

## **Democratic Rights of Turkish Immigrants in Germany; Enduring Discrepancy of Theory and Practice**

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**Abstract:** The academic research and practices on democracy present western countries as almost perfect democracies in theory; however, focusing on citizen-based analysis they neglect major democratic rights of immigrants and their families in practice. Even if these immigrants gain the citizenship of the receiving country where they settled, they still face discrimination in their social, economic and political lives. There has been a dramatic increase in hate-crimes, anti-Islamism, intolerance and discrimination towards Muslim immigrants in western countries during the last two decades, parallel to continuous increase in migration from third countries. These anti-discriminatory practices motive us to evaluate democratic rights of immigrants in these countries in order to contribute and further democracy studies and research for disadvantaged immigrants and immigrant ancestor. This study benefiting from a case study, evaluates the democratic rights of Turkish immigrants in Germany, as the largest immigrant group. The study seeks how Turkish immigrants practice their citizenship rights, religious rights, right to vote, and right to be elected. As an analytical approach, we benefited from Dahl's framework on democracy structured by eight criteria that need to be in a democratic country: right to vote, right to be elected, right of political leaders to compete for support and vote, free and fair elections, freedom of association, freedom of expression, alternative sources of information, and institutions for making public policies depend on votes and other expressions of preference. Our findings and analysis show that many discriminatory practices toward Turkish immigrants with Muslim background while performing their democratic rights. Therefore study offers public decision-makers and NGOs of both Turkey and Germany should co-operate in order to enhance democratic rights of these immigrants.

**Keywords** – *Citizenship, Dahl's framework on democracy, Democratic rights in Germany, Turkish immigrants.*

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### **I. INTRODUCTION**

There are plenty of studies about defining and measuring democracy in different countries, but you can hardly see a consensus on universal criteria. Although there are some disagreements about the details, Robert A. Dahl's framework on democracy, structured by eight criteria in his book "Polyarchy", has been used by many political scientists. Dahl's criteria are the right to vote, the right to be elected, the right of political leaders to compete for support and votes, free and fair elections, freedom of association, freedom of expression, alternative sources of information, and institutions for making public policies depend on votes and other expressions of preference (Dahl, 1971: 3; Lijphardt, 2012: 47). The first five criteria are about elections that need to be comprehensive, competitive and fair while the last three criteria are about political and social rights which are important at any time (Bingöl, 2011: 11). Dahl's criteria are mostly used to draw a general framework of countries which are thought to be democratic. However, there is a need to make deeper analysis to measure all these criteria by country-specific examples. Lijphardt (2012), for example, takes some criteria used by many researchers including Dahl's eight criteria in order to compare thirty six democratic countries, and he finds out how principal social and economic characteristics influence the types of democracy and democratic performance. Gullermo O'Donnell (1996) evaluates the problems within Latin American democracies by adding two new criteria to Dahl's eight criteria: elected politicians should not be able to prolong their ruling period depending on their will, and elected politicians should not be limited by any kind of power who are not elected but appointed such as military officials. On the other hand, Freedom House publishes country-specific surveys each year to classify whether a democratic country is free, partly free or not free. Freedom House makes in depth analysis on human rights, civil society, freedom of expression, internet freedom, rule of law, elections, religious freedom and LGBTI rights in a specific country<sup>1</sup>. The measurement tools that Freedom House uses in its methodology are derived from the Universal Declaration of Human Rights. Most of these criteria are very similar to Dahl's eight criteria framework. The definitions and measurement of democracy studies above are essential but still need to be supported by more specific research because special analysis on the democratic

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<sup>1</sup> Detailed information can be found on the official website of Freedom House: <https://freedomhouse.org/our-work>

rights of different ethnic, religious and interest groups in democratic countries can provide more inclusive and detailed results. This study evaluates a very unique example of democratic rights of the largest minority group Turkish immigrants who migrated from Turkey to Germany. In their top-down analysis, some researchers sometimes ignore democratic rights of minority groups while they define and measure democracy in a country. The reason is that these researchers mainly focus on the rights of people who are citizens but majority of the immigrants stays as non-citizen. Moreover, even if an immigrant gains citizenship in the receiving country, there is no guarantee for the elimination of discrimination towards him. It is important to find out how minority groups can practice their democratic rights in countries considered as good democracy. In order to make a specific analysis, descriptive analysis is applied to explain how Turkish immigrants in Germany practice their democratic rights. The study evaluates the following rights of Turkish immigrants: citizenship rights, religious rights, right to vote and right to be elected in terms of Dahl's framework. Considering these rights, we face many unequal treatments of Turkish immigrants, especially the ones with Muslim background. It is important to tell that Turkish immigrants are not composed of one ethnicity, language or religion, but rather different backgrounds such as Kurdish, Turkish and Alevi. It has been argued that there are many problems about democratic rights of Turkish immigrant with Muslim background despite the fact that Germany is mostly considered as a good example of democracy. In the first part of the study, there is a general review of the history of immigration and democracy in Germany. The second part consists of the current status of democratic rights of Turkish immigrants and the evaluation of these rights by focusing on the problematic issues. These rights are the following ones: citizenship rights, religious rights, right to vote and right to be elected. In the last part of the study, there is a general conclusion of discussions and evaluations of democratic rights of Turkish immigrants in the previous parts. We also give policy recommendations for decision-makers and NGOs in Turkey and Germany in order to enhance democratic rights of Turkish immigrants, and to eliminate discrimination towards them.

## **II. TURKISH IMMIGRANTS AND DEMOCRACY IN GERMANY**

The migration from Turkey to Germany after the Second World War interrelated both societies into each other. Bruneau (2010: 42) claims that "in the second half of the twentieth century (1957-2000), more than three million Turks migrated to Western Europe, with two thirds going to Germany". Thus, majority of Turkish immigrants now reside in Germany and they also compose the largest minority group there. Most of these immigrants are now permanent residents "whose activities, needs, demands and social impacts extended far beyond the economic sphere" (Koopmans et al. 2005), because they settled themselves in receiving countries (Slater, 1981). For instance, they increased their voices to get more rights such as freedom of religion, citizenship rights, freedom of association and right to educate themselves in minority languages.

According to Federal Statistical Office of Germany, there was an increase of 519.340 people in foreign population in 2014, but 60 per cent of these people (306.717) are the citizens of other European countries such as Poland, Romania and Bulgaria.<sup>2</sup> Depending on this data, the number of foreign population raised from 56.901 to 118.196 by 100 per cent increase due to political struggle in Syria. However, it is interesting note that the number of Turkish immigrants (as the largest immigrant group in Germany)<sup>3</sup> with Turkish citizenship is continuously decreasing because of the people who turned back to Turkey and some others who gained German citizenship due to German legislation which limits dual citizenship. The data shows that immigrants who are non-citizens have been decreasing continuously because many of them from third countries prefer to gain German citizenship, or they return to their country of origin. This study, therefore, evaluates the democratic rights of Turkish immigrants with Muslim background from third countries, and we ignore the citizenship issue because discrimination towards this immigrant group continues despite the fact that they gain German citizenship.

Germany is thought to be in the second wave of democratization from 1940s to 1970s as Huntington (1991) proposed in his framework of three waves of democratization. In this framework, the countries which have been democratic since 1940s are the part of first wave of democratization. The second wave of democratization includes the countries which have been democratic since 1950s and 1960s. The last wave starts by the end of Portuguese dictatorship in 1974 so includes countries which are democratic after that time (Huntington, 1991). In his research, on the other hand, Lijphart (2012) compares thirty-six democratic countries which are thought to be democratic in 2010 as Freedom House asserts, and he tries to find out how principal social and economic characteristics influence the types of democracy and democratic performance. Lijphart (2012:49) classifies these countries according to the first year of democratic elections since 1945 or since independence, and he points out that Germany is regarded as democratic since 1949. Moreover, Germany is a semi plural society due

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<sup>2</sup> Detailed information can be found at: [www.destatis.de/DE/PresseService/Presse/Pressemitteilungen/2015/03/PD15\\_097\\_12521.html](http://www.destatis.de/DE/PresseService/Presse/Pressemitteilungen/2015/03/PD15_097_12521.html)

<sup>3</sup> The population of Turkish immigrants who does not have German citizenship is about 1.5 million in Germany, while another 1.5 million has German citizenship (DIAM, 2015).

to number and relative sizes of the ethnic and religious groups, and its population was about 82 million in 2009 (Lijphardt, 2012; Colomer, 2011).

There are different opinions about the German party system whether it is two-party system or not, because Christian Democratic Union (CDU-Christlich Demokratische Union) and Christian Social Union (CSU-Christlich Soziale Union) parties are considered as two closely allied parties. For instance, Jean Blondel (1968) assumes CDU and CSU as one party, while Manfred G. Schmidt (1996: 95) claims that there have been three major parties until mid-1990s in Germany: “the CDU-CSU, the SPD (Socialists-Sozialdemokratische Partei Deutschland) and the Liberals”. Furthermore, Lijphardt (2012:68) argues that there is no competition between CDU and CSU for vote, because CSU operates in Bavaria while CDU operates in the rest of Germany. Considering these opinion above, we can claim that Germany party system is between two parties and one-party. Since the first democratic election in 1949, there have always been coalitions in Germany. In the first 66 years, prime ministers from CDU ruled the country for 46 years, while prime ministers from SPD has ruled for 20 years (DIAM, 2015). Since 2005, CDU politician Angela Merkel is Prime Minister (Bundeskanzler) in a coalition consists of CDU/CSU and SPD. Except from these political parties, there are some other parties, who became the part of coalitions in different time periods: Green Party (Bundnis 90/Die Grünen), German Party (Deutsche Partei) and Free Democrat Party (FDP-Frei Demokratische Partei). These are the most important political parties in German politics. It is also important to note that Germany is a federal and decentralized country which consists of sixteen federal states (Lander). That means there is division of power and decentralization of power between federal states and the central government, because each federal state has its own parliament. For instance, federal units in Germany have sovereignty to organize their educational policies.

Majority of the democracy studies about Germany asserts that it is a good example of democracy; however, there have been huge debates about the democratic rights of immigrants in this country. Germany is thought to be an immigrant country (Einwanderungsland) due to the migration of foreign workers (Gastarbeiter), immigrants and refugees since 1960s, and Turkish immigrants composes the largest minority group there. However, there have been many problems about these immigrants since they decided to stay in Germany instead of going back to their country of origin as initially expected by German authorities. Therefore, their integration to German society has become an important issue due to their cultural, ethnic and religious background. The most well-known problems arises in the areas of citizenship rights, religious rights, right to vote and right to be elected. The reasons of these problems are not one-sided; it is rather two-sided problem which means that both German authorities and Turkish immigrants need to take effective actions. Moreover, current government in Turkey is more interested in the rights of immigrants in Europe compared to previous governments. Therefore, the attitude of the Turkish government is also important in enhancing the democratic rights of Turkish immigrants in Germany. At that point, individuals, governments and NGOs need to take responsibility to find out new policies in order to enhance immigrants’ rights. Following title covers the current legal status of democratic rights of Turkish immigrants. The main reasons of the problems in using these rights are discussed and analyzed.

### **III. DEMOCRATIC RIGHTS OF TURKISH IMMIGRANTS**

Germany is known as a country which has democratic rights at the universal standards but if we talk about the rights of immigrants and refugees we face a different scene. When we talk about democratic rights of Mexicans, black people and Muslims in America, or democratic rights of immigrants and refugees in Europe; we find many examples of unequal applications and discrimination towards different ethnic, religious or cultural minority groups. Abraham Lincoln’s definition “democracy by and for the people” is a very essential reference for the researchers who study democracy. When we consider the term “by the people”, we mean universal suffrage, free and fair elections which are supported by freedom of expression and association. On the other hand, “for the people” means that governments should be responsive to the voter’s preferences (Lijphardt, 2012). Like Lincoln, Dahl also argues that institutions which are responsible for making public policies must consider votes and other expressions of preferences because it is an important for a democracy. Many researchers take some criteria to define and measure democracy similar to Lincoln’s definition and Dahl’s framework. In this direction, they need to make comprehensive studies which include the rights of minority groups which are culturally, ethnically and religiously different. Citizenship-based studies take legal citizens of democratic countries as unit of analysis but these studies mostly ignore minorities which does not hold citizenship but reside in these countries. Moreover, even if they hold citizenship of the receiving country where they settled, these studies cannot measure discrimination towards citizens with immigrant background. For instance, the population of Turkish immigrants without German citizenship is about 1.5 million in Germany, while another 1.5 million has German citizenship (DIAM, 2015). If a member of minority group cannot vote or be elected in democratic elections due to non-citizenship how can we talk about the Lincoln’s definition of ‘for the people’ meaning that decision makers should be responsive to preferences of everybody in a country? Even if an immigrant holds citizenship but still faces discrimination due to its different ethnicity, culture or religion

how can we talk about equality for all in a democratic country? As a multi-cultural society, German authorities face these issues; therefore, there is a need for the analysis of legal status of democratic rights of immigrants in Germany. However, it is also important to consider some problems appear due to factors depending on immigrants such as strong ties with the country of origin, conservatism, religion, cultural background. These factors prevent immigrants from integrating themselves to the receiving countries, and they result in lack of communication.

In order to find out the legal status of democratic rights of immigrants in Germany, we should firstly understand the attitudes of German political parties towards immigrants. The number of immigrants and refugees who migrate to Germany increases each year due to social, political and economic crises in their countries of origin. On the other hand, the population of Germany is getting older according to many studies, and Germany need about half million foreign workforce to sustain its strong economy (DIAM, 2015). However, CDU and CSU struggle between their voters' preferences and economic issues. Therefore, both parties are skeptic about immigration, and they are reluctant about establishing legislation to enlarge economic and political rights for the immigrants. Instead of this, they try to find out new ways like state incentives for new-born German babies to increase their young population who can provide workforce for the economy; however, they have not been successful until now. Although these parties are favor of controlled migration to Germany, SPD and Green Party have a very positive attitude toward immigration. SPD and Green Party are very tolerant toward immigrants and refugees compared to CDU and CSU. For instance, co-chair of Green Party is Cem Özdemir with Turkish background while SPD politician Aydan Özoğuz has also Turkish origin and she is the minister who is responsible for Migration, Refugees and Integration. Thus, these parties accept the reality that Germany is a multi-cultural society so they follow positive policies in this direction. In addition, CDU/CSU and FDP only accept immigration for the necessary workforce in some sectors which cannot be supplied by German citizens, while SPD and Green Party seek policies to open the doors for refugees and immigrants. Moreover, it is important to note that these parties have many foreign politicians as party member. This information above shows that the attitude of SPD and Green Party is in the same line with Dahl's eight criteria, therefore, these parties are more likely to enhance democratic rights of immigrants in Germany.

### **3.1. Citizenship Rights of Turkish Immigrants**

Citizenship is an important concept which creates mutual responsibilities and duties for citizens and the state. It binds citizens legally and politically to the state which has sovereignty to decide how the rules and regulations need to be. However, these rules and regulations cannot conflict with democratic constitutions, international agreements and contracts. There are three commonly accepted ways of gaining citizenship in the literature: a familial link (*jure sanguinis*), birth place (*jure soli*), and acquired nationality (DIAM, 2015). If a country defines itself as migration country and aims to integrate immigrants into its society, they establish birth place approach. On the other hand, countries whose citizens migrate to other countries or which attach importance to domestic allegiance they follow familial link approach in order to control its population (Doğan, 2002: 26-40). Germany is a good example of a country which attaches importance to domestic allegiance and follows familial link approach in naturalization regulations. The other ways of naturalization are citizenship by marriage to ensure family integrity, asylum, adoption, citizenship as a result of social, cultural and economic integration by staying too long in a country (Aybay, 2004; Erdem, 2010). Historically, consciousness of being German developed before the consciousness of the state, so the understanding of citizenship in Germany is based on familial link, ethnicity, culture and language (DIAM, 2015). Brubaker (2009) argues that the understanding of citizenship in Germany was inherited from the discriminatory national identity legacy of the Prussia. Compared to France where universal and integrationist citizenship ideas appeared, Germany developed a contrary citizenship idea because German empire was not established as a modern state but rather it was organized by independent German kingdoms and principalities (Brubaker, 2009). Therefore, it was hard to establish a central citizenship notion during this period. Interestingly, Germany used the German Empire's legal definition of citizenship from 1913 until 2000 which was based on two kinds of citizenship: imperial citizenship (*Reichsangehörigkeit*) and federal state citizenship (*Landesangehörigkeit*) (DIAM, 2015). Federal structure of the country necessitates two kinds of citizenship due to share of power between federal states and central authority.

#### *3.1.1. Dual Citizenship Rights of Turkish Immigrants*

In Germany, when SPD and Green Party were in the coalition in 1999, they tried to establish a new legislation in order to provide the right of dual citizenship for the immigrants who stayed in Germany for a certain period of time, but CDU and CSU reacted against this legislation so they could only establish a conditional legislation which could not solve the problems of citizenship for the immigrants until 2014 (DIAM, 2015: 25). According to first condition, when a foreign baby with foreign parents born in Germany, he/she had right to gain German citizenship if one of his/her parents had been staying in Germany for more than eight

years. However, according to ‘option model’, this person had to choose between German citizenship and his already existing foreign citizenship until the age of 23.<sup>4</sup> If that person did not choose German citizenship until the age of 23, he/she were losing the right to get German citizenship. This model was against the rights of immigrants, born in Germany, to get dual citizenship; therefore, there had been many reactions and debates about that issue until 2014. After that time new coalition in Germany established radical changes in the option model which was prohibiting dual citizenship. Actually, this option model had only been applied to immigrants from third countries<sup>5</sup>, while citizens of the European Union and Switzerland has always right to have dual citizenship. The new changes in 2014 provided chances for third country nationals who were born in Germany to get rid of option model if they carry one of the conditions below until the age of 21 (DIAM, 2015: 25):

- Staying in Germany for more than 8 years
- Studying in a German school for more than 6 years
- Hold any kind of school degree finished in Germany or a certificate of a career training (Berufsausbildung)

As it is seen, the new changes in 2014 still binds dual citizenship to some conditions, although it created new chances for people who have foreign parents and born in Germany. On the other hand, there are some ways for other third country nationals who did not born in Germany but still demand German citizenship. However, all of these ways oblige the third country national to expatriate themselves from their previous citizenship. In addition to this condition, there are some other conditions such as living in the country for more than 8 years (under some conditions 6 years), passing citizenship test made of 33 questions, accepting the principle liberal values in the German constitution (DIAM, 2015: 25-26). According to Federal Statistical Office of Germany, the number of Turkish immigrants who left Turkish citizenship and get German citizenship were 22.463 in 2015 but there is a 20 per cent decrease in this number compared to previous year.<sup>6</sup> Interestingly, while this number was 56.244 in 2003, it decreased to 33.388 in 2006 and 26.192 in 2010. This continuous decrease is due to number of people who returns to their country of origin (DIAM, 2015: 12). It can be observed that discrimination, limitations on social and political rights of immigrants lead these immigrants to return to their country of origin. In the following parts, these issues are discussed more detailed.

### *3.1.2. Discrimination Towards Turkish Immigrants*

Citizenship obliges people to be loyal to the state, while it also obliges state to treat all its citizens equally. In this direction, Germany implemented “General Act of Equal Treatment” (Allgemeines Gleichbehandlungsgesetz) in 2006 by depending on EU Directives about equal treatment.<sup>7</sup> The Law prevents all kinds of discrimination based on different race, sex, religion or sexual identity etc. We can say that the law seeks to implement equality between people within the business world and civil society. Furthermore, “Federal Anti-Discrimination Agency” (Die Antidiskriminierungsstelle) was established in the same year in order to guarantee diversity in the society. It aims to find out sustainable approach by cooperating partners from local authorities and civil society because it is believed that “A non-discriminatory society is not only more worth living in, but it is also more efficient”.<sup>8</sup> These actions of German State are very recent, so it is hard to tell that social awareness is satisfactory but still we can say that these actions have potential to decrease prejudice and to establish a more equal society. The Research Institute of the Federal Employment Agency made a survey published in 2014 to find out the level of discrimination towards immigrants in Europe and Germany.<sup>9</sup> The survey analyses the different treatment between legal citizens and immigrants in terms of race, ethnicity, language and religion etc. The results show that the level of anti-discrimination towards Turkish immigrants is the highest by 63% in Germany. These immigrants face discrimination in the areas of job seeking, accommodation, equal treatment by civil servants, residence permission and education etc. Therefore many studies show that Turkish immigrants with high or mid-level education are seeking jobs abroad, especially in Turkey, due to discrimination they experience in Germany.<sup>10</sup> Moreover, a recent research shows that discrimination based on ethnicity in Europe and Germany increased about 6 percent in 2015 (DIAM, 2015: 66).

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<sup>4</sup> Detailed information about citizenship conditions (Staatsangehörigkeitsgesetz) can be found at: [www.gesetze-im-internet.de/rustag/BJNR005830913.html](http://www.gesetze-im-internet.de/rustag/BJNR005830913.html)

<sup>5</sup> According to the European Commissions’s paper 847 in 2011, third country refers to “any person who is not a citizen of the EU within the meaning of Article 17(1) of the Treaty” (COM, 2011:3).

<sup>6</sup> Detailed information about the statistics of citizenship can be found at: [www.destatis.de/DE/PresseService/Presse/Pressemitteilungen/2015/03/PD15\\_237\\_12511.html](http://www.destatis.de/DE/PresseService/Presse/Pressemitteilungen/2015/03/PD15_237_12511.html)

<sup>7</sup> Details about the “General Act on Equal Treatment” can be found at: [www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=77201](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=77201)

<sup>8</sup> Details of the general information about Federal Anti-Discrimination Agency and explanations of its director can be found at: [http://www.antidiskriminierungsstelle.de/EN/Home/home\\_node.html](http://www.antidiskriminierungsstelle.de/EN/Home/home_node.html)

<sup>9</sup> Details about the survey can be found at: <http://doku.iab.de/kurzber/2014/kb2114.pdf>

<sup>10</sup> The information about the “Germany 2014 Human Rights Report” can be found at: <http://www.state.gov/documents/organization/236740.pdf>

We can argue that recent activities of anti-Islamist political movement of PEGIDA (Patriotic Europeans Against the Islamisation of the West) and negative image in the media towards immigrants seem the main reasons of this sudden increase in Germany. Based on this information, we can argue that actions to eliminate discrimination towards immigrants in Germany have not been successful yet.

### **3.2. Religious Rights of Turkish Immigrants**

Depending on Germany's past experiences in history such as Christian-Jewish interaction Greek-Roman culture, Weimar Republic and Nazi period, we can observe that Germany guaranteed the freedom of religion in its constitution in 1949 when the first democratic election was made (DIAM, 2015; Lijphardt, 2012). Especially, upsetting events towards people with different ethnicities and religion during the Nazi period was taken as a main reference point while creating a modern democratic constitution in Germany. First two paragraphs of the Article 4 in the Basic Law for the Federal Republic of Germany assume that "Freedom of faith and of conscience, and freedom to profess a religious or philosophical creed, shall be inviolable" and "The undisturbed practice of religion shall be guaranteed".<sup>11</sup> In addition, the Articles of 136,137,138,139 and 141 define freedom of religion more detailed under a topic 'Religion and Religious Societies'. These articles are very important in guaranteeing one of the most important element of democracy, called 'freedom of religion' as Dahl proposes in his framework; however, we face many unequal treatments of Turkish immigrants, especially the ones with Muslim background. It is important to tell that Turkish immigrants are not composed of single ethnicity, language or religion, but rather multiple backgrounds such as Kurdish, Turkish and Alevis. Therefore, the issue of 'freedom of religion' should be discussed by considering these differences in religion within Turkish immigrants. Alevis, for example, experience a more positive treatment, while Sunni immigrants experience a more negative treatment. There are apparent problems within wearing head scarf in public and private spheres, religious education depended on the official recognition of Islam as religious community, halal food production for Muslims, protection of mosques from anti-Islamist attacks and the right to be circumcised for male children. To keep it short, our discussion will focus on the problem of head scarf, anti-Islamist attacks on mosques, and religious education relying on the official recognition of Islam as religious community.

#### *3.2.1. The Head Scarf Issue*

The 'head scarf' issue is one of the most debatable topics in terms of freedom of religion in Germany. New generations of Turkish immigrants with Muslim backgrounds integrated themselves into German society by education compared to previous generations who came to Germany temporarily to work and earn money before they go back to their country of origin. However, majority of the first generation Turkish immigrants settled in Germany and so did their children. Since these children started to demand higher positions, better jobs and better treatment in the German public sphere; they have been facing more discrimination compared to their parents. Head scarf is one of the most decisive symbols of Muslim women, but Turkish immigrant women in Germany experience many problems due to their head scarf. There are many cases in the German courts about using head scarf in public and private sectors. For instance, Federal Constitutional Court of Germany made a decision in 2015 and told that forbidding of head scarf for Muslim women in schools is against the constitution because it cannot be considered as a threat to education; and Bremen was the first federal unit which implemented this decision (DIAM, 2015: 31 and 70). This application is in line with Dahl's framework which includes freedom of expression because all people should be able to express themselves in a democratic country. However, two female students aged 13 in Köln wanted to attend the courses with their head scarf, and this resulted with a court case between their parents and school administration. Federal Court of Bonn made the decision that school administration has right to forbid head scarf for female students in the courses.<sup>12</sup> The reason of convergence between the decisions of Federal Constitutional Court of Germany and Federal Court of Bonn is that each federal state in Germany has sovereignty to organize their own educational policies. Another example can be given from the area of work where Muslim women want freedom to wear head scarf. A Muslim woman aged 36 wanted to wear head scarf while she works as a nurse in the Protestant church in Bochum; however, she was dismissed. According to the church the reason of dismissal depends on the contract with this woman which points out that non-Christian workers should be impartial while they are working, but the head scarf is a symbol of another religion. The court took the side of the church and gave encouraging decision that the church administration has the right to forbid head scarf in the working hours (DIAM, 2015: 70). These cases show that Muslim women wearing head scarf experience discrimination in the public and private sectors in Germany; although, Basic Law for the Federal Republic of Germany forbids all kinds of discrimination on religion.

#### *3.2.2. Anti-Islamist Attacks on Religious Institutions*

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<sup>11</sup> The Basic Law for the Federal Republic of Germany can be found at: <https://www.btg-bestellservice.de/pdf/80201000.pdf>

<sup>12</sup> Details about the Federal Court of Bonn's decision can be found at: [www.bpb.de/gesellschaft/medien/medienpolitik/172752/migration-integration-und-medien?p=all](http://www.bpb.de/gesellschaft/medien/medienpolitik/172752/migration-integration-und-medien?p=all)

Dahl claims that freedom to join and form organizations, and freedom of expression are important elements of democracy. Therefore, we can place religious institutions (mostly refer to mosques) within his framework. In Germany, however, these freedoms are under risk due to recent anti-Islamist attacks on religious institutions which belong to Muslims. First two paragraphs of the Article 4 in the Basic Law for the Federal Republic of Germany assume that “Freedom of faith and of conscience, and freedom to profess a religious or philosophical creed, shall be inviolable” and “The undisturbed practice of religion shall be guaranteed”.<sup>13</sup> Depending on these paragraphs, we can claim that forming or joining religious organizations is guaranteed by the constitution without making difference between any religion. The first mosque in Germany was built by Friedrich Wilhelm in 1732 for the Turkish soldiers. In addition, “Rote Moschee” (Red Mosque) is also known as a historic mosque which was altered from chateau to mosque (DIAM, 2015: 36). However, the construction of mosques increased due to high inflow of Muslim immigrants who came to work in Germany after 1960s. Turkish immigrants, for example, established many mosques associations, and they unified many of these associations under DITIB (Turkish-Islamic Union of Religious Affairs) which was established in 198. There were about 870 mosque associations as member of DITIB in 2011 (Öner, 2014: 82).

Parallel to increase in anti-Islamist ideologies in Germany, Mevlana Mosque in Berlin burned by arson in 11 August 2014, and this issue was reported by Human Rights Commission of Turkish Grand National Assembly (TGNA) (DIAM, 2015: 72). The commission reported that this is an attack to one of the fundamental rights of right to live; it is also an attack to freedom of religion and freedom of beliefs which are guaranteed by international agreements; this attack is not only towards the Muslims but also to whole Germany society so German state need to take a sudden response to it (TGNA, 2014). Furthermore, some people draw Nazi symbols and different slogans to walls of Süleymaniye Mosque which is being constructed in Dormagen city between Cologne and Düsseldorf (DIAM, 2015: 73). Unfortunately, recent surveys show that there is an increase in anti-Islamist attacks on mosques after 2010s. Organisation for Security and Co-operation in Europe published a Report in 2014, and showed the increase in this kind of attacks. The report claims that there have been 122 attacks on 92 mosques in 82 cities and municipalities during the last 30 years.<sup>14</sup> Moreover, there were about profanations executed with right-wing vandalism using graffiti etc.<sup>15</sup> The Left Party raised a question to The Federal Government about political crimes against mosques between 2001-2011, and the answer was shocking that there were at least 219 politically motivated crimes.<sup>16</sup>

The recent situation of attacks on mosques is a serious risk for the integrity of the German society. Therefore, NGO’s and German government need to take a sudden action to decrease anti-Islamist attacks and ideas in the society. It is unfortunate to see that criminals who burns and destroy the mosques and houses have never been caught. Government seems neglect taking strong action against these criminals. Especially, German government should enhance legislation to investigate these crimes and find the people who are responsible for these crimes. The inclusion of religious communities and other NGOs during the decision making process can establish a more sustainable future for the German society.

### *3.2.3. Religious Education*

Religious freedom depends on the official recognition of the religious communities and it is very important in Dahl’s framework, because all people should have freedom of expression and freedom of association. According to DIAM (2015), there are about 4 million Muslims in Germany, and majority of the Muslims have Turkish origin (Turkish and Kurdish people) with about 2.7 million. In addition, it is estimated that 650.000 Muslim children are students in the primary and secondary school, and 25.000 of them are having different courses related to ‘Islamic belief. Interestingly, DIAM (2015) argues that 65.2 % of these students did not learn Quran in mosques or civil society organization, but rather they prefer to have this kind of courses at school. On the other hand, Basic Law creates responsibilities for the German state to implement necessary tools, rules and regulations in order to guarantee religious courses in schools (Bilgin, 2002: 144). First two paragraphs of the Article 7 of the Basic Law of Federal Republic of Germany says that “The entire school system shall be under the supervision of the state”, “Parents and guardians shall have the right to decide whether children shall receive religious instruction”, and “...without prejudice to the state’s right of supervision, religious instruction shall be given in accordance with the tenets of the religious community concerned”.<sup>17</sup> As one can see, the last paragraph emphasizes the religious community concerned; however, who is the religious community and how a religious community provide religious courses? Considering that there have been already Christian teaching and courses in the current education system by state (Anger, 2010), we need to focus on the Islamic communities

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<sup>13</sup> The Basic Law for the Federal Republic of Germany can be found at: <https://www.btg-bestellservice.de/pdf/80201000.pdf>

<sup>14</sup> Details of the Report can be found at: <http://www.osce.org/odihr/124654?download=true>

<sup>15</sup> The News about attacks on mosque can be found at: <https://www.heise.de/tp/features/Moscheeanschlaege-schleichende-Kristallnacht-3391189.html>

<sup>16</sup> Details about the answer of The Federal Government can be found at: <http://dip21.bundestag.de/dip21/btd/17/095/1709523.pdf>

<sup>17</sup> The Article 7 of the Basic Law of Federal Republic of Germany can be found at: <https://www.btg-bestellservice.de/pdf/80201000.pdf>

and courses of Islamic belief. The Federal Administrative Court described the necessary criteria to be recognized as an Islamic religious community (Anger, 2010: 50):

- To be well-organized,
- To have a specific number of members,
- To have ability to discuss with the state,
- To have sustainable actions,
- To guarantee all the criteria above.

Official recognition issue is understood as a trap by some Islamic communities, so they were suspicious about the process of official recognition as religious community (Uçar, 2004). The process of teaching courses in Islamic belief is something different than it is taught in the civil society organizations or mosques. German state, for example, implements a necessary criterion that teachers of religious courses must be educated in German because they should know German language and culture. It is a very important point because teachers who are sent from Turkey do not have the necessary knowledge about German culture and language; therefore, they can hardly adopt and integrate themselves into German society (Aşıkoğlu, 1993:137).

It had been a big problem for German state to find out an Islamic community which could be taken as a negotiation partner during religious course discussions about Islam. Actually, many German politicians did not believe the fact that integration is possible through religious communities; therefore, they did not want these communities to be effective in religious teaching of Islam (DIAM, 2015: 34). In Hessen, for instance, implementing religious courses of Islam in education was only possible in the academic year of 2013/2014 by the cooperation between German State, DITIB (Turkish-Islamic Union of Religious Affairs) and Ahmediye Religious Community.<sup>18</sup> Therefore, DITIB takes an important role in negotiating content of the religious course in Islam and it has the authority to educate and choose teachers for these courses.

There has been an unequal treatment between Alevi and Sunni Muslims with Turkish origins. There are around 650.000 Alevi immigrants in Germany today and 60 percent of them hold German citizenship; thus, most of the German politicians assume Alevi as one of the most successful minority groups integrated themselves into German society (Danışman, 2011). For instance, AABF(The Federation of German Alevi Union) implemented a policy to establish religious education for Alevi immigrants in Germany, and this call was accepted for the first time by Berlin authority in 2002 and it is spreading to other federal states of the Germany such as Baden-Wurttemberg, North Rhine-Westphalia and Bavaria (Amelina and Faist, 2008). In 2000, AAKM (The Anatolian Alevi's Cultural Center), which is the member of AABF, received religious recognition in Berlin (Massicard, 2003). As a result Alevi organizations enjoy better conditions in Germany compared to Sunni organizations, because it was only possible for Sunni Muslim organizations to be recognized and implement religious course in 2013. There are three main reasons behind this situation (DIAM, 2015: 43-44). Firstly, majority of the Turkish immigrants have tendency to protect their native language, and this limits their ability to integrate into German society and mobilize themselves within their social status. On the other hand, Alevi immigrants with Turkish citizenship are able to learn German language and they can easily integrate themselves into society and mobilize themselves due to their culture different from the Sunni culture. Secondly, compared to other immigrants, Turkish immigrants are less successful in communicating and interacting with governmental institutions and civil society organizations in Germany. Their communication and interactions is more likely to be with governmental institutions and civil society organizations in Turkey. It seems that Alevi immigrants are more successful in communicating and interacting with these institutions and organizations in Germany. Thirdly, there is a diversification between Sunni Muslim Turkish immigrants due to their different political ideologies (Islamism, leftism or conservative etc.), ethnicities (Turks, Kurds) and culture. These groups do not have dialog with each other; therefore, German state cannot find a unified group in order to discuss issues about immigration such as language, culture, religion and political rights.

### **3.3.Right to Vote and Right to be Elected for Turkish Immigrants**

In general, Federal Republic of Germany respects the democratic rights of immigrants with German citizenship, because they have rights such as freedom of association and political participation which can also be found in Dahl's framework. However, the immigrants without German citizenship do not have right to vote and right to be elected in the elections. Dahl argues that people must join the governing practices as many as possible. His first criteria, "right to vote", means that all the people must be able to vote regardless of their ethnicity, culture or religion. Similarly, his second criteria "right to be elected" means that all the people should be able to be elected regardless of their ethnicity, culture, religion or sex. In Germany case, immigrants with foreign citizenship can be a member of a political party, but they are not allowed to be a candidate for the

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<sup>18</sup> Details about the Islamic religious courses in Hessen can be found at: <http://bianet.org/bianet/dunya/144076-almanya-din-dersi-ogretmenlerini-ariyor>

elections. According to a research made by European Parliament in 2013, third country immigrants have right to vote in the local elections in the sixteen member states out of twenty-six member states in the European Union.<sup>19</sup> However, it is a disappointment that Germany has not still given right to vote in the local elections for the third country immigrants. In order to enlarge democratic rights of these immigrants, the federal state of Niedersachsen established three state level organizations. The first one is Association of Communal Advisory Board of Foreign Citizens (Arbeitsgemeinschaft Kommunale Ausländervertretungen in Niedersachsen) whose delegates with foreign citizenship can provide advices to the State parliament and ministers about the issues of immigrants. The second one is the Regional Refugee Council whose members are Germans and non-Germans. The delegates of the council are invited to attend negotiations about the immigrations within the Commission on Migrants' Affairs of the State Parliament. Third organization is the Association of Migrants and Refugees in Niedersachsen whose members are refugees and individuals but exclusively limited to immigrants. It also works as an advisory body to the Commission on Migrants' Affairs of the State Parliament (Council of Europe, 1999:140-142). It is important to note that all these organizations are financed by the State. However, as it is claimed above these organizations do not have any sanction power but rather they function as advisory bodies to the ministers and Parliament for the immigration issues. In addition to these state level organizations, Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge) which has been functioning with different names since it was established as Federal Authority for the Recognition of Foreign Refugees in 1953 when Germany signed the Geneva Convention concerning the legal status of refugees.<sup>20</sup> This organization acts at Federal level when compared to three organizations acting at State levels. The organization is responsible to guarantee all democratic rights of immigrants such as naturalization, consideration of immigrant interests at the federal level, assisted return, integration, working and studying in Germany.

Elections in Germany are comprehensive, competitive and fair as Dahl's first five criteria indicates. According to Basic Law for the Federal Republic of Germany, citizens who are over 18 years old have right to vote for the elections at Federal, State and Local levels. On the other hand, EU citizens have right to vote in the local elections and European Parliament elections according to the European Union Law since 1992 (DIAM, 2015:40). However, other people with foreign citizenship do not have right to vote in any level of the elections. According to 2014 statistics, the total population of Germany is 81.1 million, and 20.3 per cent of the total population has migration background. This population equals to about 8 million non-Germans consists of 4.5 million people from third countries.<sup>21</sup> DIAM (2015) claims that 10 % of total population do not have right to vote in elections at Federal and State levels, while 5 percent of these immigrants cannot vote in any of elections at Federal, State and Local levels. This means majority of the immigrants are not represented in the political area; therefore, their interests are under the risk of ignorance. Recently, there are many attempts to create a new law which is going to allow immigrants with foreign citizenship by providing right to vote and right to be elected. Although Federal Constitutional Court of Germany claimed that third country nationals do not have right to vote and right to be elected in 1990, many people think that by providing right to vote in the local and European Parliament elections for the European Union citizens in 1992 gave way to change current legislation for third country nationals (DIAM, 2015:74). In this direction, The Left Party (Die Linke) submitted a legislative proposal to the Federal Parliament of Germany (Bundestag) in order to provide right to vote and right to be elected in the Federal and European Parliament elections for the third country nationals who stayed in Germany for more than five years.<sup>22</sup> Although there are attempts to enhance democratic rights of immigrants in party or federal state levels, Dahl's framework has not fully been established in Germany.

#### IV. CONCLUSION

Citizenship based studies defining and measuring democracy in different countries mainly focuses on democratic right of legal citizens. However, these studies seem to ignore democratic rights of immigrants with non-citizenship. Even if they hold citizenship of the receiving country where they settled, they often face discrimination and intolerance due to their immigrant background. Therefore, this study evaluates these democratic rights in the example of Turkish immigrants who migrated from Turkey to Germany. In this context, the following rights of Turkish immigrants are evaluated: citizenship rights, religious rights, right to vote and right to be elected. Considering these rights, we face many unequal and discriminatory practices against Turkish immigrants, especially the ones with Muslim background. It is argued that there are many problems about using democratic rights of Turkish immigrant with Muslim backgrounds in practice despite the fact that Germany is

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<sup>19</sup> Details about the research of the European Parliament can be found at:

[www.eu-parl.europa.eu/RegData/etudes/etudes/join/2013/474441/IPOL-AFCO\\_ET%282013%29474441\\_EN.pdf](http://www.eu-parl.europa.eu/RegData/etudes/etudes/join/2013/474441/IPOL-AFCO_ET%282013%29474441_EN.pdf)

<sup>20</sup> Details about the functions and history of the Federal Office for Migration and Refugees can be found at: <http://www.bamf.de/EN/DasBAMF/Chronik/Bundesamt/bundesamt-node.html>

<sup>21</sup> Details about the 2014 population of Germany can be found at:

[www.destatis.de/DE/ZahlenFakten/GesellschaftStaat/Bevoelkerung/Bevoelkerung.html](http://www.destatis.de/DE/ZahlenFakten/GesellschaftStaat/Bevoelkerung/Bevoelkerung.html)

<sup>22</sup> Details about the legislative proposal of The Left Party (Die Linke) can be found at: [http://www.bundestag.de/presse/hib/2014\\_11/-/340688](http://www.bundestag.de/presse/hib/2014_11/-/340688)

mostly considered as a good example of democracy in theory. Hopefully our findings and analyses shed light to further research in this area to end enduring discrepancy between theory and the practices on human rights.

First of all, Germany is thought to have a multi-cultural society due to migration of immigrants and refugees since 1960s, and Turkish immigrants compose the largest minority group there. When these Turkish immigrants decided to stay in Germany instead of going back to their country of origin as expected by German authorities, their integration to German society has become an important issue due to their cultural, ethnic and religious background. The most well-known problems arises in the areas of citizenship rights, religious rights, right to vote and right to be elected. German perspective while arguing integration of Turkish community to German community disregards cultural differences between them and makes Turkish majority feels like being assimilated. Germany should explicitly persuade all related stakeholders about the sincerity and openness of integration policies. They tend to favor some minority groups against the majority groups. Both German authorities and Turkish immigrants need to take effective cooperative actions. In addition, the current interest and supporting attitude of the Turkish government on the rights of immigrants makes it important in enhancing the democratic rights of Turkish immigrants in Germany. At this point, individuals, governments and NGOs need to take more responsibility to find out new policies in order to enhance immigrant rights.

Secondly, dual citizenship right of Turkish immigrants is still an unresolved problem. Although there have been many changes for many years, current status of dual citizenship rights still necessitates some conditions. According to new changes in 2014, for instance, the people who have foreign parents and born in Germany can have dual citizenship if they carry one of these conditions until the age of 21: staying in Germany for more than 8 years, studying in a German school for more than 6 years, holding any kind of school degree finished in Germany or a certificate of a career training (Berufsausbildung). German state need to find a sustainable solution for the dual citizenship, otherwise Dahl's criteria of right to vote and right to be elected cannot be fully established as it should be in a democratic country.

Thirdly, recent surveys about the discrimination in Germany show that the level of anti-discrimination towards Turkish immigrants is the highest by 63%.<sup>23</sup> The discrimination is even between Turkish immigrants with different backgrounds (DIAM, 2015). Alevis, for example, experience a more positive treatment while Sunni immigrants experience a more negative treatment. There are apparent problems within wearing head scarf in public and private spheres, religious education depended on the official recognition of Islam as religious community, halal food production for Muslims, protection of mosques from anti-Islamist attacks and the right to be circumcised for male children. German state tries to eliminate discrimination on different ethnicity, religion and language by its state institutions and policies; however, it is hard to say that satisfactory results have been succeeded. Fourthly, the attitude of German state towards Islamic communities of Turkish immigrants is not very friendly, because many German politicians did not believe the fact that integration is possible through religious communities; therefore, they did not want these communities to be effective in religious teaching of Islam. Actually, German state could hardly find an Islamic community partner which could be taken as a negotiation partner during religious course discussions about Islam. In Hessen, for instance, implementing religious courses of Islam in education was only possible in 2013 by the cooperation between German State, DITIB (Turkish-Islamic Union of Religious Affairs) and Ahmediye Religious Community.<sup>24</sup> Therefore, DITIB takes an important role in negotiating content of the religious course in Islam and it has the authority to educate and choose teachers for these courses. Therefore, civil society organizations in Germany which represent interests of Turkish immigrants should establish a unified demand about religious education. They need to force governments at the state and federal state levels by creating public opinion for freedom of religion.

Finally, right to vote and right to be elected for immigrants with foreign citizenship is still an unsolved problem, although in sixteen European Union member states these immigrants have right to vote in the local and European Parliament elections. In contrary, these immigrants can be a member of a political party in Germany, but they are not allowed to be a candidate of a party for the elections. Moreover, non-Germans from third countries do not have right to vote and right to be elected in all levels of elections (Federal, State and Local elections) according to Basic Law for the Federal Republic of Germany. It is a disappointment that Germany has not even gave right to vote in the local and European Parliament elections for the third country immigrants as in sixteen European Union member states. However, it is important to tell that elections in Germany are comprehensive, competitive and fair as Dahl's first five criteria indicates. German citizens who are over 18 years old have right to vote and right to be elected in the elections at Federal, State and Local levels. Moreover, EU citizens have right to vote in the local elections and European Parliament elections according to the European Union Law since 1992.

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<sup>23</sup> Details about the survey can be found at: <http://doku.iab.de/kurzber/2014/kb2114.pdf>

<sup>24</sup> Details about the Islamic religious courses in Hessen can be found at: <http://bianet.org/bianet/dunya/144076-almanya-din-dersi-ogretmenlerini-ariyor>

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