This report focuses on “Protecting Christian Heritage in Turkey” through the protection, return and restoration of confiscated Christian properties and related issues. The overriding factor affecting these issues begins and ends with the lack of a legal status for Christian religious communities in Turkey.

The Five Issues

The deprivation of this fundamental right is one of the five major religious freedom violations identified by the Order of Saint Andrew the Apostle pertaining to the Ecumenical Patriarchate. Without question, the lack of a legal status directly impacts and forms the basis for the Order’s four other identified major religious freedom violations by the Turkish Government: (1) interfering in the election of the Ecumenical Patriarch by requiring Turkish citizenship and controlling by veto any candidate for the position, (2) failing to recognize the “Ecumenical “ status of the Patriarch and Patriarchate as the world-wide spiritual leader and Holy Center of Orthodox Christianity (3) forcibly closing down the Theological School of Halki creating the inability to train new clergy, and (4) confiscating thousands of Orthodox Christian related properties.

Turkey’s Human Rights Obligations

Turkey is a country of geo-strategic importance located in two continents at the crossroads of Europe and Asia. It is a member of the United Nations, Council of Europe, NATO, Organization for Security and Cooperation in Europe (OSCE) and in 2005 began formal accession negotiations to join the European Union. Accordingly, its relationship with the United States remains a priority in our country’s foreign policy and ensuring our country’s fundamental rights as freedom of relig-
ion is a matter which Turkey and our country should embrace together as partners in member organizations. Moreover, by virtue of its membership in all these organizations, Turkey has taken on binding obligations to protect the rights of religious minorities.

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

The system of Minority (Community) Foundations and The Treaty of Lausanne

Turkey’s participation in the European Union accession process has provided an impetus for some signs of progress in religious freedom and minority rights under the above obligations as explained below, but the underlying principles basic to religious freedom values are not allowed. As stated, non-Muslim religious minorities do not have a legal status (a “legal personality”) in Turkey to acquire and enjoy property rights in their own names. Rather, Turkey as a secular State, has established a system of minority (community) foundations for non-Muslim religious minorities to hold property supervised and controlled by the Turkish government’s General Directorate of Foundations. The system of foundations was established with the formation of the Turkish Republic under the Treaty of Lausanne in 1923 and, at that time, Turkey principally recognized three non-Muslim religious minorities: Greek Orthodox, Armenian Apostolic Patriarchates, and Jewish Chief Rabbinate. Foundation law had its roots in earlier Ottoman Empire decrees and administrative reforms where these non-Muslim religious minorities were referred to as “pious deed corporations.”

Through the foundation system, restrictions on religious freedom existed even though the intent of the Treaty of Lausanne was to grant these religious minorities equal rights. Articles 40 and 42, Paragraph 3, of the Treaty related to minority foundations and granted Turkish nationals belonging to non-Muslim minorities equal rights to exercise their own religion freely. The Turkish government was to
grant full protection to religious establishments of non-Muslim minorities. “All facilities and authorization will be granted to the pious foundations, and to the religious and charitable institutions of the said minorities at present existing in Turkey, and the Turkish Government will not refuse, for the formation of new religious and charitable institutions, any necessary facilities which are guaranteed to other private institutions of that nature.” (Article 42, para. 3).

However, with the systematic seizure of non-Muslim minorities properties by the Turkish government in the years that followed, the provisions of the Treaty were essentially disregarded. Being Turkish and Muslim became the new nationalism at the expense of non-Muslim religious minorities resulting in discrimination and the confiscation of properties.

**The Diyanet and the Laws on Religious Foundations**

While Muslim religious communities, as the Alevi Muslims minority representing up to 25% of the Turkish population, also lack a legal personality, the majority religion, being Sunni Muslim, is treated in a far different manner. For all practical purposes Sunni Muslims have a legal status exercised through The Diyanet or Directorate (Presidency) of Religious Affairs, which being all Sunni Muslim, reports to the Prime Minister and exerts a large influence on the extent to which freedom of religion is enjoyed in Turkey. Only the Diyanet administers Mosques which must all be Sunni and administers some 600 mid-level clergy training schools. Only the Diyanet receives substantial financial support, in billions of dollars, for its activities from the Turkish Government. Without any such financial support combined with the lack of a legal status, non-Muslim religious minorities, and the Alevi Muslim minority, have difficulty in exercising religious freedom. Indeed, Alevi Muslim’s houses of worship are not recognized by the Turkish government and all religious minorities have no open clergy training facilities.

A 1935 Law on Religious Foundations, and the subsequent 1936 Decree, required all foundations, Muslim and non-Muslim alike, to declare their properties by registering the same with the General Directorate of Foundations which oversees minority foundations. By the 1960’s, with tensions rising between Greece and Turkey over Cyprus, the declared properties list was used to seize properties of non-Muslim religious minority foundations. Although the minority foundations had declared their properties by 1936, many were not officially registered by the government and accordingly seized. Thereafter, in 1974, at the time of the Cyprus crisis, Turkey’s highest court ruled that non-Muslim religious minorities were “foreigners” and could not obtain real property. Properties were limited to those declared in 1936 and that properties purchased or donated after that date were considered to be acquired illegally resulting in the confiscation of all such properties.
Since the time of the Cyprus crisis, and with Turkey seeking to join the European Union, some limited progress has developed to solve the problems of non-Muslim religious minority foundations. The 1935 law on Religious Foundations has been amended in 2002, 2003 and 2008 to allow religious minority foundations, with restrictions, to acquire property and apply for the return of confiscated properties. The 2002 amendment allowed minority foundations to acquire real property with the permission of the government based on “need”. The 2003 amendment allowed for the acquisition of properties with only the approval of the General Directorate of Foundations and listed 162 authorized minority foundations. The 2008 amendment provided for a limited return of seized property by application, but with no mention of just compensation or third party ownership issues. Despite these amendments, little progress was made, the vast majority of applications denied, and the goals for the return of confiscated properties were not attained.

**The August 27, 2011 Decree**

Within this historical context, as a positive development, Turkey’s Prime Minister, Recep Tayyip Erdogan, announced by Decree on August 27, 2011 (not parliamentary law) that the 162 minority foundations may apply to regain religious property declared and registered in 1936 and confiscated from them by the State or seek compensation. The Decree also provided for the formation of new religious community foundations as a corrective measure in the 1936 registration of properties law. Applications to regain property generally had to be made within 12 months—by August 27, 2012—and regulations for implementation were adopted October 1, 2011. Of the 162 recognized minority foundations, over 70 are Greek Orthodox which claimed over 1000 properties in issue since the 2008 applications. However, as of July of last year, only 16% of all minority foundation applications, Greek Orthodox and others, received a positive response. That number has risen to approximately 25% or over 300 properties returned as of this date. Yet, it is not the number of properties returned that matters but the quality of properties returned. For example, an important and symbolic return of property has been the decision of the Council of Foundations, a part of the General Directorate of Foundations, to return 190 hectares (470 acres) of forestland to the Aya Triada Monastery Foundation of the Halki Seminary. However, the vast majority of well over 1000 applications were rejected or still have received no assessment and the Halki Seminary itself, despite its gain of forestland, remains closed.

In addition, the Decree is narrow in its scope. It does not cover property that was not declared by minority foundations under the 1936 law or property that was “nationalized” by the State. It also does not cover the seizure of properties from religious institutions that do not have foundations. For example, property that once
belonged to the Catholic or Anglican churches is not covered. These churches have neither a minority foundation nor—like all religious minorities—indipendent legal status. Most important, it does not address the properties of government seized minority foundations which the government took over because of its claim of lack of foundation board elections or charitable purposes. Further, under the Decree, the determination of compensation, when in issue, is not made by an independent body but rather through the government.

**Election of Minority Foundation Board Members**

For the properties returned, an overriding issue remains that election of foundation board members, none of whom may be clergy, has been delayed by the Turkish government. This delay creates a troubling concern as to how returned properties will ever be effectively managed. The attrition of the religious minorities population, especially in the Greek Orthodox community, without election of Board members, in practice means that returned properties cannot be sustained by minority foundations. This issue is of such importance that the duly elected minority representative to the General Directorate of Foundations, Laki Vingas, resigned in protest, but has since returned to his position on the government’s promise that the issue of elections will be vetted. Foundation elections, however, still have not been authorized to date.

**European Court of Human Rights and the Issue of a Legal Status**

With the history of enforcement of religious freedom provisions for non-Muslim minorities under the Treaty of Lausanne and Turkish law being restrictive and tied to geo-political concerns, resort to the European Court of Human Rights (ECHR) has been an alternative avenue to pursue non-Muslim religious minority rights in Turkey. For example, after extensive litigation, the Ecumenical Patriarchate obtained a ECHR Judgment in 2008 for the return of the Prinkipos (Buyukada) Orphanage Building, which to Turkey’s credit, has been implemented and accepted by the Turkish Courts. The Judgment produced in November 2010 a deed title for the property in the name of: “Rum Patrikhanesi” (Patriarchate of the Roman Greeks), the official name for the Ecumenical Patriarchate used by the Government of Turkey.

This is an important development. Even though Turkey does not recognize a legal status for the Ecumenical Patriarchate, the deed title as issued and accepted by the Turkish Courts in the name of Rum Patrikhanesi creates a de facto legal status. It establishes a legal argument to further the cause of obtaining official recognition of a legal personality for the Ecumenical Patriarchate and all religious minorities. Also, in March 2011, Turkey implemented a ECHR Judgment of March 2009 which returned property rights to the Greek Orthodox minority foundation
(Kimisis Theodokou Greek Orthodox Church) in the island of Tenedos (Bozcaada). Further, a significant ECHR case was settled in 2013 whereby the General Directorate of Foundations returned the historic former Ayia Foka Greek Elementary School building in Istanbul to the foundation despite the fact that it was utilized as the offices of the government's European Union Ministry.

**Halki and the Reciprocity Issue**

Turkey’s acceptance of these ECHR judgments raised the hope that the Halki Seminary would be reopened. On September 30, 2013, Prime Minister Recep Tayyip Erdogan announced the government’s reform or “democratization” package. It contained electoral reforms and abolished the headscarf ban for the personnel of public institutions with the exception of armed and security forces and members of the judiciary. The opening of Halki was originally included in the package. However, it was removed at the last moment and proved to be a major disappointment to non-Muslim religious minorities.

The Turkish government has also utilized Article 45 of the Treaty of Lausanne, the so-called reciprocity clause, to justify the continued closure of the Halki Seminary. It reads: “the rights conferred by the provisions of the present Section on the non-Muslim minorities of Turkey will be similarly conferred by Greece on the Muslim minority in her territory.” Turkish authorities argue, for example, that a Mosque must open in Athens in exchange for Halki Seminary to open. The argument has no merit as it was never meant to apply to a state’s own citizens. Moreover, under modern international law, human rights take precedence over any agreements of reciprocity between states. Neither Turkey nor Greece can deny that its own citizens should be treated equally as to basic and fundamental rights.

**Constitutional Reform**

Turkey’s recent efforts to draft a new Constitution also raised the hope of all minorities for religious freedom and equality as citizens of the country. On February 20, 2012, Ecumenical Patriarch Bartholomew was invited by the Speaker of the Grand National Assembly of Turkey to appear before the Inter-Party Committee for the drafting of a new Constitution. In His appearance, His All Holiness discussed religious freedom issues and presented an 18 page document prepared by all minorities emphasizing the need for religious freedom, religious education and equality. However, under the proposed Constitution draft section entitled “Fundamental Rights and Freedoms”, political parties disagreed and could not come to a consensus on the definition of citizenship, the right to freedom of religion, equality and religious education.
For example, the main opposition Republican People’s Party (CHP) proposed the inclusion of a statement that the State would take into account the religious pluralism in society in its governance on religion. The ruling and majority Justice and Development Party (AKP) opposed such language. The AKP and CHP could also not agree on the continuation of compulsory secondary school Religious Culture and Knowledge of Ethics (RCKE) courses which instruct pupils in Sunni Islam and is supported by the AKP majority. For these reasons, and other political disagreements, the Constitutional Reconciliation Commission which was to draft the new Constitution ceased functioning in November 2013, and without such agreement on educating Turkish youth on religious diversity, a cycle of inequality for religious minorities continues to perpetuate itself.

The Protests and the “Parallel State”

Complicating the failure of the Constitution drafting process has been the Gezi Park protests in Istanbul which began in May-June 2013 over the Park’s proposed development, but evolved into broader protests for protection of human rights. Further, claims of political corruption has led the AKP majority to blame a “parallel state” which the AKP alleges is controlled by Fethullah Gulen, an influential Iman based in the United States. The AKP asserts that Gulen is seeking to topple the government and that “Gulenists” have established a presence in the police and judiciary. As a result, the government removed thousands of prosecutors, judges and police officers and enacted laws for oversight of the judiciary and internet. Allegations of corruption in recorded political telephone conversations which became public led Prime Minister Erdogan to enforce internet bans of Twitter and You Tube in March 2014. In response, Turkey’s Constitutional Court has ruled that the bans were unconstitutional and lifted the blockade. Despite this political turmoil, Mr. Erdogan remains popular. Barred by party rules from running as prime minister for another term, on July 1, 2014, he announced that he would run in Turkey’s first direct popular ballot presidential election on August 10, 2014. He won that election and was sworn in as President on August 27, 2014. The next day, on August 28, 2014, Ahmet Davutaglu, a loyal ally of Mr. Erdogan, was sworn in as prime minister. As President, Mr. Erdogan will continue to be the powerful leader of the Turkish government amid the past year’s political unrest. All 550 members of Turkey’s parliament, the Grand National Assembly, will run for election on June 13, 2015. If the AKP party obtains a majority in the Assembly, political analysts have observed that the AKP may seek to change Turkey’s political system to place the power in the office of President rather than in the office of the prime minister.
**Christian Heritage and Hagia Sophia**

The issue for the non-Muslim and Alevi Muslim religious minorities is whether these events will limit or change any attempt to implement progress for protections of religious freedom and equality or whether now President Erdogan will take the lead to guarantee such protections. This is the issue that His All Holiness, Ecumenical Patriarch Bartholomew, and all other religious minority leaders, face daily in Turkey. A troubling sign in this regard is that the protection of Christian Heritage has continued to diminish during this time. Important and historical Orthodox Churches which functioned as museums and drew Christian tourists have recently been converted into Mosques and lost their identity. One such case is Hagia Sophia of Nicaea, in present day Iznik, which served as such a museum and an important destination for Christian tourists. Nicaea is where bishops from all over the Roman Empire gathered in 325 A.D. at the First Ecumenical Council to formulate the Christian Nicaean Creed. Hagia Sophia of Nicaea was built in 550 A.D. fashioned after the Great Church of Hagia Sophia in Constantinople. At Hagia Sophia of Nicaea the Seventh and last Ecumenical Council took place in 787 A.D. to denounce iconoclasm and open the world to Christian religious art. Yet, in 2011-2012, the Church is no longer a museum and has been converted by the government into a Mosque.

In May, 2014, the U.S. Commission on International Religious Freedom released a statement on a bill introduced in Turkey’s parliament that would change the status of the historic Hagia Sophia in Istanbul from a museum to a Mosque. The Commission stated “…Whether driven by political considerations tied to Turkey’s forthcoming elections, or for any other reason, opening Hagia Sophia as a mosque would clearly be a divisive and provocative move. It would send the message that the current government sees the sensitivities of Turkey’s religious minority communities, particularly its ancient Christian community, as being of little or no consequence.”

**His All Holiness, Ecumenical Patriarch Bartholomew**

On May 25-26, 2014, His Holiness Pope Francis as the world-wide spiritual leader of all Roman Catholic Christians and His All Holiness Ecumenical Patriarch Bartholomew as the world-wide spiritual leader of all Orthodox Christians held a historic meeting for a dialogue of unity in Jerusalem to commemorate the fiftieth anniversary of the legacy of unity discussions held there by their predecessors, Pope Paul VI and Ecumenical Patriarch Athenagoras. As global heads of the Roman Catholic and Orthodox Churches, the two largest Christian Churches, they signed a Joint Declaration affirming their commitment to seek unity and expressed their profound concern for the persecution of Christians in the Middle East. This was a world event extensively covered by the press and meetings also occurred
with the two religious leaders and the heads of State of Israel and the Palestinian Authorities. Thereafter, Israeli President Shimon Peres and Palestinian President Mahmoud Abbas met in Rome on June 8, 2014 with Pope Francis and Ecumenical Patriarch Bartholomew to pray for peace.

Yet, despite this world-wide recognition of the status of His All Holiness, Ecumenical Patriarch Bartholomew, and despite His being a Turkish citizen and having served His country honorably in the Turkish military, the Turkish government will not officially recognize His status as the “Ecumenical” world-wide spiritual leader of all Orthodox Christians. It will give no legal status to His Ecumenical Patriarchate. It will not allow the complete freedom for the election of His successor as Ecumenical Patriarch. It will not allow the training of His clergy and the opening of the Halki Seminary. It will not allow the return of all Greek Orthodox confiscated properties He needs to oversee without restrictions. His religious freedom remains compromised although the history of His country is tied to the historical doctrines and origins of Christianity.

The hope is that Turkey will determine, as its laws and political parties progress, to embrace the historical roots of Christian heritage in its lands and embrace His All Holiness, Ecumenical Patriarch Bartholomew, and all minority religious leaders, for their accomplishments and moral characters as Turkish citizens. All religious minorities look toward this positive solution. However, until meaningful change occurs, the Order of Saint Andrew the Apostle, through all Archons, must remain vigilant to protect and preserve the Ecumenical Patriarchate and to promote religious freedom and human rights for all religious minorities in Turkey.