capable of using such rights and freedoms presented to its side as rules of the society in a manner that befits human dignity.

In order to enable the valuable being to live with honor and dignity in the social environment, contemporaneous government institutions are duly focusing on human rights. It is by no means possible to derive a list as to what these rights consist of. Certain constitutional laws have tried and attempted to list the same; however, as such a listing would be qualified as limiting those rights, this type of attempt is negative. As a matter of fact, the state is entitled to bring forth legal limitations to the liberties for the sake of public interests. International documents are striving to regulate such rights and freedoms. In fact any social issue is under context of human rights. And these rights also are improved in time and space, thereby developing and expanding. Mankind being in a state of free thinking and a manner of thinking in parallel thereto, are bringing forth the natural consequence that the limits of these rights are incessantly improved and amended. Upon reviewing human history, it is seen what the rights and freedoms that are directed to man are and might possibly be, and further that this is a phenomenon that is under influence of time, locality, as well as economic and technological evolution process.

It is yet a duty on part of man to resolve through reasoning and science how to make man happy, imbued with affection and feelings fraternity, thinking in a free manner within confines of the democratic order.

Whichever order is accepted, as in the implementation of the rules, it is man to implement such rules, it is a reality that man is required to develop and upgrade itself. It is not sufficient for man to use its mind and set forth the rules that shall be governing its own self. It is further required reasoning, self-sacrifice and consciousness in applying the rules. Wise man is an individual thinking freely and is well-acquainted with the art of thinking. Are knowledgeable, experiments, and arrives at correct information through reasoning. However, being influenced from the social environment is apt to make mistakes.

As a matter of fact, due to the negative aspects of man as a social entity, in order to protect man against other men, human rights have emerged as the minds of creative, free thinking, and developed idea generating individuals.

For knowledge and scientific knowledge, man should possess free thinking qualities. And using such freedoms provided and secured by the state requires being equipped with free thinking.

Formation of the type of man that would not be under any influence in finding reality as well as whatever is positive for mankind, and not depart from scientific thinking has become possible in Europe only together with the Renaissance, and upon adopting the awareness that man is required to be given value to, the aforesaid rights have emerged.

The conclusion to be derived therefrom is that for weighing any ideas introduced to its side and arrives at the result whether or not these are to the best interests of both its own self, as well as those of the society. Therefore, while defining man, the primary characteristic worth emphasizing is being FREE.

In our present times, we are witnessing that man desires to be free and is reacting to any limitation attempted to be brought to thinking under any format as well as its behavior patterns. We are observing that man as the creator of all powers and ideas, despite being in possession of qualities that extend beyond the present age, is not capable of identifying whether or not any knowledge derived and disposed without having been passed through the filters of the mind, is scientific information. Without becoming aware of the fact that knowledge also incorporates elements that lead to the annihilation of the society, and not caring about it, might exhibit a personality trend that is solely consuming and is of no interest to the society. For the sake of wide-spreading radicalism, it is possibly using its acts and attitudes in the name and on account of freedom.

And as a result of the foregoing, man might very easily oriented to become a product of the national, religious, political and economic value terms

of the society lived within, and people that possess characteristics that are beyond reason and science, who bear identities that are not free thinking.⁹

What should be the characteristics we are looking for to exist in an individual capable of using the rights and freedoms? If any generalization is to be made, primarily such an individual should be in possession of both inner as well as outer freedom. A free man should not be radical, not involved with dogmas, and striving to obtain knowledge, having faith in the supremacy of science, at the same distance to all religions, respecting them, not dealing with vacant beliefs, not using coarse power and becoming slave to coarse power, appearing as considerate, well-qualified and at a high level of culture.

Such man we are hereby trying to set forth the prerequisite characteristics of, is one who is capable of knowing to treat as per its social status equal to the other individuals in the society, being affectionate and respectful, and bringing itself up in matters concerning paying respect to the rights of other individuals.

If one is to make a generalization in terms of the rights desired to be provided to any man to use the rights and freedoms; it might possibly be pointed out to the rights elaborated under the laws and those rights included under European Human Rights Convention. Some of these are; Right To Live (Article 2), Freedom and Security Right Of The Individual (Article 5), Right To Be Tried Fairly (Article 6), Right For Paying Respect To Private Life and Family Life (Article 8), Freedom of Thought, Conscience and Religious Belief (Article 9), Freedom of Expression (Article 10), Right To Ownership (Protocol No.1, Article 1), Prohibition Of Torture (Article 3), Freedom Of Meeting And Organizing (Article 11), Ban On Segregation (Article 14), are all arranged and regulated as major rights. Whereas the most important matter for ensuring as well as maintaining the aforesaid rights and freedoms is the issue with respect to the system that the state is incorporated within. In the event the regime of the State is not Democracy and there is available no system which is secular, it is not possible that human rights and freedoms are applicable and to be in any expectation for ascribing any value to the people.

⁹ Sertur, Nur, Ibid, explanations on p. 344 a.o., it is hereby recommended that the whole book is to be read for explanations regarding how identity of human is human is dressed up.

Ensuring rights and freedoms is possible only by avoiding violation of the same by third parties and governments. Rights are protected as far as and to the extent these are regulated legally. Rights and freedoms exhibit changes from one society to the other, according to nations, different time segments, as well as patterns of governance. On the range from the primitive ages up to the present day, as the most essential of the arguments that philosophers put emphasis on, in the process leading to contemporaneous living, concept of ethics, education, habits and traditions, economic values have all played crucial roles in the defining the concept of rights as elements having an influence on being developed.

In this respect, the disputed matter of Judicial Philosophy, the issue of rights was described according to some as existing from the very birth, and human beings possess such rights from the moment they are born, whereas according to some other opinion, it was assumed that these rights were granted by God, yet according to some others, it was pointed out that the rights were produced of the nature and the phenomenon of rights was integrated with nature.

As the definition of rights under several different opinions would be variable according to the structure of the society and the periods when such rights are formulated, each and every one of such definitions might be valid in respect of the period they are explained. Definitions are of parallel nature with respect to the time segment lived at. Likewise, rights emerge and evolve in the historical course of societies, pro rata the requirements, culture, and extent of development of the societies.

In this respect, we are observing that the definition of rights is shaped in accordance with the structure of thinking as well as belief patterns. Whether or not the thinking patterns are contained in a system that is not bringing any limits to the freedom of thought, is specified according to whether or not thinking individuals are in possession of free thought, and within framework of the conceptualization of freedom in the community, rights and freedoms are set forth. Rights might as well be defined as authorities and privileges granted and ensured legal rules in a judicial state.

In using of any right provided to the individual, its free will to that respect, and its disposal of the right granted, using the same for its interests,

acting in any manner it so desires by basing on these rights, all describe the power and authority of the individual.

However, the meaning ascribed to POWER as explained hereunder might not possibly be construed and utilized as any RIGHT emerging as an unlimited and non-alienable power.

It is by no means possible for the rights and freedoms to be used in an unlimited manner. Howsoever might it be, statutory system should be restricting the use of such rights in respect to the rules set forth by the system. Such a restriction might be in terms of time and locality, within framework of goodwill and prescribed by legal rules.

It is possible to be stated briefly that **right** is the freedom of the individual to live its own life without giving any damage to the lives, properties, assets as well as assets and properties of those under its protection and governance, without interfering therewith.

It is worthwhile referring to at this stage, that in order to speak about human rights and freedoms, requirement for any statutory institution is beyond dispute, and solely existence of any state is not sufficient, and for ensuring such rights, the State is burdened with a positive obligation as well¹⁰.

As provider of justice, the State is commissioned with ensuring social unity as well.¹¹ As a formation specific to the general public, state is an integral whole constituted by several elements coming together. The objective of the state is not only bringing people together, but assuring that such people live well under such unity. Under democratic and laic concept of the state, the State is burdened with duties and responsibilities towards its citizens, specified by Constitutional Laws, with a substantial weight on the social character.

Likewise, State has assumed obligations as well, in respect of ensuring application of provisions, referred to as positive obligations under any contemporaneous formation, set forth for protecting the affluence and welfare of citizens against any and all kinds of violations and unfair interventions, within

¹⁰Tanör, Bülent-Yüzbaşıoğlu, Necmi: Turkish Constitutional Law According To The 1982 Constitution, Istanbul 2004, p. 84 a.o.

¹¹ Cassirer, Ernst: Myth Of The State, An Essay On Man, Translated By Prof. Dr. Necla Arat, Istanbul 2005, p. 278 a.o

framework of a fair order. While using the power of execution, and in the performance of the requirements of the status quo, the State is a close follower of the aforesaid. Providing of certain rights and benefits under the laws does not mean that the State is duly performing its duty towards the citizens. It has also obligations with respect to the proper application of the laws. State is responsible from the wrong implementation of the rules and from giving any harm and damage to the individuals.

The meaning of the foregoing is that the organs and individuals authorized and commissioned to apply the rules set forth by the state, are required to be very thoroughly audited and inspected while performing their duties, whether or not they act in compliance with such rules and whether or not they inflict any damage on the individuals. The context of such positive obligation of the state is as explained here above.¹² As a matter of fact, such positive obligation is related

¹²Organs of the state as well as public servants are required to act in a respectful manner towards the individuals while performing their respective duties. States having adopted under their domestic law the provisions of such convention as parties to European Human Rights Convention does not necessarily mean that they have duly fulfilled the positive obligations as well. Obligations of the State are set forth and specified under resolutions of European Human Rights Court as positive and negative obligations, and tasks of States for securing rights under the convention are classified as positive obligations. As a matter of fact, under provisions contained in European Human Rights Convention, there exists positive obligations of the State, however in fulfilling such obligations, the State is burdened with other obligations. For instance, regulation of legislative practices with respect to ETHICAL BEHAVIOR is a typical example for the aforesaid. Requirement for the public entities of the State to assume and adopt convenient and reasonable precautions for securing human rights comprises such positive obligations. To list some examples with respect to the foregoing, avoiding suicidal attempts amongst inmates in the prisons, preventing attitudes between prisoners that are in violation of the Human Rights Convention, taking necessary measures in ensuring communication rights of individuals, to adopt any and all kinds of measures to preserve family life are positive obligations.

It is a positive obligation of the State to avoid causing any mistreatment origination from any entities thereunder concerning all procedures under its realm of authority comprises its positive obligation. Regarding healthcare, the State has some very crucial positive obligations. Individuals are entitled to receive and obtain information. In case of acting contrary thereto, there arises positive obligation in the sense that organs of the State fail to fulfill their respective duties. Likewise, in relation with protection of the general public in demonstrations incorporating violence, the State is burdened with the obligation of protecting the individuals. Protecting the general public from any damages both material and otherwise that might arise and occur therefrom, are not solely acts that might be enabled by the State setting forth certain rules under the relevant laws, but the State shall also be adopting such measures and performing such applications allowing for the functioning of the statutory rules. There is the innate principle for the State being neutral as well as the duty of reducing any tension with a rising trend in the community. State organs perpetrating in acts and deeds to increase any tension within the general public constitutes departure from positive obligation. And also in terms of freedom of labor unions, the State is obliged to adopt the necessary measures with respect to organizing of functioning of any Non-Government Organizations.

The State is obliged to establish an effective judicial system and ensure that the same functions properly. It is under positive obligation of the State to adopt decision in a timely manner, performing the audits required for execution or enforcement of such decisions, taking measures to avoid privileged operations such as execution of certain decisions while refraining from executing others. It is further under positive obligations of

to the performance of the duties of the state as set forth under the laws. The issue with respect to ensuring the rights and freedoms under Human Rights Convention is conceptualized as the positive obligation of the state.

In conclusion, it is required to be elaborated at this point that for man as well as for ensuring the freedoms, it is of primary essence that there exists a STATE established under a democratic formation.

Being well-conscious and aware of the fact that there id-s a requirement for leading an organized life, presence of a State is unavoidable, and at the present day it is not possible to consider any other institution to replace and substitute the same. Without deleting the conscience with respect to National State and keeping protected the boundaries of the country, within a system brought to the best possible level through the most humane policies of international relations, it is a correct and rightful path to promise people a happy future without seeking any segregation regarding religion, language, race, gender, color ofb the skin, belief or philosophy. Policy of a free state ensures existence of free human, and those individuals coming together in order to constitute the state are required to be humanistic, basing on science believing in equality, who are free thinkers.

For the human rights and freedoms to be possibly adopted as a general rule in the public domain depends on the same being set forth legally. For

the State to take the necessary measures and carry out inspections to avoid any applications in departure from human rights and in a manner not included in the laws pertaining to the operations of detaining and arresting of individuals. In other words, it is not sufficient that there are available rules under laws to that effect. Since the human factor is being used in the implementation of the aforesaid rules, in order to avoid likewise that the orders and instructions given or applied by man being erroneous, partisan, ill-willed and subjective it is under positive obligations of the State to audit activities of the State organs as well as duly train the same. In order to ensure that the rights secured under the Convention are properly used, it is of primary essence that the State provides any conditions, material and otherwise. At this point, one might possibly refer to certain sanctions with respect to the law enforcement forces of the State. The State has ascribed certain duties to the police in assuring positive obligations. It is required to audit and inspect to ensure that this duty is properly performed. And several laws have been issued to that effect. For instance, pursuant to the law and regulations with respect to the ethical behavior principles of public employees, training has already been commenced in the public sector with respect to such ethical behavior patterns.

generation of communities consisting of highly qualified, free-thinking individuals, as a requirement of the innate characteristics in human beings, social rules pertaining to human rights is a prerequisite. At this point, the most critical element emerges as the judicial order. Recognition and granting of any right by the law and allowing for the use of the same indicate that such a right is legitimate. Rights are taken into protection under the laws. Thereby, use of any right is not avoided by any because which is not lawful. Using of the rights and freedoms according to the rule recognized by the law does not bear any harmful character for the society, and by means of the rules of law accepted by the public, the legitimacy of the rights and freedoms is duly registered. The existence of all such aforesaid rules is possible to be realized within a democratic system. Therefore, the best system where rights and freedoms are best realized, leads a path through Democracy.

Democratization is a process in societies; existence of democracy might be referred to in case of national will-power emerges and in the formation of those using the power of governance, people's sovereignty is used through elected representatives who are free thinkers, making use of reasoning and science, having duly adopted the principles of acting in a humane manner. In other words, it is very clear that any person holding the power of execution should possess a contemporaneous pattern of thinking. Freedoms and human rights might possibly be realized only in a Democratic state. And democracy means the presence of a system where sovereignty is in the hands of the nation, governed by laic rules of law.¹³ As laic rules of law might be realized and implemented under a laic statutory system, let us elaborate these concepts.

III) DEMOCRACY AND LAICISM

¹³Tanör -Yüzbaşıoğlu: Ibid, p.58 a.o, p.96 a.o., Tanör , Bülent:Democratization Perspectives In Turkey, TÜSIAD Publications, p.3 a.o.

A) DEMOCRACY: The concept of Democracy used in the 5th Century B.C. by the Anatolian Historian HERODOTOS is generated from the combination of the concepts of people and power. Demos means people, whereas kratos means sovereignty. Democracy¹⁴ faces us as the system used in the city states of antique Greece. Such system persisted to be implemented as intervention of people in the affairs of the state, has enabled up to the present day the development of laws providing for the sovereignty of the people in intervening with the matters involving the state. It has been shaped as the nearest to perfect system with respect to the governance of the state, incessantly improved, changing according to the narrations generated by philosophers in several periods of both the antique as well as new ages¹⁵, by basing of different opinions and diverse masses of the general public.

Living in a statutory system that befits human pride and wisdom, governed by contemporaneous rules and duly possess freedoms is possible only under democratic governance and within a system where it is based on reasoning and science, dominated by rules of this world. Therefore, it is not possible to consider for our present century any system other than Democracy and Laicism. We are saying that it is not possible, because up till now no rule has been developed that any system other than Democracy would operate better. Definitions of democracy and laicism have been defined several times scientifically by both philosophers as well as those involved with the doctrines pertaining to the state, and in the third millennium, no better system other than democracy has yet been proposed. In this respect, communities, enlightened and

14 15 Okandan, R.G: Public Law, 1959, pp. 136, 202 a.o., 277 a.o.

15 Göze, Ayferi: Political Thinking and Systems, 1987, p. 181 a.o., p. 193 a.o., p. 244 a.o., Montesquieu indicating that there exists pattern of government where people are both governors as well as the governed, has defended that people constitute the ruling power and methods of using such power should be specified under laws . J.J.Rousseau observed the inequality between people and produced ideas for solving the same Stating that inequalities arise as a social phenomenon, and pointing out to the fact that there is no slavery in nature, human beings desire to lead a life of well-being, that they unite under mutual assistance, and as expressed under the Social Contract, human beings are born as equal individuals, inequalities later evolve in the community, and therefore proposed a system for the sake of man living together, creating a state authority, to be summarized as waiver of their individual powers in favor of the state. Under any such system, sovereignty is on part and account of the general administration, describing that justice would be ensured through laws, that the people shall be making those laws and also be subject to the same laws, these comprising the general interests of the public. He has stated that thereby equal rights and opportunities would be provided, and in the making of such laws, votes of the majority would be the determining factor. Rousseau points out that in democracy, it is the majority of the public that both makes as well as implements the law. However, such democracy that is perfect according to him would be in application only at the Divine Level of The Gods, it shall not by any means be possible for human beings to realize such a system, and anyway democracy has never existed; Aydın, Nurullah: Human Rights, Laicism and Media, Istanbul, 2008, p. 97 a.o.

free individuals comprising such communities, and non-government organizations are in an incessant activity for diffusion and adoption of democracy, and such an effort shall persist to be exerted throughout the generations to come.

Democracy is persistence. Democracy is equality. Democracy is stability. In case a better system is created where these doctrines are duly included, it might perhaps be possible to substitute democracy by any other system. "Democracy is the sole and exclusive regime where freedoms of religion, belief and thought are ensured, free thinking proliferates, culture of tolerance and consensus evolves, social justice as well as social security are well-established as criteria of being contemporaneous.

States might possibly be and become democratic to the extent they attain and realize the principles of equality and freedom. Ensuring democracy is possible only in communities where democratic way of thinking is duly adopted. Concepts of Democracy and Republic are visualized that sovereignty belongs to the nation and human rights and freedoms are not be annihilated by any means. Democracy is based on man, appearing as a system keeping faith in the human mind, accepting the evolution of the mind and the essence of free will. Democracy is the name of a system that is assuming the importance of freedoms, encompassing affection, reasoning and laicism, taking the alternative of whatever is rational and scientific, where governance according to religious rules is out of question.

Societies, and particularly Western societies have succeeded in basing the System of the State on the Democratic order through time taking solutions to that effect. It has not been easy for the society to be relieved of such rules that are in departure from human rights, and arriving at the conscience and awareness of democracy. In democracies, the political power is obliged to bring rules that in compliance with the will of the citizens as well as duly implement such rules. Will of the people constitutes the origin of political power. Political democracy as a system where will of the people prevails, is not any system that is allowing very extensive liberties to governments coming to power through elections, but rather the name of any system limited by human rights as well. Democracy exhibits itself through presence of the constitutional state for both the state and the political power to be referred to under the concept of being Democratic, it is of essence that such political power is duly accepting the supremacy of law. Besides the political power being in an organizational

structure that is compatible to the constitutional law as well as universal principles of jurisprudence, it is also obliged to apply the system pertaining to the segregation of powers. As a wide and comprehensive concept, democracy is explained through existence of human rights and constitution state. The particular essence of such segregation of powers in the functioning of democracy exerts itself in terms of ensuring the balances to that effect. We have referred hereabove to the human factor; despite all, minimization of the adverse effects that would arise from man holding such power in its hands is only possible by avoiding to combine the powers of Legislation, Jurisdiction and Execution under any single entity in the governance of the state.

In a democratic system, personal freedoms are protected and preserved beyond interests of the general public. National utilitarianism is of particular essence. The attraction of this system would prevail and persist to be in effect so long as requirements of the people are met, and a happy pattern of living is maintained.¹⁶ However, it is worthwhile emphasizing that it is not to be understood from the foregoing description that the requirements of man are to be covered without exerting any effort, without doing any work, and be made happy by the state. It is of primary essence that for man to be happy, it should work and display efforts in such work. Labor and mankind are inseparable entities. Working and labor are two basic concepts that make up human. Being well aware of the fact that working is the reason for existence, power, happiness and dignity of human, it is required to assess affluence and happiness that democracy is liable of providing to mankind.

In the meantime, it is of interest to refer to the concept of Republic as well. Because Republic and Democracy are concepts expressed jointly, and Republic might briefly be defined as the name of any system that the President of State comes to the position of office by any means other than succession. In other words, it is not important that the President of State comes to power through elections or by exerting force. In order to speak about a Republic, succession should not constitute the means of coming to power.

Further, in the wide sense of the phrase, by means of the concept of republic it has been desired to indicate and specify a system model where sovereignty is on part and account of the community as a whole. Here, the concepts of republic and democracy are mutually identified. However, reviewing the same from a

¹⁶ Dahl A. Robert: Democracy And Its Critiques, Ankara, 1993, p. 116 a.o.

historical perspective, there is no mandatory causal relation between the two. There are possibly republican states where there exists no democracy. Republic in the wide as well as narrow senses might possibly be intermingled with democracy. To elaborate the foregoing, any president of state coming to power through elections under sovereignty of the people, as comes to the governing position over such people, republic and democracy are to merge in both the wide and narrow meanings. He/she would become the President of the People, in other words would be referred to as the President of the Republic. In people determining their own future through their very own hands, being governed either directly or through its representatives, is resulting in the intermingled functioning of republic and democracy in the wide sense of these concepts. In communities where the qualities of the republic are diversified, different perspectives might be exhibited under constitutional laws. However, briefly and essentially under western thinking system, keeping aside the issues of coming to power through succession, coup d'état or revolution, and use of the phrase "republic", if it is to be made a definition in this respect; one might possibly visualize from the Republic where people's affluence and peace are anticipated under justice, incorporating democratic and laic rules pertaining to law, it is intended a social system where sovereignty is used by the public in representation as a requirement set forth by the election system.

In this respect, Republic and Democracy are brethren. They complement one another. Without presence of any one of them, it is not possible to refer to the other. As enlightened human beings and being very well-aware of the fact that human freedom is the most precious social doctrine, it is of particular essence that we should appreciate in our communities how essential institutions are scientific approach, humanity and laicism. Under an effort to persist with our activities in parallel to the foregoing, striving to exert our efforts before various non-government organizations, and assume the objective for diffusing the fact that the struggle for democracy and laicism is unavoidable for existence of happy men, are supreme ideals for enlightened, powerful and affectionate individuals.

B) PRINCIPLE AND DEFINITION OF LAICIS¹⁷

¹⁷ Tanör, B: Turkish Constitutional Law According To 1982 Constitution, Istanbul, 2004, p. 75 a.o. ; Öktem, Niyazi: Articles On Laicism, Religion and The Alevite Sect, Istanbul, 1995, p.44, a.o. ; Dinçkol, Bihterin:

It is worthwhile elaborating primarily the meanings desired to be expressed as from the antique ages of the concept with respect to such an institution put forth by laicism that might possibly be realized under a democratic statutory structuring.

Terms of laic-laicism are deriving from the expressions of "**laikos**" in ancient Greece, and of "**laicite**" "**laicisme**" "**laic**" in French. It is generated from the radical of the word "**laos**", meaning people, the masses. **Laikos** means belonging to the public, to the social community. In parallel to the spread of Christianity, church officials and their believers evolved, and those outside the realm thereof were described and qualified as outside religion. Yet being laic does not mean being an atheist or without any belief. This expression was used to identify those who are not involved with religious matters. The term of Laicism used for describing the foregoing is at the same time explained under the phrase of secularism. Laikos has been used to describe those NOT BELONGING TO THE CLERGY CLASSES, whatsoever might the social status thereof might be.

In its general and well-known meaning, **laicism expresses the state of separation of religious and stately matters**. In laic states, the phenomenon of religion is not involved with the structure and organization of the state. Religious institutions find no place and position in governing of the state. In states governed according to laic rules, religion is taken as a social phenomenon within the ordinary duties and responsibilities of the state, and subjected to the same regulations with other social institutions. And therefore, contemporaneous criteria are based on.

Whatever is desired to be narrated under adjectives like Laic State, laic education, being laic, laic ethics, is that the system of morals is not regulated according to norms originating from any religion, but under rules that are compatible to the public order, within framework of contemporaneous principles that are rational and respecting human rights, whereas under laic education, the

presented as a communique under Panel for "65th Anniversary of Laicism Adopted As A Constitutional Principle", organized by University of Trade Law School on February 05, 2002; Kuçuradi İoanna: Concept of Revolution and Atatürk's Culture Revolution, Muğla University Social Sciences Institute Journal İLKE, Special Issue, 2006. pp. 1-10.; Gökberk, M: Article Referred To, p. 328 a.o.

system of education is realized under a system not originating from any religion, where the rational, science, and contemporaneous approaches are based on.

Whereas the concept of secularism is an expression used in the Anglo-Saxon World, meaning not influenced from religion, used in place of anti-theocracy as a means of government. It is also used for explaining that religion and state are institutions that are independent of one another. Theocracy as a divine model of the state is contradicting the laic state.¹⁸ It might in summary be stated that together with the French Revolution, in the Western culture laicism has evolved as a different institution in the relation between religion and state.¹⁹ Secularism explains and describes being outside the scope of clergy, where governance of the state is not influenced by religious rules. In other words, it is a concept used for statutory structuring that is adversary to Christianity. Thereby is described the system of state where worldly sovereignty prevails in place of divine sovereignty.

As a much wider concept than laicism, secularity incorporates qualities further to the principles of religious and state affairs being segregated, as explained under the concept of laicism. These two concepts have been used in the literature as synonymous. However, it is worthwhile pointing out that under the classical meaning and expression of laicism, it is of essence that those involved with religious matters not to interfere with the functioning of the state, and similarly, state is refraining from any intervention with religious affairs.

The aforesaid concepts passed through an evolution in the new ages under philosophical as well as legal re-structuring, being used currently to explain and

¹⁸Whenever the subject matter is elaborated from an Islamic perspective in respect of laicism and theocracy, in consideration for theocracy being described as holding in hand the governing power of God, prophets or saints in the primitive communities or under such system where the clergy in Judaism, it is a matter of dispute whether or not the governance of Prophet Mohammed is actually theocracy. Particularly in the periods following Prophet Mohammed, although governing activities were persisted by using the title of Caliph bearing religious motifs, it is pointed out that this is actually a system of monarchy. In the era of Prophet Mohammed, it is rather difficult to refer to Theocracy, because Prophet Mohammed never declared that he was governing people in the name of God. The Koran is not referring to any governance in the name of God in application of rules that bear social character. Therefore, it is being construed that it is rather difficult to assume that the era of Mohammed was theocratic. It was neither governed in the name of God, and it is being pointed out that under the concept of Emir-ül Mümin (Lord of Believers), it was exhibited a more secular (contemporaneous) approach.

¹⁹Laicism is the ultimate point arrived at as a consequence of the long-distance struggle made during the French Revolution and thereafter to avoid the Church from receiving its funds from the state and ensure that it provides and procures its own income. Laicism means eliminating the influence of the church on the dynasts as well as on the state and avoiding interference of the church in affairs of the state.

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describe the relations between the affairs of the state and religion. Upon people arriving at the awareness of fundamental rights and freedoms of human beings in the age of enlightenment, these concepts have been embedded in the Western Democracy, gradually coming to the present day.

Laicism with its origins in continental Europe was started to be implemented with full spec only as late as the nineteenth century in respect of the European countries, and thereupon the conflicts and clashes between religions as well as religious cliques were brought to an end, and states became independent with respect to the religions and religious cliques.

Against the inflexible attitude of the church, the people being forced to comply with the rules set forth by religions, the oppressive behavior of the members of the clergy, resulted in the clergy getting powerful in being identified with the state, and as a consequence of the reaction put forth by the intellectuals and common people, it has been arrived through logical reasoning that state is not to interfere with religious matters, and likewise religion is to avoid in interfering with matters of the government. Thereby, structuring and organization of the state independent from religion has assumed a legal status and basis.²⁰

We are observing that the concepts of laic and secular are used synonymously in Turkish. The fact that the governance of religion and worldly affairs being apart, are conceived as being independent in execution and performance of the duties as well as authorities.

Laicism and secularity exhibit differences according to the self-culture and accumulation of every state. Such differences are diversified in terms of rules in the application as well. It is due to this those different motifs arise from the perspective of belief and theory. Therefore, although they share common religious traditions, laicism and secularity in Germany, France and the Anglo-Saxon countries exhibit quite different descriptions. Presence of different definition in the implementation should not possibly cause any complications. However, it is worthwhile stating that under the concepts of secularism or secularization or secular, there is yet another meaning not contained in laicism. (SAECULARİS) means belonging to the century. In other words, it is derived from the word ERA, and is used in the meaning of becoming adopted to the present era, getting contemporaneous. Thereby, laicism and secularity are complementing concepts.

20 Aydın Nurullah: Human Rights and Democracy and Media, Ist. 2008 s. 51 ao.

The foregoing institutions are duly describing the contemporaneous qualities arrived at by. The concept of laicism describes what the qualities not based on religion are in the organization and functioning of the state. Whereas the concept of secularism describes what the know-how generated by the contemporary philosophy is in identifying and setting forth of such qualities, in other words by putting forth the requirements of enlightenment, why becoming contemporaneous is important and necessary, as well as the contents of why the state is required to base on theories of enlightenment while establishing law and order. These concepts describing the two faces of the same idea, constitute the explanation that being contemporaneous passes through the route leading to laicism. Any contemporaneous state cannot possibly exist with laicism being in effect.²¹

Man has conceived nature and social rules through its own rationale and conceptualization, electing such path of governing the nature and the general public by using its own power and reasoning as a result of such rational thinking. The mind and logic have been adopted as guides. It was observed the mistakes in governing of the society under non-scientific explanations and establishment of the State in parallel thereto, and it has been switched over to the implementation of a method where rationale is adopted as the leading guide in accordance with rules that would be accepted by the general public, of rational and scientific qualities rather than the explanations of religious context, brought forth by the clergy.²² Laicism is the name given the foregoing. It was likewise the establishment of a statutory system of this character that Atatürk desired to realize. The laical stage has been arrived at in the West in a very cumbersome manner.²³ The challenge of aristocracy and religious institutions towards the proprietorship rights of the bourgeois, and with the consciousness created to

21 For descriptions in detail, refer to Kuçuradi İoanna: Concept of Revolution and Atatürk's Culture Revolution, Muğla University Social Sciences Institute Journal İLKE, Special Issue, 2006, p.6 a.o.

22 Similarly, Atatürk generating a National State, explained to the Turkish people innately existing in the community, speaking the same language, connected to one another under a union of ideals, identified as Turks, and addressed in a manner that would never recall ethnos (descendants) (See. Nutku, Uluğ: Philosophical Essence of Atatürk's Speech On The Tenth Anniversary, Muğla University Social Sciences Institute Journal İLKE, Special Issue, 2006, p.11 a.o.) by saying "Development of nations who do not rely on any rational evidences, insisting on preserving certain traditions and beliefs turn out to be very cumbersome. And it might even be impossible" and describing the dangers of any religious structuring with respect to religion for contemporaneous state organization. (see Kuçuradi : Ibid, p. 8)

23 Öktem N: Ibid., 44 ao

combat against this, laicism was succeeded to be duly realized. This age is referred to as the age of Enlightenment. The word enlightenment is adopted from the French word “Lumieres”, and is construed as light, understanding, acknowledgment and open-mindedness. Thinkers of the age of enlightenment have arrived at the awareness and conscious that human rationale is superior to everything else, and the fundamentals of law are in such rational thinking, it is the human mind that generates ideas, and therefore no kings and men of the clergy were any longer required.²⁴ As a matter of fact, despite several negative aspects from a sociological perspective, without the French Revolution, it would be an utopia to anticipate the laic system in the West.²⁵ In the West, the State has no official religion. Religious services are not provided as a public service, but left to the churches. Although under certain constitutional laws, like those of Greece and Denmark, there is included provisions that the church is under protection of the state, it is also specified that the statutory system is not to be realized according to religious rules, and by using soft expressions, it is being understood that religious and statutory affairs are separated, that the church would not be interfering with affairs of the state, yet under certain rituals social duties are possibly ascribed to the officials of the church as well as the clergy.²⁶

Providing for the segregation of the rationale and belief is the correct approach in terms of a perspective involving human rights. Under and by means of laicism, it is possible to ensure equality and religious liberties before religions and beliefs. The basic problem in the democratic system is enabling the realization of rational-belief segregation that is in the background of the religious and

²⁴Özcan, Tevfik Mehmet: Laicism and Judicial State: Introduction of Sociology of Law, 2006); Hof, Ilrich: Enlightenment in Europe, Istanbul 1995, p.13 a.o.

²⁵Following abandonment of the feudal system and ownership of land being replaced by trade in the hierarchy of importance at west, and taking initial steps within respect to laicism under the French Revolution in 1789 succeeding former absolute monarchies, as well as formation of the French laic movement against the dominance of the Roman Catholic Church, claiming universality within framework of a corporate organization structure have traced a long and rough, fluctuating route. Religion being brought to a position segregated from affairs of the state was realized in France under revolutionary, Jacobin, and republican methods. The State has rescinded from being involved with and intervening in religious matters. However, the seclusion and disintegration of this relationship has been realized gradually. (Özcan, Tevfik M: Ibid, Sociology of Law)

²⁶ Constitution of Greece (Article 3 - Relation of Church and State, and Article 13) Constitution of Denmark, Article 4

worldly differentiation. Because religions, as far as they intervene with the worldly affairs and become powerful politically, they start to neglect their actual divine authorities and lead the principle of “power for the sake of power”. Whereas laicism anticipates a political organization that allows for religious equality as well as freedom of religion, thereby the chains of slavery on the mind and conscience are broken.

Under laicism, not religion under state, but state under religion is negated, and it is avoided that religion becomes a political as well as legal power. It is neither possible nor realistic for making a single type of definition of laicism, and ascribe a definition thereto that is uniform in terms of each and every state. Therefore, LAICISM exhibiting an application that varies from one country to the other should be defined according to the conditions of any specific country. However, this does not mean that any structuring at a dimension under religious character by highlighting the religious traditions and allowing for the regulation of government through divine and spiritual rules and institutions might possibly coincide with a laic concept of the state.

If it is to be explained in general, the divine will at the core of theocratic conceptualization of the state, is substituted in the laic state by governance based on rationale and science. Because man is conceiving and realizing the rules of nature as well as society under its capacity, reasoning and power, and trying to harness the society and nature also by using its own self power. And this is achieved by man through rational thinking. Therefore, laicism is rationale. Rational thinking is adopted as the guide. The irrational, hearsays and non-scientific explanations are now abandoned. In governments where rational methods are used, this concept is referred to as laicism. Existence of applications of religious nature in governing of the state, based on the interpretations of the clergy, which are closed to criticism, is an indication that the government is one of theocracy.²⁷

Summarizing: Under its general and accustomed definition, laicism is a system of governing the State where affairs of state and religion are kept apart, where there exists freedom of religion and beliefs, and principles of neutrality are maintained when confronted with religious beliefs and alternatives. In a laic state, religion is not interfering with the constitutional order of the state. Religious principles do not constitute the source of the government and administrative affairs. **Under laic order, religion is deemed and construed as a social phenomenon included in the duties and authorities of the state.**

²⁷Öktem, N: Ibid, p. 44.

Laicism is a concept of the state that is based of science and rational thinking. ²⁸ As a matter of fact, laicism is such regime where the state has assumed and undertaken the task and duty of the state to avoid and prevent the oppression of any belief on any other belief. The duty of the state does not consist of solely segregation of the affairs of state and religion, or the state acting in a neutral attitude. The state is required to perform and conduct its duty in a neutral manner. Otherwise, it is deemed to have neglected and performed its duty of maintaining protection between those of different beliefs as well as those of minority status in terms of their beliefs, against others who are powerful and in majority. And it is likewise not allowed in any laic order for those believers in majority apply any pressure on those in minority.²⁹

Concluding this matter by emphasizing on the LAIC SYSTEM and LAIC MAN, laicism as elaborated here above, religious and statutory affairs are contained on different platforms, while one is related to freedom of the conscious, whereas the other is of social character and worldly. Certain thinkers and sociologists have placed emphasis on the concept of Laic Man. It is worth pointing out that whether or not is it possible for any individual to be and become laic. Further, instead of explaining the matter under strict and well-defined lines as the system of the state might be laic, remembering that the origin of the word LAICISM being LAIKOS, such term of LAIKOS is an adjective and is used to identify any individual not dealing and involved with affairs pertaining to religion. In other words, LAIKOS identifies any person who is not an indoctrinator of the rules of religion or as a member of the clergy. Therefore, it might be possible that those involved with religious affairs and performing this as profession are not laikos. We might state that since these individuals are providing service in temples as religious officials, they are not laic in the sense of the initial origins of such concept. However, in the present day, the definitions of those desiring to govern the state upon negating laicism under a laic system, with respect to being a laic man or otherwise, are far from the explanation of such a concept.

In conclusion, it would be proper and accurate to specify whether or not any individual is laic by using the initial meaning of the word at its point of origin,

²⁸ Ibid. p.43 ao. , Göze, Ayferi: History of Turkish Revolution. p. 361 ao.)

²⁹ Kongar Emre: Democracy and Laicism, 1997, p. 141 ao., Önder, R.A: Limits of Laicism, Atatürk's Judicial Revolution, Istanbul, 1983, p. 101 ao. ; Karpaz, H Kemal History of Democracy In Turkey,1996, p. 224 ao.

in any manner otherwise would be in departure from human rights and incorporates the character of discrimination.

Emphasizing the fact that the route that leads to becoming a free thinking and happy man, living in a society of welfare, possessing a statutory system that is duly respectful for human rights, passes through democracy and laicism, I am hereby ending my words by stating that the most prominent inheritance we shall be leaving to the next generations would be freedom.

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