

A CRITICAL COMPARISON BETWEEN THE PRESIDENCY OF RELIGIOUS AFFAIRS (DİYANET İŞLERİ BAŞKANLIĞI) AND THE OFFICE OF SHAYKH AL-ISLÂM DİYANET İŞLERİ BAŞKANLIĞI VE ŞEYHÜL İSLAM MAKAMLİĞİ ARASINDA KRİTİK BİR KARŞILAŞTIRMA


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A CRITICAL COMPARISON BETWEEN THE PRESIDENCY OF RELIGIOUS AFFAIRS (DİYANET İŞLERİ BAŞKANLIĞI) AND THE OFFICE OF SHAYKH AL-ISLÂM

Abstract

After the 19th century, a great number of religious institutions that manage religious affairs were established in many Muslim countries. These religious institutions bear official identity since they were established by states. Some academics, authors and intellectuals liken these institutions to the offices of *Shaykh al-Islâm* that existed between 11th and 18th centuries and evaluate modern religious institutions as if the follow-up these religious offices. This results in some misunderstandings. The article compares the Presidency of Religious affairs in Turkey to the office of *Shaykh al-Islâm* in the Ottoman Empire with the intent of obviating these misunderstandings. Before comparing these two religious institutions, the article presents brief explanations of their history, establishment and functions in their times, and then these two institutions are comparatively evaluated from two different perspectives. In the first instance, it is drawn a parallel between two in terms of their jurisdiction. In the second instance, the functions and roles of *fatwās* issued by the two are evaluated in their respective environments. The comparison and evaluation of the two institutions from these angles considerably help to scatter the misconceptions to which are led by those academics, authors and critics who establish strong similarities between past and modern religious institutions.

Summary

After the early 19th century, national religious institutions started to be established almost in every Muslim country with the intent of conducting religious affairs in their respective environments. These newly-established national religious institutions can be, in some sense, accepted as the maintenance of the offices of *Shaykh al-Islâm* that existed in many Muslim sultanates to organise and manage religious, judicial and educational affairs of the societies of the period between the 11th and 18th centuries. Even though these modern religious institutions liken frequently to the offices of *Shaykh al-Islâm* of the past, establishing such resemblances between them leads to some misconceptions. The article aims to scatter these misconceptions resulted from establishing such similarities by singling out the Presidency of Religious Affairs (*Diyanet İşleri Başkanlığı*, or Diyanet) and its predecessor institution, the Ottoman Sultanate's office of *Shaykh al-Islâm* as a case study.

In 1923, the Republic of Turkey was founded subsequent to the collapse of the Ottoman Sultanate. The transition of the Muslim-majority Islamic Sultanate to the Muslim-majority secular democratic state brought many reforms with the establishment of Turkish Republic. The transformation of the Ottoman Sultanate's office of *Shaykh al-Islâm* to the Diyanet on March 3, 1924 is one of historic reforms that blatantly symbolises the secular character of Turkish Republic because the management of religion was placed under the control of a constitutional public body that does not have any political influence and authority within the State's politics. Further reforms were implemented to consolidate the secularism principle espoused by Turkish Republic on the same day that the Diyanet was established. For instance, the Shari'a Courts were closed down, the Caliphate and the office of *Shaykh al-Islâm* were abolished, and the Unity of Education Law (*Tevhid-i tedrisat kanunu*) was enacted. All these radical reforms merely aim the separation of religion from political authority with the intent of establishing a secular state and transforming Turkey into a modern society. With the transformation of the office of *Shaykh al-Islâm* into the Diyanet, many duties and tasks previously carried out by the office of *Shaykh al-Islâm* were allocated to other institutions that were established after the demise of the Ottoman Sultanate. As the

majority of the Sultanate's populace consisted of Sunni Muslims and as the Sultanate's legal system based on Islamic law, the office of *Shaykh al-Islām* had a wide range of duties that includes all religious, judicial and educational services of Ottoman society. However, it can be observable that the jurisdiction of the Diyanet was restricted only to religious affairs when compared to the office of *Shaykh al-Islām*'s.

After the Justice and Development Party (*Adalet and Kalkınma Partisi*, or the AKP) came to the power, some scholars started to draw a likeness between the Diyanet and the Ottoman Sultanate's *Shaykh al-Islām*. The success of the AKP in last five elections has led to the emergence of free-speech of Muslims and Islamic institutions regarding Islam. This demonstrates the political agenda developed and followed by the AKP that aims to create a democratic, liberal and receptive society. The party has Islamic roots, and it has developed a conservative democratic agenda grounded on the moderate and humanitarian pillars. Some academics, politicians, journalists and thinkers accuse the party of pursuing an overt radical Islamic agenda that intends to turn underhandedly the Republic of Turkey into the Ottoman Sultanate through the way of countenancing the Islamisation of the country. Nonetheless, it should be highlighted that the AKP does not represent a completely fundamentalist Islamic party as put inadvertently forward by these critics. The AKP government has given priority to implementing reform in the area of religious freedom over divisive symbolic issues, such as the headscarf controversy, non-Muslims' worship places and freedom to live individuals' their own religions. This has substantially altered the previous governments' policies that merely incarcerated religion in individuals' private lives and that minimised as far as possible the appearance of the state's official religious institution, Diyanet, in public, social and international areas. Thanks to the party's political agenda related to individual and religious rights and freedoms, the Diyanet has increased and expanded its activities, appearance and voice in both national and international spheres. This is resulted in the AKP being alleged that it intends to covertly transform the Diyanet into the office of *Shaykh al-Islām* in the Ottoman Sultanate.

When the institutions are compared from two angles (the scope of their authority and the functions of their Islamic legal opinions (*fatwās*), the existence of a wide discrepancy and gap between the office of *Shaykh al-Islām* and the Diyanet can be observable. The attempts by some critics and commentators to portray the Diyanet as some form of continuity of the office of *Shaykh al-Islām*, even under supposedly conservative government, is in the end unconvincing. The article soundly claims that the function of the two institutions was quite different, and an attempt to assert their identity is an exaggeration. The presence of the Diyanet within the Turkish state means the system is not purely secular one as many people think; but neither it is a religious system; instead it can be seen a type of "hybrid" secularism whom religious institution reflects its own idiosyncratic character.

Keywords: Islamic Law, Religious Institutions, the Diyanet, the Office of *Shaykh al-Islām*, *Fatwā*.

DİYANET İŞLERİ BAŞKANLIĞI VE ŞEYHÜL İSLAM MAKAMLIGI ARASINDA KRİTİK BİR KARŞILAŞTIRMA

Öz

19. yüzyıl sonrası birçok Müslüman ülkesinde dini işleri yürüten dini kurumlar kurulmuştur. Devlet tarafından kurulduğu için bu kurumların çoğu resmi bir kimlik taşımaktadır. Bu resmi dini kurumlar bazı akademisyenler, yazarlar ve entelektüeller tarafından 11. ve 18. yüzyılları arasında var olan Şeyhül İslamlık Makamlıklarına benzetilmiş ve sanki onların devamıymış gibi değerlendirilmiştir. Bu da akademik

sahada bazı yanlış anlaşılmalardan dolayı olmuştur. Bu yanlış anlaşılmaları gidermeyi hedefleyen bu makale bu günkü Türkiye’de var olan Diyanet İşleri Başkanlığı ve Osmanlı devletindeki Şeyhül İslam Makamlığını karşılaştırmalı olarak değerlendirmektedir. Bu iki kurum arasında detaylı bir karşılaştırma yapmadan önce, bu iki kurumun tarihi, kuruluşları ve kendi dönemlerindeki işlevleri ve görevleri hakkında kısa bir bilgi verilmektedir. Daha sonra, bu iki kurum arasındaki farklılıkları göstermek için iki noktadan bu kurumlar karşılıklı olarak değerlendirilmektedir. İlk etapta bu iki kurum çalışma sahaları bakımından birbirleriyle karşılaştırılır. İkinci etapta ise bu iki kurumun tarafından verilen fetvaların yasal sistemdeki ve toplumdaki işlevleri ve rolleri açısından karşılaştırılmaları olarak değerlendirilmektedir. Bu iki kurumun bu iki açıdan detaylı olarak karşılaştırılması, bazı eleştirilenler, yazarlar ve akademisyenler tarafından bu iki kurum arasında güçlü bir benzerlik kurularak neden olunan yanlış anlaşılmaların giderilmesine katkı sağlayacaktır.

Özet

19. yüzyıldan sonra hemen hemen bütün Müslüman ülkeleri dini işlerini yönetmek için kendi ulusal dini kurumlarını kurmaya başlamıştır. Bu yeni kurulmuş ulusal dini kurumlar bazı açılardan 11. ve 18. yüzyılları arasında toplumların dini, hukuki ve eğitimsel işlerini yürüten Şeyhül İslamlık Makamlıklarına benzetilebilmektedir. Sıklıkla günümüzdeki modern dini kurumlar geçmişin dini kurumları olan Şeyhül İslamlık Makamlıklarına benzetilmesine rağmen, onlar arasında böyle benzerlikler kurmak yanlış ve hatalı anlaşılmalara sebebiyet verebilmektedir. Bu makale Türkiye’deki Diyanet İşleri Başkanlığı ile onun selefi olan Osmanlı Sultanlığının Şeyhül İslamlık Makamlığını bir durum çalışması olarak seçerek bu şekilde kurulan benzerliklerden kaynaklanan yanlışları gidermeyi hedeflemektedir.

1923 yılında, Osmanlı Sultanlığının çöküşünden sonra Türkiye Cumhuriyeti devleti kurulmuştur. Müslüman çoğunluğa sahip olan İslami nitelik taşıyan Osmanlı Sultanlığından Müslüman çoğunluğa sahip olan laik demokratik devlet sistemine geçiş birçok reformu ve inkişabı da beraberinde getirmiştir. Osmanlı Sultanlığının Şeyhül İslamlık Makamlığının 3 Mayıs 1924’te Diyanet İşleri Reisliğine dönüştürülmesi Türkiye Cumhuriyeti’nin laik karakterini sembolize eden tarihi bir reformdur. Çünkü din işlerinin yönetimi devletin siyasetinde hiçbir etkisi olmayan anayasal kamu kurumuna atanmış ve bu kurum tarafından yürütülmeye başlanmıştır. Diyanet’in kurulduğu aynı gün Türkiye Cumhuriyeti tarafından benimsenen laiklik ilkesini (kanunlar açısından bakıldığında “laiklik” ilkesi anayasaya 1930’larda girmiştir; ancak söz konusu uygulamalar elbette “laiklik” ilkesinin daha erken tarihte benimsendiğini göstermektedir) güçlendirmek için başka reformlarda gerçekleştirilmiştir. Örneğin Şeriat Mahkemeleri kapatılmış, Halifelik ve Şeyhül İslamlık Makamlığı lağvedilmiş ve tevhid-i tedrisat kanunu yürürlüğe konulmuştur. Laik bir devlet kurmak ve Türkiye’yi modern bir topluma çevirmek amacıyla gerçekleştirilen bütün bu reformların arkasında yatan gaye dinin siyasi yapıdan ayrılmasıdır. Şeyhül İslamlık Makamlığının Diyanete dönüştürülmesiyle, önceden Şeyhül İslamlık Makamlığı tarafından yürütülen birçok görev Türkiye Cumhuriyeti bünyesinde yeni kurulan diğer kurumlara tahsis edilmiş ve onlar tarafından yürütülmeye başlanmıştır. Osmanlı Sultanlığında nüfusuna çoğu Sünni Müslümanlardan oluştuğu ve Sultanlığın yasal sistemi İslam hukukuna dayandığı için Şeyhül İslamlık Makamlığı Osmanlı Devletindeki neredeyse bütün dini, hukuki ve eğitimsel hizmetlerini yürütmekteydi. Bu nedenle, Diyanet bu noktadan Şeyhül İslamlık Makamlığıyla karşılaştırıldığında Diyanetin yetki alanının sadece dini işler ile sınırlandırıldığı kolayca gözlemlenebilir.

Adalet ve Kalkınma Partisi (Ak Parti) iktidara geldikten sonra, bazı akademisyenler ve entelektüeller Diyanet ve Şeyhül İslamlık Makamlığı arasında güçlü benzerlikler kurmaya başlamıştır. Ak Parti’nin son beş seçimdeki başarısı Diyanet’in ve Türkiye’de yaşayan Müslümanların İslam ve dini görüşler hakkında özgür bir şekilde kendilerini ifade etmesinin kapısını aralamıştır. Bu da Ak Parti tarafından geliştirilen ve takip

edilen siyasi ajandanın demokratik, özgür ve anlayışlı bir toplum yaratmayı hedeflediğini gösterir. Bu partinin ılımlı ve insani temellere dayalı muhafazakâr demokratik bir ajanda benimsemiş olması bazı noktalarda Diyanet'in söylemleri ile Ak Parti tarafından takip edilen politikaların örtüşmesi ve paralel olması sonucu meydana getirmiştir. Bazı akademisyenler, siyasilere, politikacılar, düşünürler ve gazeteciler Ak Parti'yi ülkenin İslamlaşmasına göz yumarak Türkiye Cumhuriyeti'ni Osmanlı Sultanlığına dönüştürmeyi hedefleyen radikal İslami bir ajandayı takip etmekle itham etmektedir. Burada, Ak Parti'nin İslami kökleri olan bir parti olmasına rağmen bu eleştirmenler ve kişiler tarafından ileri sürüldüğü gibi tamamen fundamentalist İslami bir partiyi temsil etmediği belirtilmelidir. Ak Parti hükümeti, başörtü sorunu, Müslüman olmayanların ibadet yerleri ve bireylerin kendi dinlerini özgürce yaşamaları gibi geçmişte ülkede bölücülüğe sebep olan sorunları içeren dini özgürlükler sahasında reformlar gerçekleştirmeye öncelik vermiş ve bunu büyük ölçüde başarmıştır. Bu da dini sadece bireylerin özel yaşamına hapseden ve devletin dini kurumunun, Diyanet'in, varlığını mümkün olduğunca kamu, toplumsal ve uluslararası sahalarda en aza indirmeye çalışılan önceki hükümetler tarafından izlenen politikalarından önemli ölçüde sapmaya neden olmuştur. Ak Parti'nin benimsediği bireysel ve dini haklara ilişkin siyasi ajandası sayesinde Diyanet kendi faaliyetlerini, varlığını ve sesini hem ulusal hem de uluslararası alanlarda arttırmış ve genişletmiştir. Bu da Ak Parti'nin gizli bir şekilde Diyanet'i Osmanlı Devletindeki Şeyhül İslamlık Makamlığına dönüştürmeyi hedeflediği ithamlarının ileri sürülmesine neden olmuştur. Fakat bu şekilde geliştirilen söylemler bu iki kurumun karşılıklı olarak detaylı bir şekilde incelendiğinde ortaya çıkacak olan büyük farklılıkları farkında olmayarak göz ardı etmiştir.

Bu kurumlar iki açıdan (yetki alanları ve fetvalarının işlevleri) karşılaştırıldığında, bu iki kurum arasında geniş çapta bir farklılık olduğu açık bir şekilde gözlemlenebilir. Yukarıda da bahsedildiği gibi Osmanlı Devletindeki Şeyhül İslam Makamlığı dini, hukuki, eğitimsel ve siyasi sahalarda fiili bir şekilde faaliyet gösterirken, Türkiye Cumhuriyeti'nin kurulmasının ardından Diyanet'in çalışma sahası çok dar bir alana sınırlandırılmıştır. Bununla birlikte, bu kurumların verdiği fetvaların kendi toplumlarındaki işlevleri ve üstlendikleri roller açısından bu iki kurumu ele alacak olursak, Şeyhül İslam Makamlığı tarafından verilen fetvaların toplum içinde bir hukuki ve siyasi yaptırım gücüne sahip olduğunu gözlemlemek mümkündür. Fakat Diyanet tarafından verilen fetvalar böyle bir potansiyele sahip değildir. Bundan dolayı bazı eleştirmenler ve akademisyenler tarafından Diyanet'i Osmanlı Devletindeki Şeyhül İslamlık Makamlığının devamı veya onun başka bir şekliymiş gibi lanse etme girişimleri nihai olarak ikna edici gözükmemektedir. Bu iddialar muhafazakâr demokratik bir politika izleyen Ak Parti hükümeti zamanında dahi olsa gerçeklikten uzaktır ve akademik dünyada bilgi yanlışlarına sebep olmaktadır. Bu makale ilmi etik ilkeler çerçevesinde iki kurumun işlevinin birbirinden oldukça farklı olduğunu ve bu şekilde iki kurum arasında büyük benzerlikler kurma girişimlerinin abartı olduğunu iddia etmektedir. Türkiye Devleti'ndeki Diyanet kurumunun varlığı şu şekilde anlaşılabilir: Sistem birçok kişinin düşündüğü gibi tamamen saf bir laik sistem değildir, fakat ne de dini bir sistemdir; bilakis dini kurumunun kendine özgü karakterini ve niteliğini yansıttığı melez laikliğin bir çeşidi olarak görülebilir.

Anahtar Kelimeler: İslam Hukuku, Dini Kurumlar, Diyanet, Şeyhül İslamlık, Fetva.

INTRODUCTION¹

In the present-day Turkish society, encompassed by the secular legal system of the Republic of Turkey, it can be identified at least three sources of law and types of legality: the state with its official laws, Islam with unofficial religious norms and Islamic legal rulings, and society with its customary laws. Recently, the Presidency of Religious Affairs (henceforth: Diyanet), with its condensed constitutional entity, has come into sight as one of law-generating forces at least at micro level in Turkey. After the collapse of Ottoman Sultanate, the newly established Turkish state experienced and implemented many radical reforms in social, religious and legal spheres. The establishment of the Diyanet on 3 March 1924 can be perceived as one of these radical reforms that aims a top-down transformation of society based on a radical Westernised and secularised nation-state model of modernity.

In the early stage of the historical and intellectual development of the Turkish modern-day structures, nearly all social, cultural, religious and institutional connections with the Ottoman heritage and Islam were simply conceived as backwardness. While the state ideology in the early Republican period (1923-1940) accepts the ties with the Ottoman legacy and Islam as a symptom, indication and manifestation of backwardness, the office of *Shaykh al-Islām* (the authority regulates religious, educational and judicial affairs in the Ottoman Sultanate)², was not completely abolished. Instead, the office of *Shaykh al-Islām* was transformed distinctively into the Diyanet, circumscribed by the state official laws of the Republic of Turkey, and thus the Diyanet is at times defined as the continuation of the office of *Shaykh al-Islām*. Some scholars draw a strong parallelism between the office of the *Shaykh al-Islām* and the Diyanet. They particularly claim that under the rule of Justice and Development Party (*Adalet and Kalkınma Partisi*, or the AKP), the Diyanet started to turn into the office of the *Shaykh al-Islām*. For example, Eytan Yanarocak, of Tel Aviv University, states:

“[The] Diyanet has emerged as an indispensable instrument of Erdoğan

¹ I would like to offer my gratitude to my supervisor, Prof. Robert Gleave, for his encouragement, support and seminal counsel during the completion of this article. His guidance and kindness have contributed enormously in bringing this study to light. I also send my thanks to my colleague, Sumeyra Yakar, for thought-provoking comments and questions. This helped me handle the issue in more detail from different perspectives.

² *Shaykh al-Islām* literally means ‘the guardian of Islam’. The term was mainly used to refer to the head of religious affairs in the Ottoman Sultanate. Richard W. Bulliet, “The Shaykh al-Islām and the Evolution of Islamic Society”, *Studia Islamica*, 35 (1972), 53 (Accessed 11 September 2018), <https://www.jstor.org/stable/pdf/1595475.pdf?refreqid=excelsior%3A96347c360ad2eb08056f1b7d1b1c0b30>

political agenda at home and abroad...Beyond Turkey's borders, [the] Diyanet is attempting to unite the Muslim world under the political and theological leadership of Turkey. In short, it is becoming more evident each day that, under Erdoğan, [the] Diyanet increasingly resembles the Ottoman office of Sheikh al-Islam."³

Yanarocak arguably combines the increasing visibility of the Diyanet with Erdoğan's political agenda (so-called Islamisation of the country which include to raise of a "religious generation and to transform the Diyanet into the office of the *Shaykh al-Islām*) while adopting a variation of commonplace contention that tends to interpret this visibility as the instrumentalization of the Diyanet by the governing party, the AKP, for political purposes.⁴ In common with Yanarocak, Svante Cornell superficially upholds the view of identicalness of the two religious institutions in terms of their jurisdiction and functions in their times. He observes:

"Whether in Ottoman times or in the Republican era, the Turkish state has made control of religious affairs a priority. In Ottoman times, this function fulfilled by the Ulema under the leadership of the Sheikh ul-Islam, himself appointed by the Sultan. Following the creation of the Republic, the Diyanet İşleri Başkanlığı, or Directorate for Religious Affairs, fulfilled this role."⁵

While both Yanarocak and Cornell link their arguments (the transformation of the Diyanet into the office of *Shaykh al-Islām*) to the AKP's political agenda (the so-called Islamization of Turkish society), Ceren Kenar associates this transformation with the Diyanet's own agenda and objectives. She claims:

"The institutional expansion of the *Diyanet* and religious infrastructure more broadly was not merely a product of the AKP and government manipulation. The *Diyanet* has taken advantage of the opportunities created by the AKP government and its common cause with it to pursue its own agenda. This agenda, according to institution itself, is to

³ Hay Eytan Cohen Yanarocak, "Turkey's Diyanet: The Revival of Sheikh al-Islam", *Telaviv Notes* 9/3 (2015), 5 (Accessed 10 April 2017), <http://dayan.org/content/tel-aviv-notes-turkeys-diyamet-revival-sheikh-al-islam>.

⁴ Yanarocak, "Turkey's Diyanet", 1 and 5.

⁵ Svante Cornell, "The Rise of Diyanet: The Politicization of Turkey's Directorate of Religious Affairs", *The Turkey Analyst*, October 9, 2015 (Accessed 5 August 2017), <https://www.turkeyanalyst.org/publications/turkey-analyst-articles/item/463-the-rise-of-diyamet-the-politicization-of-turkey%E2%80%99s-directorate-of-religious-affairs.html>.

advance the “traditional mission” of the Ottoman Shaykh al-Islām in which the *Diyanet* sees itself as “historically rooted.”⁶

These assertions can lead possibly to visual and perceptual illusion that the *Diyanet* has been charged either implicitly or explicitly with rasping secular characters of the Turkish Republic and reassuming the authority and functions of the Ottoman Sultanate’s office of *Shaykh al-Islām* under the conservative democratic government.

The words and terms that have been used to describe the increasing visibility, activity and dynamism of the *Diyanet* in the country’s political, social and religious domains are most likely at the hearth of this misconception. It should be noted that “the *Diyanet*’s expansion” and “its transformation into the office of *Shaykh al-Islām*” both conceptually and semantically include quite distinct meanings. Despite the apparently secular nature of the country, the *Diyanet* constitutionally represents the official religious institution and thus exert a formal authoritative influence over the religious life of Muslim resident in Turkey. Indeed, some legislation that come into force in recent years has expanded, to some extent, its influence and activity over some spheres of life, from education to family relations and from psychological support at hospitals, prisons and women’s shelters to religious services during national and social crises.⁷ These recent developments have been interpreted as the transformation of the *Diyanet* into the Ottoman Sultanate’s office of *Shaykh al-Islām* and its instrumentalization by the AKP for political purposes. In a fashion similar to the AKP period, the *Diyanet* was also considered as a political and strategic tool of the excessive secular Kemalist administrative government (1923 – the 1950s) and the military government (the 1980s and the 1990s), but there was no mention that asserted the transformation of the *Diyanet* into the office of *Shaykh al-Islām* during these time periods. The main reason why the *Diyanet* has been likened to the office of *Shaykh al-Islām* is presumably related to the AKP’s political agenda that aims to loosen and relax the official statutory circumstances around the *Diyanet* with a view to increasing its scholarly credibility and providing it with freedom of speech over issues relating to religion and

⁶ Ceren Kenar, “The Story Behind the Rise of Turkey’s Ulema”, *Middle East Research and Information Project*, February 4, 2018 (Accessed 9 September 2018), <https://www.merip.org/mero/mero020418>.

⁷ Kenar, “The Story Behind the Rise of Turkey’s Ulema”, *Ejder Okumuş*, “Turkey-Religiosity and the PRA”, *The Muslim World* 98/2-3 (2008), 357 (Accessed 18 October 2016), <http://onlinelibrary.wiley.com/doi/10.1111/j.1478-1913.2008.00232.x/full> and Bryan S. Turner and Berna Zengin Arslan, “State and Turkish Secularism: The Case of the *Diyanet*”, *The Religious and the Political: A Comparative Sociology of Religion*, ed. Bryan S. Turner (Cambridge: Cambridge University Press, 2013), 220.

religious affairs.⁸ The overlap between the ideological backdrop of both the administrative government (the AKP's conservative democratic ideal) and the religious establishment (the Diyanet's orthodox Sunni predisposition) may be interpreted as another factor inducing these perceptual misunderstandings that overidentify the recent Diyanet with the office of *Shaykh al-Islām*. In this regard, it is conceivable to assert that the Diyanet's expansion and its increasing visible activeness in recent years have been inadvertently launched as if its transformation into the office of *Shaykh al-Islām*.

Even though the Diyanet can be allegedly accepted as the continuation of the office of *Shaykh al-Islām*, there are certain and salient differences between the two institutions. Throughout the history of the Ottoman Sultanate and the Turkish Republic, the office of *Shaykh al-Islām* underwent some institutional continuities and deformations in the transformation process of the office of *Shaykh al-Islām* to the *Şer'iye ve Evkaf Vekâleti* (Ministry of Religious Affairs and Pious Foundations) and finally to the *Diyanet İşleri Başkanlığı* (the Presidency of Religious Affairs). The office of the *Shaykh al-Islām* and the Diyanet should be more closely engaged in order to ascertain the extent to which they closely resemble each other along with the question of how the transition from the Ottoman Sultanate to the Republic of Turkey impacted the State's perception of religion and the Diyanet's role as a governmental agency in society. In the first instance, laconic explanations regarding the two institutions will be introduced to provide an insight into their roles, functions and jurisdictions within the wider contexts of their environments. Secondly, the article will seek to compare these two institutions to demonstrate differences and similarities between them with a view to offering a counter-argument for those who establish over-identification between the Diyanet and the office of *Shaykh al-Islām*. In comparing the two institutions from two angles (the scope of their authority, and the functions and sanctioning power of their *fatwās* (Islamic legal rulings and explanation)), it will be argued that the Diyanet may be seen as a superficial reflection of the office of *Shaykh al-Islām*, rather than a complete successor to that Ottoman religious institution.

⁸ Emine Enise Yakar and Sumeyra Yakar, "The Transformational Process of the Presidency of Religious Affairs in Turkey", *Dirasat*, 24, (2017), 22-24 (Accessed 13 January 2018), <https://kfcris.com/pdf/2cd1eca0b34279e8904cff6c48e8f35f59782edf6fdb9.pdf>.

1. THE OFFICE OF *SHAYKH AL-ISLÂM* IN THE OTTOMAN SULTANATE

Within Ottoman society, religious affairs were regulated by the office of *Shaykh al-Islâm* (also known as *Mesihat*),⁹ which was created in 1424. During its inception stages, this office lacked executive authority and even a seat in the Imperial Council (*Divan-ı Hümayum*) with the consequence that it acted as a jurisconsult during this period. With reference to the role of that office in classical period of the Ottoman Sultanate (1299-1451), Erdem observes:

“Another important duty of the *Şeyhülislâm* in the Ottoman Empire was that they were the sultans’ counsellors. Before making important decisions, the sultan would summon the grand vizier or the *Şeyhülislâm* to the palace for advice. According to the Ottoman rule of imperial council (*Divan-ı Hümayum*), the *Şeyhülislâm* was not one of the original members of this council, though he took part in extraordinary meetings.”¹⁰

Because the office of *Shaykh al-Islâm* was not part of the Sultan’s *Divan*, it can be hypothesised that it lacked political power. It appears that the office was consciously designed as an autonomous legislative supervisor that did not possess any political authority within the Sultanate. While the *Shaykh al-Islâm* was described as a counsellor, who would help the Sultan legitimate the State’s policy with reference to Islamic law, his office instead presented itself as a form of legal authority that was exerted over political power. With regard to classical period of the Ottoman Sultanate, it may be suggested that the main duties of the office were focused upon the issuance of *fatwās* (in response to questions from the Sultan and his governors, judges and ministers, along with members of the public seeking out-of-court determination). The chief and main duties of the office were focused upon religious matters, and it was tasked with functioning as an Islamic legal mentor for the sultans when the State’s administrative, legal, and religious policies were subject to legislative debate.

After receiving the title of *Shaykh al-Islâm*, the office received its highest

⁹ Talip Ayar, *Osmanlı Devletinde Fetvâ Eminliği (1892-1922)* (Ankara: Diyanet İşleri Başkanlığı Yayınları, 2014), 14-15 and Fikret Karaman, “The Status and Function of the PRA in the Turkish Republic”, *The Muslim World* 98/2-3 (2008), 283 (Accessed 13 October 2016), <http://onlinelibrary.wiley.com/doi/10.1111/j.1478-1913.2008.00226.x/full>.

¹⁰ Gazi Erdem, “Religious Services in Turkey: From the Office of *Şeyhülislâm* to the *Diyanet*”, *The Muslim World* 98/2-3 (2008), 204 (Accessed 01 February 2017), <http://onlinelibrary.wiley.com/doi/10.1111/j.1478-1913.2008.00216.x/full>.

level of acclaim and reputation as a religious and scientific post during the time of Kanuni Süleyman (known as the Magnificent Süleyman) (d. 1566) and recognised as the Muftî of İstanbul, which was the head of learned corporation in its time.¹¹ In the period between the 16th century and the early 19th century, the office of *Shaykh al-Islâm* occupied a pre-eminent position in the State's governmental and political affairs.¹² Erdem further reiterates this point when he observes:

“From the time of Suleyman onward, the *Şeyhülislâm* was ranked virtually equal with the grand vizier [and] the *Sadrızam*. Both were the only officials to receive their investiture at the sultan's own hand... The grand vizier was bound to keep in constant touch with the *Şeyhülislâm* on state affairs.”¹³

While the appointment, deposal and promotion of *medrese* staffs was the concern of the grand viziers until the last decades of the 16th century, the *Shaykh al-Islâm*, in acting within important regions, assumed responsibility for nominating members of the *'ilmiyye* organisation (the scholarly organisation) and judges (*qādis*) towards the end of the 16th century.¹⁴ This feature may be interpreted as indicating that the office of the *Shaykh al-Islâm* was superior to the grand viziers. Even though the *Shaykh al-Islâm*, the head of *'ulamâ* or the highest scholarly authority, was not – at the level of theory – recognised as a member of the government council, he began to exert a substantial practical influence upon the State's affairs. From the 18th century onward, the consultation of the *Shaykh al-Islâm* became an established tradition, and it unofficially participated in the Sultanate's Council (*Divan-ı Hümayum*).¹⁵ As its power and prestige incrementally consolidated, it began to exert a stronger influence over government affairs and state protocol. During the Sultan's enthronement, the *Shaykh al-Islâm* handed the sword to him; meanwhile, during official ceremonies, the *Shaykh al-Islâm* traditionally participated alongside the Sultan and other official members.¹⁶ These traditions perhaps attest to the growing power of the office in state protocol. The office began to administer religious affairs in Ottoman society on behalf of the Sultan, to conduct religious education (one of its main

¹¹ Ayar, *Osmanlı Devletinde Fetvâ*, 15 and Erdem, “Religious Services in Turkey”, 202 and Bulliet, “The Shaykh al-Islâm”, 54-55.

¹² Frank Vogel, *Islamic Law and Legal System: Studies of Saudi Arabia* (Leiden: Brill, 2000), 206-207.

¹³ Erdem, “Religious Services in Turkey”, 202.

¹⁴ Ayar, *Osmanlı Devletinde Fetvâ*, 16.

¹⁵ Erdem, “Religious Services in Turkey”, 204.

¹⁶ Ayar, *Osmanlı Devletinde Fetvâ*, 16.

activity areas) and to implement judicial and municipal services between the 16th century and the early 19th century.¹⁷

In the late 19th century, Ottoman society underwent various reforms and transformations that sought to preserve it against challenges that emanated from various nationalist movements. During this final period of the Ottoman Sultanate, the functions and role of religion, and, by logical extension the office of *Shaykh al-Islām*, began to deteriorate and a clear weakening was evidenced in the administrative, political and social spheres.¹⁸ The establishment of new assemblies, ministries, *Nizamiye* courts (the first secular court system, which functioned alongside the Sharī'a courts) and the importation of secular laws from the West were part of the State's response to the divisive and corrosive nationalist movements. The office of *Shaykh al-Islām* was further weakened by the establishment of new and modern schools (which operated independently of *medreses* and educated civil and military bureaucrats) and the establishment of a Ministry of Foundations. Each of these measures weakened it in the administrative, educational, legal, political and religious spheres because a number of its duties were officially designated to newly established institutions and ministries. Erdem portrays this period, which became known as the office's 'time of decadence', in the following terms:

“By transferring some duties of the *Şeyhülislām* to some newly established councils after “the Noble Edict of Rose Garden (*Gülhane Hatt-ı Hümayum – Tanzimat Fermanı*)” such as “the Supreme Council for Judicial Regulations (*Meclis-i Vala-i Ahkam-ı Adliye*),” and after “the Reform Edict of 1856 (*Islahat Fermanı*),” “the Supreme Council of the Reforms (*Meclis-i Ali-i Tanzimat*),” and “the Supreme Council for Judicial Regulations,” the effect of the *Şeyhülislām* on state affairs was gradually lessened. The new government of the Ottoman Empire in 1916 made the Ministry of Justice responsible for all of the *madrasahs*, schools and other educational institutions.”¹⁹

The time period in which these changes were put into effect can be presumed to imply that the secularization process was initiated by Ottoman reformists (who benefitted from the support of civilian and military bureaucrats) who assumed control of the administrative bodies during this

¹⁷ Erdem, “Religious Services in Turkey”, 203-204 and Sönmez Kutlu, “Diyaret İşleri Başkanlığı ve İslamiçi Dini Gruplarla (Mezhep ve Tâikatlar) İlişkileri”, *Dini Araştırmalar* 12, no. 33, 107.

¹⁸ Erdem, “Religious Services in Turkey”, 205.

¹⁹ Erdem, “Religious Services in Turkey”, 205.

period. In the aftermath of these changes, the office only remained responsible for the management of religious affairs and the Shari'a courts.

In order to clarify the relationship between Muslims and non-Muslims during the modernization period, which coincided with the concluding decades of the Ottoman Sultanate, legislation was issued on March 12, 1917 which separated legal and religious jurisprudence. During 1920, the *Şer'îye ve Evkaf Vekâleti* (the Ministry of Religious Affairs and Foundations), which followed on from the office of *Shaykh al-Islâm*, was established in order to regulate the religious affairs of Muslims and pious foundations within the State.²⁰ This period can be pre-emptively labelled as "a preparatory stage of the modern Republic of Turkey".²¹ The *Şer'îye ve Evkaf Vekâleti* was established as a ministry in the administrative hierarchy, and it was permitted to directly intervene in political debates of its time.²² The order of protocol placed its responsible minister immediately after the prime minister within the members of the cabinet.²³

2. THE PRESIDENCY OF RELIGIOUS AFFAIRS (DİYANET İŞLERİ BAŞKANLIĞI) IN TURKEY

Modern Turkey was founded on the ruins of the Ottoman Sultanate, which had managed predominantly social structures which combined multiple cultures, languages and religions by deploying an assortment of agents and mechanisms.²⁴ In its aftermath, more than thirty states, which included the Republic of Turkey, were established in the Balkans, Middle East and North Africa.²⁵ These newly established nation-states, which gave birth to new political organisations and systems, sought to distance themselves from their immediate past by creating homogeneous political and social communities. These modern nation-states established mainly upon

²⁰ Erdem, "Religious Services in Turkey", 206 and İftar Gözaydın, "Management of Religion in Turkey: The *Diyanet* and Beyond", *Freedom of Religion and Belief in Turkey*, ed. Özgür Heval Çınar and Mine Yıldırım (Newcastle: Cambridge Scholars Publishing, 2014), 12.

²¹ Mehmet Görmez, "The Status of the Presidency of Religious Affairs in Turkish Constitution and Its Execution", *The Muslim World* 98/2-3 (2008), 243 (Accessed 20 October 2016), <http://onlinelibrary.wiley.com/doi/10.1111/j.1478-1913.2008.00222.x/full>

²² Görmez, "The Status of the Presidency", 243.

²³ Erdem, "Religious Services in Turkey", 206.

²⁴ Yılmaz Öztuna, *Osmanlı Devleti Tarihi*, II (İstanbul: Faisal Finans Kurumu, 1986), 240-390, Yusuf Akçura, *Osmanlı Devletinin Dağılma Devri (XVIII. ve XIX. asırlarda)* (Ankara: Türk Tarih Kurumu Basımevi, 1988), 2-5 and 10-34, Erdem, "Religious Services in Turkey", 199-200 and Talip Küçükcan, "Are Muslim Democrats a Threat to Secularism and Freedom of Religion? The Turkish Case", *The Future of Religious Freedom: Global Challenges*, ed. Allen D. Hertzke (Oxford: Oxford University Press, 2013), 274.

²⁵ Küçükcan, "Are Muslim Democrats", 274.

the basis of secularism rather than religion, and the key objective was to institute a political settlement in which loyalty was owed to secular states rather than religious establishments.²⁶ Over time, the Turkish model of the state-religion system has gradually developed. Islam, which was established as a state religion in the first Turkish Constitution, therefore gave way to a secular state. This transformation resulted in a new relationship between the state, secular law and religion, along with the emergence of novel ideological, legal and religious trajectories, each of which anticipated a fundamentally altered future for the Republic of Turkey's predominantly Muslim populations.

The separation of religion from the body of Turkish politics was the first step in the process of radical secularisation. The Sharī'a Courts were closed down, the Caliphate and office of *Shaykh al-Islām* were abolished, and the Unity of Education Law (*Tevhid-i tedrisat kanunu*)²⁷ was enacted on March 3, 1924, on the same day that the Presidency of Religious Affairs (*Diyanet İşleri Başkanlığı*) was established.²⁸ The management of religious affairs was placed under the control of a constitutional public body, as opposed to a ministry in the cabinet. The separation of religion from political authority was a core component of the project which sought to establish a secular state and transform Turkey into a modern society. However, this separation did not logically imply that religion would henceforth function as an autonomous sphere beyond the State's control. The Diyanet began to oversee religion in the name of the secular nation-state; over time, it became es-

²⁶ Küçükcan, "Are Muslim Democrats", 274.

²⁷ The Unity of Education Law (*Tevhid-i tedrisat kanunu*) was one of the main reforms of the Atatürk period, which closed down all religious schools. This law, which sought to democratise and secularise the education system, established that all educational institutions, including medical and military schools, would henceforth be placed under the control of the Ministry of Education. See Kazım Öztürk, *Türkiye Parlamento Tarihi: TBMM-II. Dönem*, 1 (Ankara: Türkiye Büyük Millet Meclisi Yayınları, 1993), 273-277, Durmuş Yalçın, Yaşar Akbıyık, and Yücel Özkaya, et al., *Türkiye Cumhuriyeti Tarihi*, 2 (Ankara: Atatürk Araştırma Merkezi, 2010), 108-110.

Ergun Özbudun, *The Constitutional System of Turkey: 1876 to Present* (New York: Palgrave Macmillan, 2011), 27-28 and Andrew Davison, *Secularism and Revivalism in Turkey: A Hermeneutic Reconsideration* (New Haven: Yale University Press, 1998), 163-164 and Ali Bardakoğlu, *Religion and Society New Perspectives from Turkey* (Ankara: Diyanet İşleri Başkanlığı, 2009), 111-112 (Accessed 25 September 2016), http://www2.diyanet.gov.tr/DiniYay%C4%B1nlarGenelMudurlugu/YabancıDildeYayınlar/ingilizce/ingilizce_turkey.pdf.

²⁸ Act no. 429 dated 03 March 1924. See Resmi Gazete (*Official Gazette*), 06. 03. 1924-63 (Accessed 26, September 2016), <http://www.resmigazete.gov.tr/main.aspx?home=http://www.resmigazete.gov.tr/arsiv/63.pdf&main=http://www.resmigazete.gov.tr/arsiv/63.pdf>. Türkiye Cumhuriyeti Başkanlık Diyanet İşleri Başkanlığı, *Kuruluş ve Tarihi Gelişim* (Accessed 26 September 2016), <http://www.diyanet.gov.tr/tr/icerik/kurulus-ve-tarihce/8>. Turner and Arslan, "State and Turkish Secularism," 213 and Ufuk Ulutas, "Religion and Secularism in Turkey: The Dilemma of the Directorate of Religious Affairs", *Middle Eastern Studies* 46/3 (2010), 389- 392 (Accessed 12 October 2016), <http://www.tandfonline.com/doi/pdf/10.1080/00263200902899812?needAccess=true>.

established as an effective institution that governed, promoted and managed religion in the state.

The first article of Act 429 that came into force in 1924 established the Diyanet but did not outline its administrative and organisational structure.²⁹ It states:

“In the Republic of Turkey, the Grand National Assembly and the Cabinet, which is formed by the Grand National Assembly of Turkey, are responsible for the legislation and execution of provisions concerning the affairs of people, and an office (Diyanet İşleri Reisliği) has been formed to implement all provisions regarding the ritual practices (*‘ibādāt*) of and faith (*i’tiqād*) of the religion of Islam and to administer [Islamic] religious organisations.”³⁰

This regulation established that religious affairs pertaining to *i’tiqād* (faith) and *‘ibādāt* (ritual practices), along with the administration of all religious sites would henceforth be placed under the control of the Diyanet. Meanwhile, all other areas relating to the State and people were placed under the legislative power of the Grand National Assembly of Turkey.³¹ Act 429 established the Diyanet as a religious administrative body by separating the politics of the new government from religion and by undermining the influence of Muslim scholars (*‘ulamā*) within the State administration. This enactment established that the head of the Diyanet would be, subsequent to a proposal by the Prime Minister, appointed by the President of the Republic of Turkey. The Diyanet, in operating as a constitutional body, was placed under the control of the Prime Minister’s office. This legislation demonstrates how the State deliberately sought to limit religion and the official institution responsible for its management in its early periods (1924 – the 1945s).³²

The time period from the late 1940s to the late 70s coincided both with political liberalism and Islam’s growing presence within the political arena of the Republic of Turkey. During this period, the Diyanet was accepted as a necessary institutional mechanism which would help to maintain public stability in the area of religious affairs while helping to meet public

²⁹ Act no. 429 dated 03 March 1924. See Resmi Gazete (*Official Gazette*), 06. 03. 1924-63 (Accessed 26 September 2016), <http://www.resmigazete.gov.tr/main.aspx?home=http://www.resmigazete.gov.tr/arsiv/63.pdf&main=http://www.resmigazete.gov.tr/arsiv/63.pdf>.

³⁰ Ibid.

³¹ Kutlu, “Diyanet İşleri Başkanlığı”, 108.

³² Act no. 429 dated 03 March, 1924, *Resmi Gazete*.

demand for organised and satisfactory religious services. Democrat Party (*Demokrat Parti*)³³ policies facilitated the resurgence of Islam in political, public and social spheres, and this enabled the Diyanet to actively assist the promotion of Islam in Turkish public life. The enforcement of compulsory religious education, the introduction of religious programs to state radio and the initiation of an extensive programme of mosque-building were all significant developments that simultaneously attested to the re-emergence of both the Diyanet and Islam.³⁴ When a military coup removed the Democrat Party from power in 1960, the new military regime acknowledged the continued importance of religion by supporting the Diyanet and its continued existence in Turkey.

In June 1965, a comprehensive law (Act No 633) relating to the Diyanet was enacted by the coalition government made up of the Republican People's Party (*Cumhuriyet Halk Partisi*, or the CHP) and the Justice Party (*Adalet Partisi*)³⁵. This particular regulation tasked the Diyanet with “execut[ing] the works concerning the beliefs, worship, and ethical foundation of Islam, enlighten[ing] the public about religion and manag[ing] the places of worship.”³⁶ This established the management of ethical principles and the enlightenment of the public on religious matters as two of the Diyanet's additional key functions.³⁷ This gave rise to strenuous objections that the execution of the moral principles of Islam was not compatible with principles of democracy and secularism; this in turn extended to a more general objection that a secular state should not be concerned with the people's religious morals.³⁸ Despite these objections, “to manage what is related to the principles of ethics of Islam” was added to the Diyanet's duties and

³³ During the 1940s, the Republic of Turkey's multi-party period began when the National Development Party (*Milli Kalkınma Partisi*) and the Democrat Party (*Demokrat Parti*) were established (in 1945 and 1946, respectively). In 1950, the Republican People's Party (CHP), which had hitherto been the only governing party, lost the elections and the Democrat Party assumed power. See Thijl Sunier et al., *Diyanet: The Turkish Directorate for Religious Affairs in a Changing Environment*, (VU University Amsterdam and Utrecht University, 2011), 13 (Accessed 20 March 2015), http://www.fsw.vu.nl/nl/Images/Final%20report%20Diyanet%20February%202011_tcm30-200229.pdf.

³⁴ Necati Aksanyar, “Demokrat Partinin Din Politikalarının Türk Basımına Yansımaları (1950-1954)”, *Akademik Bakış* 11, (2007), 12-15.

³⁵ The Justice Party was one of the offshoots which emerged after the Democrat Party was forced to close.

³⁶ Act no. 633 dated 22 July 1965. See *Resmi Gazete*, 02. 07. 1965-12038 (Accessed 28 September 2016), <http://www.resmigazete.gov.tr/main.aspx?home=http://www.resmigazete.gov.tr/arsiv/12038.pdf&main=http://www.resmigazete.gov.tr/arsiv/12038.pdf>.

³⁷ Act no. 633 dated 22 July 1965.

³⁸ Ahmet Hadi Adanah, “The Presidency of Religious Affairs and the Principle of Secularism in Turkey”, *The Muslim World* 98/2-3 (2008), 232 (Accessed 17 October 2016), <http://onlinelibrary.wiley.com/doi/10.1111/j.1478-1913.2008.00221.x/full>.

responsibilities.³⁹ This Act, which provides a comprehensive account of the Diyanet's activities, objectives and responsibilities, provided a concrete account of the institution and clearly sketched its legal parameters while setting out its personnel. It specifically tasked the institution with informing Turkish society about religion and consolidating the unity of the nation on matters of faith and moral principles; in addition, the institution was also tasked with purifying Islam from bigotry and superstition, both of which had no basis within the faith.⁴⁰

Between the 1980s and the early-2000s, the Diyanet helped to preserve state unity by promoting a variant of state nationalism that was heavily imbued with Islamic overtones. In the aftermath of the 1980 military coup, the Turkish elite increasingly gravitated towards an ideology known as Turkish-Islamic synthesis (*Türk-İslam sentezi*)⁴¹, which sought to combine Islam, modernism and Turkishness by bringing out the connection between Islam and Turkish state nationalism.⁴² The 1982 Constitution was the first

³⁹ The decision to include the management of the moral dimension of Islam as one of the duties and responsibilities of the Diyanet continues to arouse strong criticism from some scholars. Savcı, for instance, argues that this is a deviation from Atatürk's principles, and in particular from secularism. In his view, Atatürk had made it quite clear that religion should not be permitted to interfere in the domain of human relations. While Tarhanlı acknowledges that it is possible to – in both a legal and practical sense – incorporate organisational religious institution into a secular system, he maintains that the situation is different in the case of the Diyanet, as tasking this institution with the management of ethical principles of Islam indicates that the state has come to espouse a particular religious ideology. Similarly, Gözaydın argues: “[t]o create an administrative body that offers services to meet the general, daily needs of practicing Islam may be justifiable as ‘public service’ where a majority of the population belongs to Islam; however, to assign to this organisation a function such as ‘conducting the affairs of belief, worship and enlightening society on religious matters and the moral aspects of the Islamic religion’ whose content is legally ambiguous, indicates that the state preferred to use the organization as an ideological tool in manner different from the original intent of the founding elite. Such a wording in a law... is completely incompatible with the nation of secular state.” In setting aside the ethical and moral values of religion, she argues that the Diyanet should have been solely tasked with enlightening society on matters pertaining to religion. However, this assertion overlooks the fact that the ethical and moral dimension is intrinsic to religion. When one of the main ethical principles, (“commanding good and forbidding evil”) directly invokes Islam and Islamic law, it becomes clear that the task of separating ethics and religion may be impossible or irrelevant. İftar B. Tarhanlı, *Müslüman Toplum*, 71-150, İftar Gözaydın, *Religion, Politics and the Politics of Religion in Turkey* (Berlin: Friedrich-Naumann-Stiftung für die Freiheit, 2013), 14 and Adanalı, “The Presidency of Religious Affairs”, 232-233.

⁴⁰ Act no. 633 dated 22 July 1965, *Resmi Gazete*.

⁴¹ This is a theory or ideology that combines an Islamic element (with a 1000-year history), modernization and a Turkish element (with a 2500-year history). This ideology establishes secularism as an incubator and protector of a developed religious culture, freedom of conscience, religious belief and practice, and moral values. This ideology is predominantly concerned with the question of how Islam, modernity and Turkishness can be used to gather Turkish residents under a single rubric. The transformation from a multi-religious and multi-ethnic sultanate into a Turkish nation-state was achieved through the combination of the ideology of Turkish-Islamic synthesis with Sunni Islam and Turkish nationalism. This application strengthened the formation of national identity and Turkey's territorial integrity. Sunier et al., *Diyanet: The Turkish Directorate*, 100 and Emre Ünlücaayaklı, “The Official Discourse in Religion in post-1980 Turkey: The Official Boundaries of the Religious Field, National Belonging and Heritage”, (PhD thesis, McGill University, 2012), 99- 108 and 110.

⁴² Ünlücaayaklı, “The Official Discourse in Religion”, 51 and Sunier et al., *Diyanet: The Turkish Directorate*, 100.

instance in which this inclination towards the ideology of Turkish-Islamic synthesis became apparent. Article 136 of the current constitution, which came into force in 1982 after the 1980 military coup, states:

“The Presidency of Religious Affairs, which is within the general administration, shall exercise its duties that prescribed in its particular law, in accordance with the principles of secularism, removed from all political views and ideas, and aiming at national solidarity and integrity.”⁴³

This makes it clear that a theoretical wall of separation was implicitly established with a view of preventing religion from exerting influence upon the state. Additionally, this law established that the State viewed the Diyanet as an apolitical religious institution that promotes national integrity and solidarity. In the case of State and constitutional acts, amendments and provisions, the Diyanet should be engaged and considered as the foremost religious authority. Constitutional regulations and laws have entrusted the institution with administering all mosques, answering religious questions, organising educational religious facilities for youth and adults and training *vā'izs* (preachers) and *imāms* (prayer leaders).

Until 2010, there were no constitutional regulations that related to the institution. On 10 July, 2010, a new law (no 6002) produced changes in its structure and status.⁴⁴ The first change resulted in it being raised to the undersecretary level, with the consequence that its bureaucratic status was significantly enhanced.⁴⁵ Although there have been changes within the institution's structure since it was first established, this Act makes a significant contribution by putting fourteen main departments within the institution's structure. The second change expanded the institution's service area outside mosques and the Qur'anic courses – as a result it began to provide religious services to other state institutions, including hospitals, prisons, retirement homes and women's shelters.⁴⁶ In establishing the Bureau of Re-

⁴³ Türkiye Büyük Millet Meclisi, *Türkiye Cumhuriyeti Anayasası* (Accessed 16 September 2016), <https://www.tbmm.gov.tr/anayasa/anayasa82.htm> and The Constitution of Republic of Turkey, 1982, Article 136 (Accessed 16 September 2016), https://global.tbmm.gov.tr/docs/constitution_en.pdf.

⁴⁴ Act no. 6002 dated 01 July 2010. See *Resmî Gazete* (Official Gazette), 13. 07. 2010-27640 (Accessed 10 October 2016), <http://www.resmigazete.gov.tr/main.aspx?home=http%3A%2F%2Fwww.resmigazete.gov.tr%2Feskiler%2F2010%2F07%2F20100713.htm&main=http%3A%2F%2Fwww.resmigazete.gov.tr%2Feskiler%2F2010%2F07%2F20100713.htm>.

⁴⁵ Act no. 6002 dated 01 July 2010. Act 6002 clearly states that the existence of an intermediary state ministry is optional – this can be interpreted as establishing that the status of the Diyanet's President is comparable to that possessed by an undersecretary. See Emir Kaya, “Balancing Interlegality through Realist Altruism: Diyanet Mediation in Turkey”, (PhD thesis, University of London, 2011), 123.

⁴⁶ Act no. 6002 dated 01 July 2010.

religious Guidance for Families (*Aile İrşat ve Rehberlik Bürosu*) in the *muftis'* office in some cities and towns and the Religious Services Development Project (*Din Hizmetleri Gelişim Projesi*),⁴⁷ the institution actively sought to engage with the community “to provide guidance under the light of the Qur'an and Sunna, based on morality-centred knowledge.”⁴⁸ These activities sought to integrate people from every section of society into the religious services.

In addition, this Act brings forth regulations that relate to the President of the Diyanet's appointment process (the same official can only be nominated twice) and term of office (five years).⁴⁹ The Religious Supreme Council (*Din Üst Kururlu*), which consists of 120 individuals (including members of the High Board of Religious Affairs, regional *muftis* and theologians) identifies 3 candidates for the Presidency before the Council of Ministers chooses one of the candidates and proposes his appointment to the President of the Republic of Turkey.⁵⁰ It is possible to argue that this new procedure represented an attempt to enhance the Diyanet's administrative autonomy.⁵¹ The recent constitutional regulations are therefore synonymous with the transformation of the Diyanet from a state-controlled institution to a more autonomous and active counterpart that possessed the ability to engage large and diverse audiences.⁵² Under the AKP government, the Diyanet began to become more autonomous and the institution's president and scholars came to realise that they could declare opinions upon the truth of Islam without the threat of dismissal.⁵³ Apparently, the AKP's long-term plan for the Diyanet envisaged that it would be transformed into an autonomous religious organisation that could produce and present religious information in isolation from government influence, rather than the office of *Shaykh al-Islām*.⁵⁴

⁴⁷ This is a project that sought to expand the area of religious services beyond the mosques by providing the people with necessary religious knowledge on various subjects, including the ecological environment, education and health. This project sought to counteract bad habits such as the consumption of alcohol, drug abuse, gambling and smoking and also possibly sought to spread a socio-religious morality that would be conducive to effective and efficient religious services. See Turner and Arslan, “State and Turkish Secularism,” 220.

⁴⁸ Turner and Arslan, “State and Turkish Secularism”, 209.

⁴⁹ Act no. 6002 dated 01 July 2010.

⁵⁰ Seda Dural, “The Violence against Woman Policy of the AKP Government and the Diyanet”, (MA thesis, Faculty of Humanities, 2016), 18.

⁵¹ Sunier et al., *Diyanet: The Turkish Directorate*, 48.

⁵² Yakar and Yakar, “The Transformational Process of the Presidency of Religious Affairs”, 36-37.

⁵³ Ünlüçayaklı, “The Official Discourse in Religion”, 70-71.

⁵⁴ Sunier et al., *Diyanet: The Turkish Directorate*, 138 and Yakar and Yakar, “The Transformational Process of the Presidency of Religious Affairs”, 23-24, 26 and 36-37.

In some sense, the Diyanet may be seen as a visual or illusional image of the office of *Shaykh al-Islām*, but not a completely successor to that Ottoman religious institution. At this point, the question of whether the Diyanet is a continuation of the office of *Shaykh al-Islām* or whether it is possible to establish a similarity between them will be engaged with from two points of angles; firstly, the scope of their authority and secondly, the functions and sanctioning power of their *fatwās* (Islamic legal opinions and statements). This will contribute to the further understanding regarding the relationship between religion and the state in Turkey by offering an insight into the role of religion within the secular legal system of Turkey. This comparison between the two religious establishments will also seek to implicitly answer the question of how Turkey developed, and still develops, its idiosyncratic secular system while it maintains an officially established religious institution, the Diyanet.

3. THE DIYANET IN COMPARATION TO THE OFFICE OF SHAYKH AL-ISLÂM

The establishment of the Diyanet in 1924 may be seen as a historic moment in the history of the Republic of Turkey that separated religion from state politics in Turkey. This religious establishment was established as an apolitical administrative unit that was placed under the direct control of the Prime Minister's Office. Since its establishment, the Diyanet has been functioning as a controversial official authority that is focused only upon the administration of religious affairs pertaining to Islam. It is not a new invention in the history of Turkish political and religious culture and can in many respects be said to be a superficial or illusionary image of the *Shaykh al-Islām* (the head of religious affairs in the Ottoman Sultanate), as opposed to a successor to the Ottoman religious institution.⁵⁵ The transformation from the office of *Shaykh al-Islām* to the Diyanet may represent the replacement of traditionally functioning structures with a newly modernized apolitical institution of religion. Despite the Diyanet's restricted jurisdiction, it as a state-funded institution had, and still has today, wide ranging duties, such as assisting in religious services, employing *imāms*, preachers and *mufitīs*, funding mosques and promulgating Islamic legal opinions (*fatwās*).

⁵⁵ Bardakoğlu, *Religion and Society New Perspectives*, 9 and 55.

From the 16th century until the early 19th century, the office of *Shaykh al-Islām* gathered the administration of justice, religious advice and educational services under a single jurisdiction. This means that all *qāḍīs* or judges, *muftīs* or Muslim legal experts, and teachers were under the control of that religious office. The authority and role of the office of *Shaykh al-Islām* was acknowledged in the executive, judicial and legislative realms. Bulliet describes the jurisdiction of the office of *Shaykh al-Islām* in the following terms: “Formally [*Shaykh al-Islām*] was the chief jurist consult, Grand Muftī, of the empire, but he also governed an elaborate hierarchy of religious officials including judges, jurisconsults, and religious teachers.”⁵⁶ The office of *Shaykh al-Islām* oversaw the various functions and duties that would later be assumed by the Ministries of Education and Justice, the General Directorate of Foundations and the Diyanet. In comparison to the office of *Shaykh al-Islām* specifically between the 16th century and the early 19th century, the domain of the Diyanet is formally restricted to the area of religious affairs related to the worship, faith and moral dimensions of Islam, alone. In contemporary Turkey, the Diyanet is therefore focused only upon religious services.

During the last period of the Ottoman Sultanate, many reforms were implemented with the intent of modernizing Ottoman society and securing its territorial integrity against the many nationalist movements of that time. The foundation of new ministries, the importation of some secular laws from the West, the establishment of the *Nizamiye* courts alongside the *Shari‘a* courts may be counted among these reforms. Some duties of the office of *Shaykh al-Islām* were officially allocated to those newly established institutions and ministries. In 1920, the *Şer‘iye ve Evkaf Vekâleti* (the Ministry of Religious Affairs and Foundations), as a continuation of the office of *Shaykh al-Islām*, was reconfigured to regulate religious affairs of Muslims and pious foundations in the Sultanate.⁵⁷ That time has been described by Gormez “as a preparatory stage of the modern Republic of Turkey.”⁵⁸

In the early stage of the historical and ideological development of modern Turkish structures, nearly all social, cultural, religious and institutional connections with the Ottoman heritage and Islam were simply conceived as backwardness, and so many of them were closed. For example, the Caliph-

⁵⁶ Bulliet, “The Shaykh al-Islām”, 53-54.

⁵⁷ Gözaydın, “Management of Religion in Turkey”, 12 and Erdem, “Religious Services in Turkey”, 206.

⁵⁸ Gormez, “The Status of the Presidency”, 243.

ate was abolished, the Shari‘a courts were closed down, the Unity of Education Law (*Tevhid-i Tedrisat Kanunu*) was enacted, and the Sultan’s family was exiled from Turkey⁵⁹. These were the main reforms that put an end to the Ottoman Sultanate, its administrative system and its institutional structures.⁶⁰ However, the extension of the office of *Shaykh al-Islām* (the Ministry of Religious Affairs and Foundations) was not completely abolished. Instead, this ministry was distinctively transformed into the Diyanet, which was circumscribed by the state official laws and the constitutional regulations of the Republic of Turkey. When the position of the office of *Shaykh al-Islām* in the very final period of the Ottoman Sultanate is considered in detail, it shows some similarities with the present-day Diyanet in terms of their transformation process experienced by the two, as Turkey experienced the reforms of the late 1923s. Nevertheless, the Ottoman Sultanate’s Ministry of Religious Affairs and Foundations was officially designed as a ministry in the administrative hierarchy, and this ministry was legally able to intervene in political debates and problems of its time. Despite the functions and roles of religion and, by extension, the religious establishment during the last period of the Ottoman Sultanate started to deteriorate in the social, political and administrative strata, the office could still exert political influence over the Sultanate’s political issues.

After the establishment of the Republic of Turkey, the institutionalisation and bureaucratisation process were expedited, and the central power and work force were allocated to the newly established institutions, organisations and structures. For example, the educational services were assigned to the Ministry of Education; the management of charitable foundations was transferred to the General Directorate of Foundations; and the administration of state and popular affairs was placed under the control of the legislative power of the Grand National Assembly of Turkey and the Constitutional Courts. In contrast the extensive jurisdiction of the office of *Shaykh al-Islām*, the Diyanet’s role was restricted to religious affairs only pertaining to *‘ibādāt*, *i‘tiqād* and the moral dimensions of Islam. In this respect, it cannot be argued that the Diyanet is a full continuation of the office of *Shaykh al-Islām* when the two are compared with each other in terms of their jurisdictional power and authority. Though the Diyanet might be viewed as

⁵⁹ By expelling the Ottoman dynasty from the country, the state brought all hopes of reviving the Ottoman Sultanate to end.

⁶⁰ Erdem, “Religious Services in Turkey”, 199-200 and Turner and Arslan, “State and Turkish Secularism”, 211.

the visual continuation of the office of *Shaykh al-Islām*, these observations in their jurisdiction and authority suffice to demonstrate the discontinuity between the *Shaykh al-Islām* and the Diyanet and the inappropriateness of likening the Diyanet to that Ottoman religious establishment even under a conservative democratic government.

To fully comprehend the functional gap between the office of *Shaykh al-Islām* and the Diyanet, it is necessary to more closely engage with the functions and sanctioning power of their *fatwās*. Within the Ottoman legal system, the office of *Shaykh al-Islām* was envisaged as a state-dependent body which implemented religious affairs on the Sultan's behalf and which provided the religious legitimacy of the political authority by making reference to Islamic legal appropriateness.⁶¹ However, this does not mean that the *Shaykh al-Islām*, as opposed to the Sultan, was the head of religious administration. Erdem discusses how religion and State authority were merged within the Ottoman Sultanate:

“The Ottoman state was a form of Islamic theocracy and did not admit any distinction between religion and politics.... Thus the sultan was the leader of the country both in the sphere of religion and government. The *Şeyhülislām* could be described as the person who helped both the sultan and the vizier control the state, the law and the operations of administration from the scope of religion or in accordance with religion.”⁶²

This suggests that the Sultan was simultaneously the political and religious leader of the Ottoman Sultanate and also affirms the unity of religion and politics, as opposed to Viktor's argument that suggests the existence of the separation between them or a kind of duality in legal norms, in the Ottoman Sultanate.⁶³ Viktor identifies two separate sources of legitimacy: the first derives from Islamic law (*ḥukm shar'ī*) and the second from the Sultan's acts or orders (*qānūn*, in Turkish *kanun*).⁶⁴ Here it should be recognized that the two legal systems, which were partially based on Islamic law and the *qānūns*, were unified into a single authority by the Sultan and his Caliphate position.⁶⁵ This appears to correspond to a legal model in which

⁶¹ Görmez, “The Status of the Presidency”, 242 and Bardakoğlu, *Religion and Society New Perspectives*, 9-10.

⁶² Erdem, “Religious Services in Turkey”, 203.

⁶³ S. Knut Viktor, *Between God and the Sultan: A History of Islamic Law* (London: Hurst, 2005), 206-209.

⁶⁴ S. Knut Viktor, *Between God and the Sultan*, 207-208.

⁶⁵ Gözaydın, “Management of Religion in Turkey”, 11 and Ahmet Erdi Öztürk, “Turkey's Diyanet under

Islamic law underpins state power and the *qānūns*, with the two legal systems merging into each other and presenting themselves in the Caliphate's image. Islamic law evidently operated as the legal foundation of the state's legal system, while the *qānūns* or the state power put in place the framework that would enable the law to be applied.⁶⁶ The title 'Caliphate' given to the Sultan therefore completely embodies the combination of political and religious identities. The practice of *iftā'* which was carried out by the office of *Shaykh al-Islām* also put in place a control mechanism role that would examine the compatibility of *qānūns* with Islamic law. Vogel observes:

"The Shaykhs al-islām of the 10th/16th century worked "to make most of the [qānūns] correspond with the noble sharī'a." In part they did this by *fatwās* declaring that various qānūn rules either conformed or conflicted with the sharī'a."⁶⁷

The Ottoman Sultanate's *fatwās* established the provisions of *qānūns* illegal if they diverged from the sharī'a to an unacceptable extent or openly conflicted with it. It was normally the case that the Sultan's decrees (*fermans*) were reviewed by the *Shaykh al-Islām* to ensure that any *qānūns* incompatible with the sharī'a would not be issued or legalized. Accordingly, the *fatwās* issued by the office of *Shaykh al-Islām* were authoritative, despite the fact that they were theoretically non-binding.⁶⁸

Even though the coexistence of secular laws (*qānūn*) (albeit those that could be reconciled with the sharī'a) and religious laws (*sharī'a*) was clearly observable within the Ottoman Sultanate, the relationship between politics, religion, society and state was very different from their counterparts within the Turkish state. In the case of the Ottoman Sultanate, it was possible to identify an Islamic legal system grounded within a reciprocal relationship between the legal and political authority. While the office of *Shaykh al-Islām*, as a state-dependent structure, was responsible to the political authority, it retained the power to use Islamic law to control the sultanate's legitimacy.⁶⁹ In this legal system, the *fatwās* issued by the office of *Shaykh al-Islām* basically have three functions that do not directly map onto the Diyanet's decisions, *fatwās* and Islamic explanations. Firstly, the office of *Shaykh al-Islām*

AKP Rule: From Protector to Imposer of State Ideology?" *Southeast European and Black Sea Studies* 16/4, 623 (Accessed 04 April 2017), <http://dx.doi.org/10.1080/14683857.2016.1233663>.

⁶⁶ Viktor, *Between God and the Sultan*, 211.

⁶⁷ Vogel, *Islamic Law and Legal System*, 319-320.

⁶⁸ Vogel, *Islamic Law and Legal System*, 324.

⁶⁹ Vogel, *Islamic Law and Legal System*, 206.

enabled the Sultan's *qānūns* to attain legitimacy within the Sharī'a courts and integrate them into the shari'a-based *fatwā* format – for this reason, it issued *fatwās* which established a foundation for the implementation of the law.⁷⁰ This put in place an arrangement in which religious (*shari'a*) and secular (*qānūn*) laws were adapted to each other. This had the consequence that the *fatwās* issued by the office of *Shaykh al-Islām* emerged as a preliminary phase of the law-making process and presented themselves as a mechanism that would enable a review of whether *qānūns* are compatible with the shari'a. Secondly, the office of *Shaykh al-Islām* occasionally functioned as an out-of-court mechanism that enabled both defendant and plaintiff to present their problems to the *muftīs* in the office, and the respective parties consented to subsequently obey the *fatwā* issued by him.⁷¹ This enabled the parties to resolve their problems without going to the Sharī'a courts – in this respect, the *muftīs* in the office of *Shaykh al-Islām* could, to a certain extent, be likened to the *qāḍīs*, who sat as judges in the Ottoman Sultanate's Sharī'a courts. In addition, the issued *fatwās* could be interpreted as "out-of-court settlements". Finally, the *fatwās* issued by the office of *Shaykh al-Islām* functioned as an evidentiary basis for the *qāḍī's* verdict, and could be applied in the absence of honest, righteous or virtuous witnesses. Viktor invokes the evidential value of the *fatwās* when he observes:

"The *fatwā* has in those cases changed its function. It is no longer a clarification of an unresolved matter of law or authoritative establishment of the relevant legal rule. Instead, it has become a sort of auxiliary evidence and a crutch that the *qāḍī* could use if he had no other acceptable proof such as witnesses and confession."⁷²

In these instances, *fatwās* functioned as an acceptable proof that anchored the judiciary's verdict to an authoritative reference-point. In addition, the *fatwā* issued by the office of *Shaykh al-Islām* had the potential to depose the sultans during the times of economic, financial and political disturbance. A number of uprisings anchored in a *fatwā* issued by the office of *Shaykh al-Islām* resulted in the sultans being deposed; to this extent, the office of *Shaykh al-Islām's* *fatwā* put in place the legal foundations of these depositions. Relevant examples include the depositions of Sultan İbrahim (1648), Mehmet IV (1687), Mustafa II (1703), Ahmed III (1730), Selim III

⁷⁰ Viktor, *Between God and the Sultan*, 213-214.

⁷¹ Viktor, *Between God and the Sultan*, 215.

⁷² Viktor, *Between God and the Sultan*, 216.

(1807), Abdülaziz (1876), Murad V (1904) and Abdülhamid II (1918).⁷³ It is possible to advance the proposition that the office of *Shaykh al-Islām* was, to a certain extent, superior to that of the Sultan himself – it was certainly clear that the *Shaykh al-Islām* had a scholarly efficiency and retained the competence to issue a *fatwā* calling for a sultan's deposition on the basis of Islamic law. In the absence of the *Shaykh al-Islām*'s official sanction, for example, it was not possible for a war to be declared or for the slaughter of the Sultan's male relatives to be enacted.⁷⁴ Conversely, *fatwās* issued by the Diyanet can possess the status of ethical norms and moral values within society while being exerted as a form of social sanctioning power. However, they cannot be said to possess an authoritative function and position within the Turkish judicial system. Yavuz also stresses this advisory and non-binding dimension. He observes:

“[The Department of Religious Affairs] issues “answers” (fatwas), which are non-binding religious opinions. It is left to believers to decide whether they want to implement them. Thus, in Turkey shari'a, as the operationalization of Quranic principles, takes the form of fatwas rather than binding law.”⁷⁵

It is salient that the Diyanet's issued *fatwās* do not have any statutory power under the Turkish secular legal system to any extent at all; the obedience to an Islamic legal explanation and statements (*fatwās*) is ultimately subject to the inner decision of individuals who ask questions in order to overcome inner conflicts of lapses of understanding on matters of Islamic belief and obligation. In addition, it may be observed that the official *fatwās* issued by the Diyanet can generate a socially normative value. Because they operate within a Muslim-majority country, the *fatwās* may conceivably obtain a power of social sanction – this would apply despite the fact that they lacked a legal or statutory function within the Turkish secular legal system.

In contrast to the Diyanet's Islamic legal opinions, these abovementioned facts and incidents clearly reiterate that the *fatwās* issued by the office of *Shaykh al-Islām* have the acute sanctioning power of in the Ottoman legal system. Erdem has suggested that the Diyanet is “not exactly a continuation of the Ottoman office of the *Şeyhülislām* in terms of all of its func-

⁷³ Erdem, “Religious Services in Turkey”, 204 and Ayar, *Osmanlı Devletinde Fetvâ*, 18.

⁷⁴ Erdem, “Religious Services in Turkey”, 204.

⁷⁵ M. Hakan Yavuz, “Tukey: Islam without Shari'a?” *Shari'a Politics: Islamic Law and Society in the Modern World*, ed. Robert W. Hefner (Indiana: Indiana University Press, 2011), 164.

tions and duties but is a continuation in the point of religious service and a continuation in the post-*Tanzimat* shape and functions.”⁷⁶ This view can be upheld, to a certain extent, when the Diyanet and the *Shaykh al-Islām* are merely discussed with reference to their area of jurisdiction. However, this line of argument takes on a more contradictory appearance when the legal functionality of *fatwās* issued by the office of *Shaykh al-Islām* is taken into consideration. Because Islamic law was recognised as the foundation of the Sultanate’s legal system and the fundamentals of Islamic law were protected and implemented up until the end of the Sultanate, the legal functionality and sanctioning power of *fatwās* issued by the office of *Shaykh al-Islām* potentially remained intact and maintained their functions within in that legal system. This suggests that there exists a discontinuance and functionality lacunae between the Diyanet’s legal explanations and the *fatwās* which emanate from the office of *Shaykh al-Islām*.

CONCLUSION

During the history of the Ottoman Sultanate and the Turkish Republic, the office of *Shaykh al-Islām* experienced various institutional turbulences in the process of changing from the office of *Shaykh al-Islām* to Ministry of Religious Affairs and Pious Foundations and finally to the Diyanet. The comparative engagement with the two institutions from the two points of angles (the scope of their jurisdiction and the function and sanctioning power of their *fatwās*) brings obviously out the discontinuity and dissemblance between the two religious establishments.

The office of *Shaykh al-Islām* was tasked with overseeing administrative, educational, judicial and religious affairs during the period which extended from the 16th century to the early 19th century. Nearly half of the office’s functions were allocated to newly established institutions and ministries. It only retained authority within areas relating to religious affairs (faith, morality and worship), with its transformation into the Diyanet. The secular democratic state’s the Diyanet was only tasked with administering places of worship and informing society about religion, so it has a lower level of responsibility than the office of *Shaykh al-Islām* maintained, even during the final years of the Ottoman Sultanate. However, the Diyanet, as a state-funded institution, continues to be engaged with wide-ranging duties,

⁷⁶ Erdem, “Religious Services in Turkey”, 204.212.

which include assisting in religious services, employing *imāms* (in addition to preachers and *muftīs*), funding mosques, and promulgating Islamic legal statements (*fatwās*). A comparison of the Diyanet's authority and the office of *Shaykh al-Islām*'s (in particular between the 16th century and the early 19th century) clearly establishes the extent to which the Diyanet was confined to merely religious affairs.

It is also important to note that in other respects, the Islamic legal opinions and statements of the Diyanet are solely informative and advisory, and do not, within the secular legal system, possess any legal function or sanction. To put it differently, the Diyanet's explanations and legal statements are not binding, and the institution only imparts religious knowledge to those who seek it. When the Diyanet and *Shaykh al-Islām* are compared with reference to the functions and sanctioning power of their *fatwās*, a clear discrepancy can be observed. The efforts of some commentators to portray the Diyanet as a continuation of the office of *Shaykh al-Islām* or to claim the transformation of the Diyanet into the office of the *Shaykh al-Islām* under the AKP government are ultimately unconvincing. The function of the two institutions is quite different, and any attempt to establish a continuity rests upon insecure and unsound ground. The presence of the Diyanet within the Turkish state does not entail to categorise or label Turkey as a completely religious or secular; rather, the presence of such a religious institution should instead be interpreted as a form of "hybrid" secularism.

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