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TURKEY: Freedom of belief and security threats

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Turkey's failed coup attempt, ongoing and new security threats and government actions have long-term implications for the rule of law with the freedoms of religion and belief, assembly, association and expression. Immediate measures are necessary to protect religious or belief communities directly affected by conflict and terror.

The failed coup attempt of 15 July 2016 and government actions have deeply shaken the Turkish state and wider society. The coup attempt targeted ordinary people, elected authorities and key institutions of democracy and met strong condemnation and resistance across political parties. Both the failed coup and its roots, as well as measures taken since the coup, have long-term implications in a number of crucial areas. These include good governance, freedom of religion or belief and security, and the state's relationship with society including religious actors.

The coup attempt is attributed to the Gulen movement, a movement led by self-exiled Sunni Muslim cleric Fethullah Gulen. The government accuses the movement of infiltrating state structures for security, the judiciary, education, and numerous ministries. The coup attempt is presented as the latest attempt by the Gulen movement to take control of the state. Tensions between the ruling Justice and Development Party (AKP) and its former ally the Gulen movement culminated with December 2014 corruption claims emanating from Gulen. These implicated leading AKP politicians, including current President Recep Tayyip Erdogan and his family.

Developments since the coup

Developments since the 15 July coup attempt include the postponement of needed legal and institutional democratic reforms, along with state actions which impact people's possibilities to effectively exercise freedom of religion or belief, and its associated freedoms of expression, association and peaceful assembly. Government measures, including state of emergency measures, have damaged Turkey's human rights protection framework. These measures include far-reaching changes to the justice system which started before the coup, and increased religious-nationalist approaches to issues by the government since the coup.

Evidence of ill treatment in custody compiled by the Human Rights Foundation of Turkey among others, particularly in the early response to the alleged perpetrators of the coup attempt as well as in south-east Turkey, indicates a serious need for independent monitoring of state institutions' implementation of their international human rights obligations. The impact on the overall state of democracy of the swift removal of judges and other personnel in the state apparatus, along with the closure of universities, associations, television channels and newspapers under state of emergency decrees, has yet to become fully clear.

As human rights are inter-dependent, government actions will lead to a deterioration in the state's ability to implement its binding international legal obligations to protect human rights, including freedom of religion or belief.

These developments damage the security of both the state and wider society, as the government's Organisation for Security and Co-operation in Europe (OSCE) commitments underline. For example, the Charter of Paris for a New Europe states: "Human rights and fundamental freedoms are the birthright of all human beings, are inalienable and are guaranteed by law. Their protection and promotion is the first responsibility of government. Respect for them is an essential safeguard against an over-mighty State. Their observance and full exercise are the foundation of freedom, justice and peace" (see http://www.forum18.org/Archive.php?article_id=1351).

The judicial system

There has long been reason to be sceptical about the ability of the justice system to provide remedies to long-standing and more recent violations of freedom of religion or belief and other fundamental freedoms (see Forum 18's Turkey religious freedom survey http://www.forum18.org/archive.php?article_id=1916). For example, the politicisation of the judiciary dates back many years, to before the AKP was founded in 2001.

Since 15 July 2016, the government has claimed that an organisation called FETÖ (Gulenist Terror Organisation) had infiltrated the

judiciary. This, the government states, makes many past legal judgments questionable. On 16 July the government removed over 2,700 judges and has since 15 July removed about 80,000 officials from all government agencies. Many of those removed are also under arrest. This, along with how new personnel are recruited, and the government's new structure for the judiciary which it was implementing before the coup, will inevitably affect how courts deal with freedom of religion and belief and other fundamental freedom issues.

A just and independent judicial system is an essential precondition for the protection of freedom of religion or belief and linked fundamental freedoms. But whether such a just and independent justice system exists has long been questioned in cases ranging from the return of property to murder trials.

The extraordinarily long-delayed 28 September 2016 verdict in the case of the brutal murders of three Christians from the local Zirve Publishing House on 18 April 2007 in Malatya, south-east Turkey, is a case in point. The five suspects were sentenced to three life sentences each after being convicted of "premeditated murder". But all five convicted murderers would remain free, subject only to routine surveillance, while the case was appealed to two higher courts, World Watch Monitor reported on 29 September. That same evening all five murderers were re-arrested after the prosecutor expressed fears they may flee Turkey. As well as the murder convictions, two Gendarmerie officers were convicted of crimes related to the case, but no other public officials strongly suspected of involvement in instigating the murders were convicted. The court found that the five murderers could not have committed their crimes without help, but was not able to identify the organisation involved and called for "further investigation".

How this and other similar cases have been handled cannot be said to discourage any possible future instigators and perpetrators of such crimes. Instead, the state's actions and inactions have seriously damaged the confidence of vulnerable groups – not only Christians – in Turkey's justice system.

Religious-nationalist approaches

Religious-nationalist approaches to problems in society have increased since the failed coup attempt. On the night of the coup attempt, the Directorate of Religious Affairs (the Diyanet, which reports to the Prime Minister's Office – see F18News 4 May 2011 http://www.forum18.org/archive.php?article_id=1567) instructed all 110,000 imams at 85,000 mosques via text messaging to call the public to defend democracy. Sala prayers were frequently heard from mosques around the country almost simultaneously all night. These are traditionally read to announce a funeral at a mosque. But during the Ottoman era, sala prayers were read to announce difficult times during wars. Some imams just read the sala prayer periodically throughout the night and for some days after the coup attempt. Others also read announcements to the public informing them where to assemble, and encouraging people to defend democracy and not to stay at home and leave public spaces.

Virtually all parts of society opposed the coup attempt, including secularists, non-Muslims and Alevis. There was a strong demonstration of political unity against the failed coup at a 7 August rally in Yenikapi by the AKP government with two of the three main opposition parties and the Chief of the General Staff, who was himself held hostage by coup plotters. However, the third largest party, the People's Democratic Party (HDP), was not invited to the rally because the AKP accuses it of supporting the outlawed Kurdistan Workers' Party (PKK).

But despite strong opposition to the coup throughout society, the dominant approach since the coup in government and the media has been a combination of Hanafi Sunni Islam and Turkish nationalism. Advocacy of a monolithic Turkish religious-nationalist identity has long created problems in exercising human rights, including the risk of violent attack, for Turkish people who are neither nationalist nor Sunni Hanafi Muslim (see Forum 18's Turkey religious freedom survey http://www.forum18.org/archive.php?article_id=1916).

If religious-nationalist approaches continue to determine post-coup attempt policies, human rights protection is highly unlikely to improve. The AKP's power has been reinforced since the coup attempt, and President Erdogan's views dominate in forming post-coup policies. His announced policies affecting freedom of religion and belief include restructuring the state apparatus, changing education including religious education, and changing the role of the Diyanet.

As it was a religious community which allegedly plotted the coup attempt, President Erdogan has repeatedly spoken about what he describes as "abuse of religion" and the measures that he insists must be taken against this. For example, at an extraordinary 3 August Diyanet meeting entitled "15 July Coup Attempt and Unity and Solidarity Against Abuse of Religion and Perspectives on the Future", Erdogan underlined what he saw as the need to reform religious institutions. What this means remains to be seen. Ironically, the phrase "to exploit or abuse religion or religious feelings, or things held sacred by religion" was put into the Turkish Constitution by secularists with a view to preventing the kinds of policies associated with the AKP. It has been a vehicle for limiting freedom of religion or belief since before the AKP came to power.

In another example, on 8 September Aljazeera Turk interviewed Diyanet Vice-President Mehmet Emin Ozafsar about a range of post-coup attempt issues affecting policies on religion and belief. He spoke in unclear terms about the need to register religious communities and in particular jamaat (Islamic brotherhoods), stating that registration is necessary so that "these "structures don't become a threat".

In Turkey, no religious community (including Islamic communities) is allowed legal personality, contradicting international law as outlined in the OSCE/Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities (see <http://www.osce.org/odihr/139046>). Turkey is both an OSCE participating State and a Venice Commission member state. The Venice Commission, in its 2010 Opinion on the Legal Status of Religious Communities in Turkey and the Right of the Orthodox Patriarchate of Istanbul to use the adjective "Ecumenical", called on Turkey "to adopt immediately measures that would lead to the recognition of the legal personality of established, religious minority institutions and communities" (see [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2010\)005-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2010)005-e)). The government has yet to implement this recommendation.

Diyanet Vice-President Ozafsar, speaking in the context of Islam, also raised the issue of "parallel curricula of religious education" referring to religious instruction given by religious communities. He said that religious education should not be given in secret but that there should be inspection by the public authorities. It remains unclear whether what Ozafsar had in mind will resolve long-standing problems in relation to religious communities exercising freedom of religion and belief in teaching (see eg. F18News 20 August 2013 http://www.forum18.org/archive.php?article_id=1867).

Debate about the legal status of religious communities is much needed, not least as the Islamic brotherhoods are banned under Law No 677 ("Closure of Dervish Convents and Tombs, the Abolition of the Office of Keeper of Tombs and the Abolition and Prohibition of Certain Titles"), one of the laws protected from change by the Constitution (see Forum 18's Turkey religious freedom survey http://www.forum18.org/archive.php?article_id=1916). So this may be an important opportunity to bring Turkey's legislation and practice into line with international law. But it is unclear whether any proposals that the AKP and Diyanet are developing will be compatible with international human rights law.

Long-standing problems

Turkey has long-standing freedom of religion and belief issues, which even before the coup required fundamental changes to both laws and state practices to resolve. These include enforcing European Court of Human Rights (ECtHR) judgments on: the right to conscientious objection to military service; the right to raise one's children in line with one's religious or philosophical views; the right to establish places of worship; prohibition of discrimination based on religion or belief; and the right not to disclose one's religious identity.

Other fundamental issues not yet considered by the ECtHR include but are not limited to: the impossibility of religious communities acquiring legal personality; and the impossibility of religious communities providing formal education and training in Turkey in religion or belief for their clergy and followers (see the latest Norwegian Helsinki Committee: Turkey Freedom of Belief Initiative's (NHC:IÖG) Monitoring Report on the Right to Freedom of Religion or Belief in Turkey http://www.nhc.no/content/uploads/2018/07/Rapport_5_15_English_RoRB_Print.pdf)

Intensified security challenges

Safety from violence has long been a problem for many religious communities (see Forum 18's Turkey religious freedom survey http://www.forum18.org/archive.php?article_id=1916).

Since 2015, continuing and increasing Daesh threats have specifically targeted communities such as Alevis, Christians, and Jews. This includes threats allegedly stemming from Daesh sent to the mobile phones of specific individuals. In September 2015, the Association of Protestant Churches called on the authorities to respond to about 100 death threats received by pastors and others on mobile phones and social media. Two individuals are being prosecuted in relation to these messages. Umut Sahin, General Secretary of the Association of Protestant Churches, told Forum 18 on 7 October that some churches have been contacted by local prosecutors to investigate these threats, and it appears that an investigation of them continues.

On 16 March 2016 the General Directorate of Security warned the police that Daesh members may have researched places where Jews and Christians may be found, and that the Hizbullah/Ilim Islamist group may also launch attacks. One reason the General Directorate gave was that these groups do not like the distribution of New Testaments and other religious brochures and books. Police were asked to contact and protect the places of worship of Jews, Christians, and Shia Muslims, especially in the capital Ankara.

On the Christian Easter Sunday and Jewish Passover, churches and synagogues in large cities were given visible police protection. But in the following weeks police removed this visible protection from most places of worship. Among the religious communities concerned there is uncertainty about how long the Daesh and related threats may continue, and so how long police protection is essential.

Recent incidents indicate that this threat continues. Police caught a suspected Daesh terrorist and found on him photos of the Alevi cem house in Gaziantep, in south-east Turkey, Dogan News Agency reported on 17 September. His interrogation revealed that he was part of a group planning a bomb attack on the cem house. Police then took steps to protect the cem house. The head of the Alevi

Kultur Dernekleri (Alevi Culture Associations), Yilmaz Demirdelen, said that they are facing a very serious threat, Cumhuriyet newspaper reported on 17 September. He added that a police presence should continue until the threat is eliminated.

On the night of the 15 July coup attempt, unidentified attackers smashed glass panels in the door of the Malatya Protestant Church, and in Trabzon around 10 people smashed the windows of the Santa Maria Catholic Church. Christians in both cities have previously suffered murders, with the 2006 Trabzon murder of Catholic priest Fr Andrea Santoro, and the 2007 murders of three Protestant Christians in Malatya. Those who attacked both churches in 2016 have not been found and prosecuted. To vulnerable communities targeted by such attacks, this seems to indicate that those who hold a grudge against them can take advantage of civic unrest to stage attacks, knowing that their crimes are unlikely to be punished.

Despite sporadic visible police protection, the main burden of providing security is left to religious or belief communities themselves. Many vulnerable communities cannot afford to hire private security firms for an indefinite length of time. Leaving religious communities themselves to arrange their own security, if they can afford it, does not address the seriousness and deep-rooted nature of the threats they face. Under Turkey's binding legal international human rights obligations, the government itself – not religious communities – has the duty to ensure that places of worship are safe and that followers of all beliefs can meet together for worship without being attacked.

Turkey's south-east

Fierce fighting and human rights violations have seriously increased in the south-east of Turkey since the July 2015 end of a two-year ceasefire between the government and Kurdish groups. Among many other victims of human rights violations, religious communities have also suffered, particularly in Diyarbakir's Sur area and in Mardin. Places of worship have been damaged, and believers cannot meet for worship due to the fighting as well as a curfew imposed from December 2015 until August 2016.

The Head of the government's regional Directorate of Foundations in Diyarbakir, Metin Evsen, noted in a written 7 September statement that 11 religious sites were damaged in the Sur district of Diyarbakir. Those named were: Ulu Mosque, Fatih Pasa Mosque, Fatih Pasa Mosque Shafii Section, Seyh Muttahhar Mosque, Dort Ayakli Minaret, Armenian Catholic Church, Protestant Church, Arap seyh Mosque, Kadi Mosque, Hasirli Mosque, and Nasuh Pasa Mosque.

After the intense fighting in Sur district, which is a UNESCO protected site, the government decreed on 25 March 2016 the "urgent expropriation" of about 80 per cent of the district. These included places of worship such as: Surp Giragos Armenian Church, the largest Armenian Church in the Middle East; Surp Sarkis Chaldean Church; Armenian Catholic Church; Syriac Virgin Mary Church; Armenian Protestant Church; and the Turkish Protestant Church. Mosques in the Sur district are already owned by state entities, or are under the management of the General Directorate of Foundations.

The summary expropriation gives the government broad discretion over what it can do with the expropriated buildings. And as the expropriated churches with other buildings belong to non-Muslim community foundations, they no longer have the income from buildings to pay salaries of clergy or other costs. A number of the foundations have applied to the courts for the expropriation decision to be annulled, but the legal struggle looks likely to be long and burdensome.

Despite the August 2016 lifting of the curfew, life in Sur has not yet returned to normal. A Christian religious leader, who preferred to remain anonymous, told Forum 18 on 6 October that his church has objected to the expropriation decision, though churches have not yet been closed as a result of the expropriation decision. However, due to the general security situation the number of attendees has dropped from 250 a week to one or two a week. He said that they have not asked the government to provide security, as they do not want either the police to risk their lives guarding the church building in the narrow streets of Sur, or to give the impression to other groups that the church is dependent on the government. The situation that this church finds itself in demonstrates well the vulnerability of religious groups caught in complex conflicts.

After the August 2016 lifting of the curfew, the General Directorate of Foundations has begun to repair places of worship under its management that were damaged during the fighting in Sur. Those they listed where restoration projects are underway are the Kursunlu Mosque, Armenian Catholic Church and Armenian Protestant Church.

In 2004, then UN Special Rapporteur on Freedom of Religion or Belief Asma Jahangir stated that: "the human rights obligations of States are not limited to abstaining from committing direct violations of the right to freedom of religion or belief. Their obligations also consist in ensuring the free exercise of freedom of religion or belief by protecting religious minorities and enabling them to practice their faith in all security. States also have an obligation to bring the perpetrators of acts of violence or of other acts of religious intolerance to justice and to promote a culture of religious tolerance" (E/CN.4/2005/61 - <http://daccess-ods.un.org/access.nsf/Get?Open&DS=E/CN.4/2005/61&Lang=E>).

Turkey has yet to implement these obligations in south-east Turkey – and indeed in other parts of the country.

What needs to be done?

Human rights violations associated with the coup attempt and the state response to it, as well as the fighting in south-east Turkey, have seriously jeopardised the security of the state and wider society. Amid this wider insecurity, the physical security of followers of religions and beliefs, their communities, and their places of worship is seriously at risk by threats to and attacks against religious communities from Daesh and other sources (including mobs), as well as murders of and violence against people from vulnerable religious groups.

To effectively remedy these threats to freedom and security, including the security of followers of religions and beliefs and their communities, an immediate return to pre-coup attempt legal normality, combined with comprehensive democratic reforms appears essential. International human rights obligations require that these democratic reforms address Turkey's fundamental freedom challenges, including those affecting the rule of law and the freedoms of religion and belief, assembly, association, and expression. These obligations also require immediate measures to be taken to ensure the security of religious or belief communities and their followers currently directly affected by conflict and terror, or threats of this.

The government is already developing post-coup policies which may affect how freedom of religion and belief and other fundamental freedom obligations are implemented. It is very important that, as these policies are developed and implemented, policy makers engage with the full range of groups in Turkey's diverse society and implement an inclusive and participatory process firmly based on Turkey's international human rights obligations. If this is done, much in Turkey's democracy and respect for human rights can be improved. (END)

The Norwegian Helsinki Committee: Turkey Freedom of Belief Initiative's (NHC:IÖG) July 2014 - June 2015 monitoring report is at http://www.nhc.no/content/uploads/2018/07/Rapport_5_15_English_RoRB_Print.pdf.

For more background, see Forum 18's Turkey religious freedom survey at http://www.forum18.org/archive.php?article_id=1916.

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.

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