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TURKEY: Religious freedom survey, November 2009

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Ahead of the UN Human Rights Council May 2010 Universal Periodic Review of Turkey, Forum 18 News Service has found that the country continues to see serious violations of international human rights standards on freedom of religion or belief. A long-standing crucially important issue, with many implications, is that Turkey has not legally recognised religious communities in their own right as independent communities with full legal status - such as the right to own places of worship and the legal protection religious communities normally have in states under the rule of law. Additionally, the most dangerous threat to individuals exercising freedom of religion or belief has been a series of violent attacks and murders on those perceived as threats; in recent years the victims have been Christians. Turkish citizens have argued to Forum 18 that the protection of the right of all to freedom of religion or belief, as laid down in the international human rights standards which Turkey is party to, should be the standard used by the authorities in all affected fields. They also argue that the authorities act against the intolerance fuelling violent attacks and murders.

Ahead of the UN Human Rights Council May 2010 Universal Periodic Review (UPR) of Turkey, Forum 18 News Service has found that the country continues to see serious violations of international human rights standards on freedom of religion or belief. The single most important and the most long-standing issue is the fact that - despite undertaking to do so in the 1923 Lausanne Treaty - Turkey has not legally recognised non-Muslim religious communities in their own right as independent communities with full legal status - such as the right to own places of worship and the legal protection religious communities normally have in states under the rule of law. This problem faces all religious communities in Turkey, including those which were not present in 1923. Even the majority Sunni Islamic community is not recognised in this way, instead being under the control of the Diyanet, or Presidency of Religious Affairs, which reports directly to the Prime Minister. Additionally, the most dangerous threat to individuals exercising freedom of religion or belief has been a series of violent attacks and murders on those perceived as threats. In recent years the victims have been Christians.

Turkey straddles Europe and Asia and has a population of over 72 million, about three-quarters of them ethnic Turks. The next largest ethnic group are the Kurds, with smaller numbers of ethnic Arabs, Circassians, Armenians, Laz, Georgians, Greeks, Jews and others. An estimated 99 per cent of the population are of a Muslim background, mainly Sunnis, with 20 to 30 per cent of the population being Alevi, and very small numbers of Shias. The largest non-Muslim religious community are Christians, with the Armenian Apostolic being the largest church followed by Syriac Orthodox, Greek Orthodox, Catholics of various rites and Protestants. Baha'is and Jehovah's Witnesses are present in smaller numbers - in the case of Baha'is around 10,000.

Political background

The "deep state" - military, security, bureaucracy and elite representatives - have been unhappy with the rise of the ruling AKP party. The deep state remains wedded to Mustafa Kemal Atatürk's "secularism" as they understand it. This entails overt state control of Islam through the Diyanet, which reports directly to the Prime Minister, and enshrines serious restrictions on the ability of non-Muslims and Muslims outside state control to exercise freedom of religion or belief. It is difficult to reconcile with the Constitution's statement that the Republic is a secular state, as this "secularism" gives state-run Sunni Islam rights which no other group enjoys. It also imposes controls on state-run Sunni Islam imposed on no other group, such as on the content of sermons. The Diyanet is funded with tax collected from all citizens, regardless of their religion or belief, and supports tax exemptions for the only mosques permitted (those controlled by the Diyanet) and employs and pays the salaries of their imams. No other faith, or indeed non-state-controlled Muslim group, is permitted to train its clergy in Turkey.

Among the other problems flowing from the state definition of "secularism" are continuing and long-standing problems caused by the ban on religious communities' themselves owning property. Communities as diverse as Alevi Muslims, Catholics, Greek Orthodox, Protestants, and the Syriac Orthodox Church have seen no significant progress in resolving property problems. Examples include no progress on recognising Alevi Muslim cem houses as places of worship and continuing vexatious legal cases aimed at depriving the Mor Gabriel Syriac Orthodox Monastery in south-eastern Turkey of its land.

As non-Muslim communities are under threat of violent attacks, the Interior Ministry issued a circular in June 2007 asking law enforcement forces to protect non-Muslim places of worship, and be watchful for plans to attack them. A number of plans to mount attacks were subsequently uncovered and prevented, for instance a plot to kill the pastor of a church in Antalya. However, this step,

although welcome, addresses only the symptoms of intolerance, not the root causes.

Official protection for religious leaders, such as the Ecumenical Patriarch, is widely seen by these communities as being designed as much to control as to protect them. Suspicion of the authorities' intentions remains. Alevi Muslims broke off formal talks with the government over denial of their rights, expressing frustration at the lack of concrete progress in enabling them to exercise their religious freedom. Informal workshops involving representatives of the Alevis, the Diyanet and others continue. An August 2009 lunch meeting between Prime Minister Recep Tayyip Erdogan and religious leaders, including Ecumenical Patriarch Bartholomew, was followed by a visit to two Greek Orthodox sites. But no concrete improvements ensued in their ability to exercise freedom of religion or belief.

The rule of law

The Mor Gabriel cases – which started after state officials unilaterally redrew land boundaries - highlight problems around the rule of law and how society does or does not understand this, which has a serious impact on freedom of religion or belief. Another trial drifting on with no sign of a verdict is of two Turkish Protestants, Hakan Tastan and Turan Topal. They are on trial for "insulting Turkishness" and defamation of Islam, following their involvement in a Bible correspondence course in October 2006. The trial in Malatya of the five men accused of murdering three Protestant Christians in 2007 has drifted on since its start in November 2007. In 2009 police have avoided bringing witnesses to court on various occasions, and no verdict appears imminent. Hopes that impunity for those who attack Christians would be over remain disappointed.

Two recent victories in the European Court of Human Rights (ECtHR) – by the Ecumenical Patriarchate in 2008 and a Greek Orthodox Foundation in 2009 - have still not led to the recovery of confiscated property. The ECtHR appears to be the only realistic hope of implementing in law some very important aspects of the right to exercise freedom of religion or belief - provided its judgments are implemented.

Violent attacks and murders

The Armenian, Greek and Alevi communities have in the past been subject to mass pogroms and violent attacks that have resulted in migration of these communities inside and outside of Turkey. There have also been in the past murders of individuals for their beliefs, such as of the atheist and former imam Turan Dursun in 1990. However, a recent series of murders has drawn attention to the continuing need to address the problem of the murderous intolerance of sections of Turkish society. These murders were of: Fr Andrea Santoro, a Catholic priest in 2006; the Armenian Turkish journalist Hrant Dink in 2007; and of two ethnic Turkish Protestants, Necati Aydin and Ugur Yuksel, and a German, Tilmann Geske in Malatya in 2007. In July 2009 a Catholic German businessman engaged to an ethnic Turk, Gregor Kerkeling, was murdered by a mentally disturbed young man for being a Christian.

In August 2009 Turkish Protestant Ismail Aydin, who works for an association spreading knowledge about Christianity, was taken hostage at knifepoint. The young man responsible claimed that "this missionary dog is trying to divide the country" and wrapped a Turkish flag around Aydin's head. He was seen on TV reports telling his captor that "this flag is mine as well! I'm a Turk too, but I'm a Christian." His captor responded that "you have betrayed the Turkish flag and country". The police rescued Aydin and the attacker is being prosecuted. But the incident highlighted again the dangerous unwillingness of many within Turkey to accept that there are many ways to be a Turk.

What fuels violent attacks and murders?

Factors which encourage violence include; disinformation by public figures and the mass media; the rise of Turkish nationalism; and the marginalisation of smaller groups within society. All three trends feed off each other, and all of Turkey's smaller religious or belief communities – those within Islam and Christianity, as well as Baha'is, Jehovah's Witnesses, atheists and agnostics - are affected by them. There has been disinformation and defamation against Christians, in particular against Protestants who share their beliefs with others in public discourse as well as in the media.

A day after the Malatya murders, Niyazi Güney, a senior Justice Ministry official, told Turkish parliamentarians that "missionary work is even more dangerous than terrorism and unfortunately is not considered a crime in Turkey". He repeated this in Milliyet newspaper. Terrorism and missionary activity are thus presented as connected. Almost any manifestation of Christian belief – including meetings in churches - is seen by those who hold these views as "missionary activity".

Missionary activity has been on the agenda of the National Security Council (MGK), which is chaired ex officio by the President and also comprises the Chief of the General Staff, the commanders of all the branches of the Turkish Armed Forces and several government ministers. In a February 2005 evaluation of current and future challenges to Turkish security, the MGK drew attention to "a need for social activities that will prevent the spreading of organisations and ideologies that will have an impact on Turkey's unity". It suggested that "abusive missionary activities should not be permitted". What exactly was meant by "abusive missionary activity" was not defined.

The Turkish phrase used for missionary activity in official discussions and formal papers, as well as by the xenophobic and

nationalist parts of society, has extremely negative connotations. "Misyonerlik faaliyetleri" can be translated into English as missionary activities, which does not convey either a positive or a negative evaluation of the activities. But "misyonerlik faaliyetleri" has in Turkish the connotations of missionary scheming, plotting and intrigues. Both words have negative connotations in Turkish, and used together as one phrase convey a double negative connotation.

"Missionary" conferences propagating such views continue to be held by the Diyanet in provinces and townships using state facilities. Similar activities are also conducted by the military and the Gendarmerie (Jandarma) to "enlighten" their personnel – including conscripts – about what they see as "missionary activities".

Associated with this is intolerance promoted within the school curriculum (see below).

The intolerance in society towards non-Muslims also extends to atheists, who cannot openly identify or organise themselves in Turkey.

Ergenekon and the "deep state"

The trial which began in 2007 of influential people - from the police, army, bureaucracy, business, politics and the mass media - alleged to be part of an ultra-nationalist group, Ergenekon, has revealed strong and widespread opposition among them to freedom of religion or belief. Ergenekon members are alleged to have maintained deathlists of people, including Christians with a missionary background. The Malatya murder trial is revealing plausible links between the "deep state" and the murders, Turkish media noting that a link between the murders and the Gendarmerie seems obvious. The Gendarmerie, it seems, knew in advance of the murders and did not take steps to prevent them. Also according to the media, Fr Andrea Santoro and his church were under surveillance by the National Intelligence Organisation (MIT) secret police on the very day of his murder.

The media has featured documents discovered in the Ergenekon investigation proving that the Gendarmerie actively monitored missionary activities in the Malatya region through informers, before and after the Malatya murders. It should be noted that the activities being monitored were lawful acts of teaching and promoting one's beliefs. Unlawful disinformation or defamatory practices limiting lawful enjoyment of human rights do not appear to have been monitored or acted against.

Media intolerance

Protestant Turks have noted a significant decline in numbers of violent attacks directed at their churches and religious leaders in 2009. This is possibly due to a decline since 2007 in defamatory mainstream media coverage of them. For example, a widely viewed national TV channel, ATV, has stopped broadcasting reports of "illegal" churches, or Turks converting to Christianity.

However, intolerant reporting and commentary continues in local and ultra-nationalist newspapers, as well as on websites and blogs. One local news website, *Ilgazetesi*, featured an article on 17 June 2009, entitled "Local Missionaries", stating that "The primary goal of missionary activity is to break the resistance of the people to imperialism and abuse! Making them Jewish or Christian is the second goal." The continuing intolerant mind-set of many is fuelled by such irresponsible media reports, and makes members of vulnerable groups fear that violence against them could escalate again.

No legal status as religious communities

Full legal recognition of all religious communities would be a major step forward in both achieving freedom of religion or belief as understood in the human rights standards Turkey has ratified, as well as addressing the prejudice that non-Muslim religious communities are "foreign" and not genuinely Turkish. At present, religious communities which existed in the Ottoman Empire operate legally under an archaic system of imperial decrees and regulations that deny them full legal status as religious communities and restrict their freedom to function. Communities which did not have a recognised existence before the Turkish Republic was founded in 1923 have little hope of gaining any kind of recognised status in law. Articles 37-45 of the 1923 Lausanne Treaty, on "Protection of Minorities", should have led to the recognition of then-existing non-Muslim religious communities in their own right, as independent communities with full legal status - such as the right to own places of worship. But this has not happened, not least as the Treaty left it unclear what such recognition might mean. Bizarrely, the government ministry which handles relations with many of Turkey's indigenous non-Muslim religious communities which existed before the Lausanne Treaty is the Foreign Ministry.

The situation of non-Muslim minorities in Turkey is extremely complex under the present legal framework. The official view of the state is that different regulations apply to the various non-Muslim religious communities. Firstly in the state's view, there are the groups that count as non-Muslim minorities within the meaning of the Lausanne Treaty. In the view of the state, these are exclusively the Armenians, Bulgarians, Greeks and Jews. A second group are the non-Muslim minorities who were present in Turkey in 1923 at the time of the Lausanne Treaty but were not recognised by the state as minorities within the meaning of the Treaty. These are, for example, the Syriac Orthodox Church, churches such as the Chaldean Church and the Syriac Catholic Church, and the Roman Catholic Church.

However, it is very important to note that the communities in both these groups actually exist today and have been recognised by the

state as existing – but they have not been legally recognized and have no legal personality (Tuzelkisilik).

Besides the non-Muslim minorities are a number of so-called community foundations that are attributed by the state to, but not necessarily controlled by, certain non-Muslim minorities (such as Armenians, Greeks, Syriac Orthodox, Jews and others) which have gained legal personality (Tuzelkisilik). It is also important to note that, legally, there is no link at all between these community foundations and the non-Muslim minorities the state attributes them to.

Neither the Roman Catholic Church nor those Protestant churches that existed in Turkey before 1923 have any community foundations that could be attributed to them.

None of these non-Muslim minorities – whichever category the state sees them as belonging to – have as religious communities the kind of rights to religious freedom that Article 9 of the European Convention on Human Rights envisages. In practice, all these communities are on a very similar legal footing to newer communities such as Baha'is and Jehovah's Witnesses, which did not exist in Turkey in 1923, and which today have no legal status as communities.

The 2004 Associations Law was welcomed by some newer communities, such as Protestant and Jehovah's Witnesses, as it allowed people within these communities – but not the communities themselves – to form a legal entity that would allow them to engage in some activities legally. However, the "Association formula" is still rather new and some communities are reluctant to use it. A major reason is that, being small communities, they cannot fulfil the necessary requirements to establish an association. State officials seem to pay more attention than is usual to associations established in connection with religious communities.

There are also serious questions of possible inadequacies in the "Association formula". One problem is that if those who run the foundation and those who lead the community are not the same people, there is a possibility that they may disagree with each other – which may leave the community again without the possibility of legally carrying out activities. The "Association formula" proposed by the government to "solve" the legal personality problem does not provide a satisfactory solution. Whether it will work effectively as a "limited" solution remains to be seen. This will depend on both whether the formula is in practice found to be simple and flexible enough for the needs of small communities, and whether audits and decisions by state officials take account of this. These developments will need to be closely monitored.

Even for long-established communities with the limited recognition which has been conferred – without rights to for example own places of worship – the attitudes of the Turkish state can be hostile and even threatening. This has been seen in the case of the Armenian Apostolic Patriarch Mesrob Mutafyan, who leads Turkey's biggest Christian church, who was elected Patriarch in 1998 against the express wishes of the Turkish authorities. He has been forced to retreat into health-related seclusion, brought on by years of pressure from the media, the public and from the Armenian diaspora, some of which has dubbed him a traitor. Should Patriarch Mesrob not recover, the Turkish authorities are likely to insist – as they have done up to now – that his successor as head of the Armenian (as well as the Greek Orthodox) Patriarchate must be a Turkish citizen resident in Turkey. The Armenian Church may struggle to find a candidate with the diplomatic and linguistic skills and the international experience for such a crucial role in such a delicate and exposed position. This problem is of importance not just for the Church but for the Armenian community as a whole.

Denial of recognition also leaves the adherents of many faiths vulnerable to discrimination, as citizens have their religious affiliation recorded in official records. In this way the state indicates which religions are "legitimate" and which are not. The Baha'i community has about 10,000 members, but is not recognised as a religion. As the Baha'i faith therefore cannot be chosen in the public registry, Baha'is are forced to choose either Islam or leave the religion part of their Identity Card empty.

Who can own places of worship?

An aspect of this non-recognition is that even recognised religious communities cannot themselves own properties such as places of worship. Bizarrely, these must be owned by separate foundations not under the direct control of the communities. This has drawn much attention, focused on the passage of a series of Foundation laws – none of which have solved the basic problem.

The most recent amendments to the Foundations Law have at least led to a number of improvements to the functioning of these community foundations. Yet even so the communities to which the community foundations are attributed still complain about a number of severe problems relating to their community foundations that have not been resolved. Expectations outside Turkey that the amendments to the Foundations Law would also lead to a complete solution for all the unresolved questions regarding legal recognition of non-Muslim minorities have not been fulfilled. As Dilek Kurban of the Istanbul-based TESEV Foundation noted, the Foundations Law is "incompatible with the principle of freedom of association, which is guaranteed by the European Convention on Human Rights, the Constitution and the [1923] Treaty of Lausanne".

It should be made clear that the Foundations Law can only be the right place to resolve problems regarding the community foundations and is not the right place to resolve the basic problems of non-Muslim minorities in Turkey. That may only be expected from a new Constitution based on the European Convention on Human Rights and implementation in law of religious freedom.

Stalemate for Alevi Muslims

Alevi Muslims form between 20 and 30 per cent of the population, but the overwhelming majority of their places of worship – cemevi or cem houses – are not recognised by the state. The Alevi community organised a mass demonstration, attended by tens of thousands of Alevis on 8 November 2009 expressing their frustration that they are still not treated as citizens with equal rights, and calling for the abolition of both the Diyanet and compulsory religious education lessons in public schools.

Another cause of frustration for Alevis is that their leaders – called "Dede" or elders - are not entitled to legally hold that title. This dates back to 1925, when Act No. 677 of 30 November 1341 (1925) "On the Closure of Dervish Monasteries and Tombs, the Abolition of the Office of Keeper of Tombs and the Abolition and Prohibition of Certain Titles" was brought in. This abolished the title, and Article 174 (Preservation of Reform Laws) of the Constitution makes it impossible to change this Law. This Article states: "No provision of the Constitution shall be construed or interpreted as rendering unconstitutional the Reform Laws indicated below, which aim to raise Turkish society above the level of contemporary civilisation and to safeguard the secular character of the Republic, and which were in force on the date of the adoption by referendum of the Constitution of Turkey." Among the laws listed is Act 677.

Education about religion or belief

In contrast to the children adhering to the two non-Muslim religious communities acknowledged in the education system - Christians and Jews – Alevis, Baha'is, children of other faiths and atheists are forced to attend de facto Sunni religious education classes in public and private schools. Diyanet officials have occasionally indicated that they regard Alevism as a part of Sunni Islam and do not respect their different interpretation of Islam. This means that Turkey has not seen any need to alter the religious education curriculum. In a court ruling (Hasan and Eylem Zengin v. Turkey, Application no. 1448/04) the European Court of Human Rights (ECtHR) stated that this is unacceptable.

Turkey is obliged by this judgment to take action to ensure that the same problem does not reoccur for anyone. However, as Turkish news agencies reported on 25 August 2008, then Minister of Education Hüseyin Çelik claimed the decision was about the old curriculum. As Alevi beliefs are included in the new curriculum, the Minister claimed the ECtHR judgment was inapplicable. Implementation of the judgment is still pending before the Council of Europe Committee of Ministers.

Teaching of other subjects includes disinformation about or defamation of faiths. Missionary activity is listed as one of the national threats in compulsory public school books that are taught in Grade 8 classes on the History of Turkish Republican Reforms and Atatürkism. The textbook states that missionaries "try to fulfil their goals through the significant financial support of foreign powers, some non-governmental organisations and from their own supporters. Missionaries exploit the financial hardships of people. They translate texts related to their own beliefs into different languages and distribute them free of charge and accordingly use written and visual media for their propaganda purposes. They are a threat to the national unity and integrity of our state and nation."

Those at risk from violent attack think such sentiments – propagated through the school system and mass media – are major factors in violent attacks and murders motivated by intolerance.

As a participating State of the Organisation for Security and Co-operation in Europe (OSCE), Turkey has agreed to implement measures "to counter prejudices and misrepresentation, particularly in the field of education". Initiatives to assist this include the Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools (see <http://www.osce.org/odihr/29154>). However the authorities have shown no visible interest in providing fair education on religions and beliefs in schools.

Discrimination within the public service

It is virtually impossible to find people from non-Muslim backgrounds in high level civil servant positions and impossible in senior ranks in the military. While there are non-Muslims employed at lower levels there are frequent allegations that they experience discrimination and are never allowed to take a high ranking position. Syriac Orthodox Christians, for example, have complained to Forum 18 that their young people are never allowed the possibility of careers leading to senior positions in the military or the civil service – even when they are fully qualified for such careers. Many are deeply disappointed, Forum 18 has been told, when they realise that they are not seen as "genuine" Turks, and so will never be allowed the chances to serve their country which those seen as "genuine" Turks have.

Religious clothing

A 1934 Law which according to Article 174 of the Constitution may not be altered or abolished bans wearing religious garments on the streets, with Muslims being the initial targets. With the exception of the Ecumenical Patriarch, the Armenian Patriarch and the Chief Rabbi, no religious minority leaders until the 1980s acted against this ban. Enforcement has been more sporadic recently, but many religious leaders choose not to wear religious clothes outside their place of worship, partly because of this Law and partly – in the case of members of religious minorities – for fear of provoking attacks. Foreign Greek, Russian and Georgian Orthodox priests have complained in recent years that they have been forced to remove their cassocks and crosses before being allowed to enter the country.

The wearing of headscarves by Muslim women has long been a controversial issue. The AKP party's move to allow female university students to wear headscarves was prevented by the Constitutional Court, and caused much debate and hostility in the secular sectors of the population. Although it is prohibited to attend university wearing headscarves, or any religious symbol, this prohibition is not consistently implemented. It has become a symbolic issue that seems to embody the questions of whether Turkey will continue to be a "secular" country – as the state defines this - or not.

Conscientious objection to military service denied

Conscientious objection to compulsory military service is not permitted. Conscientious objectors of military age (including among the roughly 3,000 Jehovah's Witnesses) face an unending cycle of prosecutions and imprisonments. In the ECtHR case of Ülke v. Turkey (Application no. 39437/98), the Court found that such punishment was a violation of the prohibition in the European Convention of Human Rights of torture, inhuman and degrading treatment. Turkey continues to disregard the 17 October 2007 call of the Council of Europe Committee of Ministers for it "to adopt rapidly the legislative reform necessary to prevent similar violations."

Internet censorship

Access to the website of well-known atheist Richard Dawkins is prevented in Turkey through a court decision. His books, as also those of other atheists, are however permitted, despite legal attempts to ban them. Similarly, access to a website dedicated to Turan Dursun, a well-known Turkish atheist murdered for his beliefs in 1990, is barred.

Conclusion

Many people and communities have for a long time faced obstacles in carrying out peaceful religious activity – activity that is protected in the international freedom of religion or belief agreements that Turkey has committed itself to. The long-standing lack of willingness to legally recognise religious communities in their own right, the disinformation by public officials and the public education system, ultra-nationalism and mass media intolerance behind violent attacks and murders, and the Turkish definition of "secularism" are the clearest examples of this. They cause serious doubt about whether the country is really committed to universal human rights for all.

Other obstacles include: problems around the rule of law; discrimination against Alevi Muslims; discrimination within the public service; lack of freedom to wear religious clothing in public institutions; denial of conscientious objection to military service; and limited internet censorship.

Turkish citizens committed to human rights for all have argued to Forum 18 that the protection of the right of all to freedom of religion or belief, as laid down in the international human rights standards which Turkey is party to, should be the standard used by the authorities in all affected fields. They also argue strongly that positive steps should also be taken by the authorities to eliminate social hatred against all groups that are the targets of intolerant attitudes. (END)

More analyses and commentaries on freedom of thought, conscience and belief in Turkey can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=68>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

A printer-friendly map of Turkey is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=mideast&Rootmap=turkey>.

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