



Sunset over Ankara. Photo: CSW

# TURKEY

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## FREEDOM OF RELIGION OR BELIEF AND FREEDOM OF EXPRESSION

*NB: Turkish newspaper Zaman along with its English language version Today's Zaman, was confiscated by the government after the completion of this report. As a result, a number of the links referenced are no longer accessible. They have been kept in the document as evidence of the government's censorship of the press and violation of freedom of expression.*

### EXECUTIVE SUMMARY

2015 was a turbulent year for Turkey, during which it experienced two sets of parliamentary elections, the collapse of the ceasefire with the Kurdish Workers Party (Partiya Karkerên Kurdistanê, or PKK) and an influx of 950,710 Syrian registered refugees. The refugee crisis, the country's geostrategic position in relation to the Syrian conflict, and the movement of Daesh (Islamic State) fighters to and from Europe, continue to dominate Turkey's foreign relations, especially with the European Union (EU). The EU recently pledged €3 billion<sup>1</sup> (at the time of writing) in funding to support the development of a facility to accommodate Syrian refugees.

This report analyses the situation of freedom of religion or belief in Turkey and outlines the key challenges faced by non-Sunni communities and individuals.<sup>2</sup> It also discusses the implications of the continued government crackdown on the media and freedom of expression.

Despite having comprehensive legislation on freedom of religion or belief, Turkey fails to consistently implement these laws to enable religious minorities to exercise and enjoy their rights. Instead of maintaining and implementing Turkey's secular constitution,

1 The EU-Turkey Joint Action Plan was agreed on 15 October 2015 [http://europa.eu/rapid/press-release\\_MEMO-15-5860\\_en.htm](http://europa.eu/rapid/press-release_MEMO-15-5860_en.htm)

2 While the report does not cover the challenges faced by Sunni Muslims, our research shows that increasing numbers of those registered as Muslim are uncomfortable with the government's political reversal of secularism towards an increasingly Islamic state.

President Erdoğan and his Justice and Development Party (Adalet ve Kalkınma Partisi, AKP) have publicly endorsed a move towards a Sunni Muslim identity for Turkey. As one commentator stated, 'Freedom of religion or belief is for those who agree with AKP values.'

Consequently, Turkish religious minorities are increasingly vulnerable to restrictive government legislation and growing social hostilities. The Turkish state has used a variety of means to propagate the view among wider society that to be Turkish is to be Sunni Muslim, conflating the two identities. The implicit suggestion is that religious minorities, or the non-religious, are not truly Turkish. Given the strength of Turkish nationalism, this has contributed to rising levels of hate speech that incite structural and physical violence towards those who are not Sunni Muslim. Such structural violence is visible in a variety of sectors ranging from education, the workplace, the media and religious practice, to day-to-day administrative procedures.

Minorities have spent considerable time and resources bringing cases to the European Court of Human Rights (ECtHR); and, following a number of adverse judgements, in 2012 the Turkish government introduced an ombudsman's office. As this report will show, while the ombudsman's office has been celebrated as a significant achievement, its presence alone is insufficient without government support, and it is currently viewed as an obstacle to minorities accessing justice.

There have also been a number of acts of vandalism in and around churches and other places of worship since CSW's last report:

- In November 2014 an individual hung a banner over the front of Neve Shalom Synagogue that read 'To be demolished'.<sup>3</sup>

- On 16 May 2015 an individual entered a church in Samsun with a baseball bat and shouted at church officials accusing them of "forcing our children to give up their religion". While the police responded to calls and confiscated the baseball bat, the individual was not prosecuted.

- On 10 June 2015 an individual poured paint thinner on the door of a church in Kadikoy and set it alight, shouting "Allahu Akbar" (God is great). As with the case in Samsun, no one was prosecuted for this crime.

These incidents demonstrate a wider pattern of impunity for the perpetrators of hate crimes against religious minorities.

In addition, there is shrinking space to advocate for minority rights within Turkey or to question government actions. An unprecedented crackdown on the media has imposed unwarranted restrictions on freedom of expression, reducing the space for public debate, weakening civil society, and adversely impacting human rights and civil liberties.

2015 saw an attack on various opposition news groups, the imprisonment of 14 journalists and the dismissal of over 100 others. Journalists, media outlets and academics face a sustained attack on their right to freedom of expression. The systematic intimidation of government critics has led to a high degree of self-censorship across the mainstream media. Of particular concern are state interventions in news stories, and arbitrary dismissals of those who hold critical views regarding the president or government policies.

If the situation in Turkey is to change, the international community in general, and the European Union (EU) and its Member States in particular, need to hold Turkey to account regarding the deterioration these ongoing human rights violations. Specifically, there must be a unified condemnation of the erosion of freedom of expression and freedom of religion or belief.

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3 The Algemeiner, 'Vandals, Anti-Israel Protesters Assail Istanbul's Largest Synagogue', 10 November 2014 [www.algemeiner.com/2014/11/10/vandals-anti-israel-protesters-assail-istanbuls-largest-synagogue-video/#](http://www.algemeiner.com/2014/11/10/vandals-anti-israel-protesters-assail-istanbuls-largest-synagogue-video/#)

## RECOMMENDATIONS

### To the Grand National Assembly of Turkey:

- Respect and uphold the Turkish constitution, which provides for freedom of religion or belief for all
- Create an office of religious affairs that is non-discriminatory in nature and is responsible for upholding the constitutional provisions ensuring freedom of religion or belief for all
- Ensure that children have access to a broad religious education that encompasses all faith traditions and encourages mutual respect and pluralism
- Use the replacement of the old identity card scheme as an opportunity to remove the box denoting religion on ID cards, in line with the ECtHR's 2010 decision in *Sinan Işık v. Turkey*, in order to avoid further breaches of Article 9 of the European Convention on Human Rights
- Following the recent recommendation of the Ombudsman Institution, introduce legislation to ensure that all religious communities and institutions are able to receive financial assistance from the Presidency of Religious Affairs
- Using the recent OSCE Guidelines on the Legal Personality of Religious or Belief Communities, implement legislation to facilitate the straightforward registration of all religious or belief communities, in order to ensure the full enjoyment of their right to freedom of religion or belief
- Monitor the implementation of the decree returning confiscated properties to minority communities, to ensure that the General Foundations Board of Turkey processes each application for return of assets quickly and fairly
- Enact a clear and efficient system that exempts all religious minorities from RCE classes, or abolish these classes entirely
- Effectively prosecute those who attack places of worship or individuals due to their religion or belief, and compensate victims of rights violations
- Introduce measures to curb the use of hate speech in the media, so as to offer confidence and protection to targeted minorities and bring an end to impunity for hate crimes
- Implement effective reform of Articles 299 and 301 of the penal code so as to curb discrimination against minorities and violations of the right to freedom of expression, and to uphold Turkey's obligations under international law
- Review changes to police powers and consider their revision in order to introduce appropriate checks and balances, in order to avoid confusion and protect the public.

## To the European Union and Member States:

- Encourage Turkey to continue to strive for membership to the Union, and provide the necessary assistance to achieve the benchmarks required for the opening of accession Chapter 23 concerning judicial and fundamental rights, as well as Chapter 24 on justice, security and freedoms
- Call on the Turkish authorities to promote respect for diversity and mutual understanding, through the educational system and other means, by encouraging the study of every religion and belief practised within their jurisdiction
- Encourage state and other influential actors, whether religious or non-religious, to refrain from stoking inter-religious tensions, either by law or practice
- Support pertinent initiatives to promote respect and tolerance between all people, regardless of their religion or belief, in order to defuse emerging tensions
- Challenge Turkey's refusal to grant recognition and legal personality to religious and belief communities, which makes the exercise of human rights conditional upon state permission
- Visit religious sites that have suffered vandalism, desecration or destruction in order to bring public attention to the destruction and its consequences
- Publicly condemn the wrongful confiscation of properties used for religious worship, and the practice of preventing the use of a property for the purpose for which it is legitimately intended
- Encourage Turkey to respect the right to conscientious objection to military service on the basis of religion or belief
- Strongly condemn the violation of universal rights and continue to speak out in support of the freedom of the press and human rights defenders
- Protest when state officials or influential non-state actors make inflammatory statements regarding people of religious or other beliefs, including those of theistic, non-theistic or atheistic persuasions.

## To the United Nations:

- Urge the Turkish government to fully implement the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights by withdrawing reservations that negatively impact religious freedom, and interpret the 1923 Lausanne Treaty so as to provide equal rights to all religious minority communities<sup>4</sup>
- Continue to provide Special Measures training to NGOs that request it
- Work with the Turkish government to facilitate visits of UN special procedures where necessary

- Work with the Turkish government and local NGOs to identify the problems faced by religious communities in refugee camps, and develop solutions to resolve them
- Work with the government to ensure the establishment of an independent national human rights institution in accordance with the Paris Principles.<sup>5</sup>

## To the United States:

- Call on Turkey to lift restrictions on minority religious communities and to proactively combat religious discrimination in all its forms, including hate speech
- Urge the Turkish authorities to rebuke and penalise government officials and others who make derogatory remarks about religious communities
- Encourage Turkey to fulfil its undertakings regarding the return of religious properties, including the Halki Seminary, in a timely and licit manner; and to remove restrictions imposed on minority faith communities on opening and operating houses of worship
- Permit religious communities to select and appoint their leadership in accordance with their internal guidelines and belief
- Ensure the policy exigencies of the War on Terror do not overshadow the need to protect civil and political rights and civil society.

## FREEDOM OF RELIGION OR BELIEF (FORB)

### LEGAL ASPECTS

Turkey is officially a secular state as articulated in the preamble of the constitution and reiterated in Article 2. The constitution provides for freedom of belief, worship and the private expression of religious ideas, while prohibiting discrimination on religious grounds. Article 10 states that 'Everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds.' In addition, Article 24 holds that everyone has the right to 'freedom of conscience, religious belief and conviction', and allows for acts of worship to be 'conducted freely' as long as they do not violate the provisions of Article 14, which centres on the territorial integrity and democratic, secular nature of the state. This article then goes on to underline the principles of non-coercion and non-discrimination.

<sup>5</sup> OHCHR, 'Paris Principles: 20 years guiding the work of National Human Rights Institutions' [www.ohchr.org/EN/NewsEvents/Pages/ParisPrinciples20yearsguidingtheworkofNHRI.aspx](http://www.ohchr.org/EN/NewsEvents/Pages/ParisPrinciples20yearsguidingtheworkofNHRI.aspx)

<sup>4</sup> USCIRF, Annual Report 2015 [www.uscirf.gov/sites/default/files/Turkey%202015.pdf](http://www.uscirf.gov/sites/default/files/Turkey%202015.pdf)

However, these constitutional provisions are not always upheld in practice, and religious minorities face various forms of discrimination that go widely unpunished by the state.

Turks applying for ID cards are required to provide different categories of information, including their religion. CSW has spoken with members of several religious minorities, as well as people professing no faith, who decided not to reveal their real beliefs on their ID card for fear of facing discrimination. While some opt not to change the default category of 'Muslim', others leave the space blank. One academic had deliberately changed the religion on their ID card from 'Muslim' to blank, as a form of protest. This too can result in discrimination, as children who do not have a religion stated on their ID cards are not eligible for exemption from religious and cultural education.

### **RELIGIOUS MINORITIES AND THE DEPARTMENT OF RELIGIOUS AFFAIRS (DIYANET)**

Religious affairs within Turkey are managed by the Presidency (or Directorate) of Religious Affairs (also known as the Diyanet). Established under Article 136 of the constitution, the aim of the Diyanet is to uphold 'national solidarity and integrity'. Despite having previously been critical of the Diyanet's operations, the AKP decided to strengthen its remit in 2010 and has since expanded it. In 2010 a law was passed that raised the status of the institution from general directorate to under-secretariat,<sup>6</sup> placing the office directly under the remit of the Prime Minister, alongside government ministries. Its budget has increased four-fold over the past decade; it has been reported that in 2016 the institution will receive 6.48 billion Turkish lira (just over €2 billion) – more than the individual budgets of 12 other government ministries.<sup>7</sup>

The Diyanet is charged with exercising its duties 'in accordance with secularism, removed from all political views and ideas'; however, in practice this does not happen. One minority representative described the Diyanet as a 'Sunni-hanafi missionary organisation'. In a speech on 25 April 2015 defending the Diyanet and criticising calls for its closure from opposition parties, President Erdoğan said, "The religion of this nation is clear...this nation will not let you shut down the Diyanet.

6 Presidency of Religious Affairs, 'A short historical background on the directorate of religious affairs' [www.diyanet.gov.tr/en/kategori/kurumsal/1](http://www.diyanet.gov.tr/en/kategori/kurumsal/1)

7 Hürriyet Daily News, 'Intelligence, religious affairs set to take huge share of Turkey's 2016 budget', 13 October 2015 [www.hurriyetdailynews.com/intelligence-religious-affairs-set-to-take-huge-share-of-turkeys-2016-budget-.aspx?pageID=238&nID=89761&NewsCatID=344](http://www.hurriyetdailynews.com/intelligence-religious-affairs-set-to-take-huge-share-of-turkeys-2016-budget-.aspx?pageID=238&nID=89761&NewsCatID=344)

We are going to protect the Diyanet and all other moral values of this nation."<sup>8</sup>

Unfortunately, government policy within the Diyanet, and the partiality shown towards Sunni Islam, contradicts its claims of impartial secularism. Instead of ensuring that all religions and beliefs receive equal treatment and are afforded the same protections and provisions by the government, the Diyanet only concerns itself with Sunni Islam.

The office pays salaries to over 100,000 Sunni clerics and also takes responsibility for the construction and upkeep of Sunni mosques. Conversely, requests for financial support from non-Muslim religious bodies, including the Chief Rabbinate of Turkey, the Armenian Patriarchate, and the Cem Foundation (an umbrella organisation for Turkish Alevis), have been denied. In a decision from the Ombudsman Institution dated 30 December 2015, it was decided that assistance to minority religious communities would require prior legislation, and the original request for the salary of priests from the Diyanet was dismissed.<sup>9</sup>

Imams are also given a unique passport that allows them to travel abroad without needing a visa. These visas are not afforded to leaders of minority faiths.

The institution has its own television and radio stations, as well as a hotline dedicated to answering the questions of believers. It issues halal certificates for food producers and has a webpage for the issue of fatwas. Finally, the ministry has taken over complete control of Qur'an courses, which were once co-managed by the Ministry of Education. Requirements for the courses have been relaxed; there is no longer a minimum age requirement for participants, and Qur'an schools can now have dormitories and be run as boarding schools.

The Diyanet was engulfed in controversy last year when it came to light that President Erdoğan had purchased a car worth 1 million Turkish lira (just over €300,000) for Mehmet Gormez, the President of the Presidency of Religious Affairs. The car was eventually returned following uproar by the opposition and members of the public, but questions regarding corruption, and President Erdoğan's intentions for the Diyanet, remained prominent in public debate. One source pointed out that the lack of checks and balances is a significant problem as it enables President Erdoğan to actively demonstrate his bias towards the institution: "He [Erdoğan] told him [Gormez] to take the 1 million lira car because it was what he was worth."

8 Al-Monitor, 'Is Erdoğan signaling end of secularism in Turkey?', 29 April 2015 [www.al-monitor.com/pulse/en/originals/2015/04/turkey-is-erdogan-signaling-end-of-secularism.html#](http://www.al-monitor.com/pulse/en/originals/2015/04/turkey-is-erdogan-signaling-end-of-secularism.html#)

9 Republic of Turkey, Ombudsman Institution Recommendation, 30 December 2015 [www.ombudsman.gov.tr/en/contents/files/pdf/Recommendation%20on%20Assigning.pdf](http://www.ombudsman.gov.tr/en/contents/files/pdf/Recommendation%20on%20Assigning.pdf)

## **RELIGIOUS MINORITIES AND THE OMBUDSMAN INSTITUTION**

The 2012 Ombudsman Law established an 'independent and efficient complaints mechanism' to scrutinise 'all kinds of actions, acts, attitudes and behaviours of the administration' and give recommendations to relevant parties 'with law and fairness under the respect for human rights'. The establishment of the new Ombudsman Institution was widely welcomed by Turkish civil society. The Ombudsman has delivered some favourable judgements, such as a recommendation of the assignment of stipends to non-Muslim religious communities, and a report in favour of seven research assistants who were arrested unjustly.

However, the government is yet to implement any of the office's recommendations, much to the consternation of both the Ombudsman and civil society.

The structure and functioning of the office can in practice present another obstacle for Turkey's minorities. Employees of the UN and various embassies explained to CSW that the Turkish name for the Ombudsman actually means 'chief inspector of the government', and as a result, citizens are reluctant to file complaints.

Before bringing a case to the ECtHR it is necessary to exhaust all local remedies; in Turkey this means going through the Ombudsman Institution. CSW found that rather than improving access to justice for minorities and others who seek redress from state departments, the existence of the office has theoretically prolonged their path to justice, in cases where Turkish authorities do not comply with international standards.

A member of the Alevi community informed CSW of a number of cases that had been pending before the Ombudsman for some time, with no judgements in sight. On the issue of conscientious objection, the Ombudsman has indicated that he is against it in principle. At present, none of the cases that have been brought before the institution regarding this issue have been successful. Having exhausted national remedies in Turkey, a group of Jehovah's Witnesses has taken its case to the ECtHR. The outcome could force the Ombudsman to bring his professional judgements in line with international human rights standards.

### **LEGAL PERSONALITY OF RELIGIOUS MINORITIES**

Legal personality is required in order to buy or rent property, to hire staff and to enter into contracts. Religious minorities are locked in an ongoing struggle to obtain full legal personality so they can access all their legal rights. The Roman Catholic community has faced significant barriers to obtaining legal personality largely due to the fact that the majority of its adherents are foreigners. This means that they are unable to establish the community foundations that many religious minorities rely on, to challenge the discrimination they face.

The Diyanet does not consider the Alevi faith to be a religion. Their places of worship (Cem houses or Cemevis) therefore do not benefit from the exemption from utility bills that is granted to some other religious

minority communities. In 2014 the ECtHR ruled this to be a discriminatory practice, and held that Cemevis are indeed places of worship and as such have the right to the same benefits as other religious buildings. Then, in a landmark ruling in October 2015, the Turkish Supreme Court ruled that the state should cover the basic expenses of Cemevis just as it does for certain churches, mosques and synagogues.<sup>10</sup> While the court ruling is yet to be implemented, it has been welcomed by members of the Alevi community.

At the recent launch of the Organisation for Security and Cooperation in Europe (OSCE) Guidelines on Legal Personality for Religious Communities in Istanbul, the case of the Halki Seminary was raised. The seminary, a theological school run by the Eastern Orthodox Church's Ecumenical Patriarchate of Constantinople, was shut down by the government as part of a bid to discourage Hellenic education. It has not been re-opened. The official stance is one of reciprocity for Turks in Greece, and until there is a mosque in Thessaloniki, the seminary will not be reopened. However, international human rights standards are not contingent upon reciprocal gestures.

The registration of land and buildings is also problematic for religious minorities. The Meryem Ana Assyrian Church Foundation, for example, has experienced significant challenges in obtaining land and building a church. The land the community had originally purchased was confiscated by the government and sold to a developer to build a shopping mall. When the Foundation won a case claiming that the sale had been illegal, the government offered as redress land that had been confiscated from the Catholic Church. Not wanting to accept land seized from the Catholic community, the Assyrian community has launched a campaign for the government to build a church using state funds on land which has been fairly obtained, in the same way that it would construct a mosque.

### **RELIGIOUS MINORITIES AND THE EDUCATION SYSTEM**

Article 24(4) of the Turkish constitution stipulates that 'education and instruction in religion and ethics [being compulsory] shall be conducted under state supervision', giving the state absolute control over education in religion and ethics. Instruction in the religious culture and moral education of Sunni Islam is compulsory in primary and secondary schools.

While under Turkish law, Jewish and Christian pupils are exempt from taking obligatory Religious Culture and Ethics Classes (RCE); children from Alevi, Baha'I,

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<sup>10</sup> The government does not recognise all Christian and Jewish denominations as religions, and therefore not all places of worship are exempt from utility bills. Protestant churches, and Jehovah's Witnesses' Kingdom Halls, are two such examples.

atheist, agnostic or other backgrounds do not have this exemption.

RCE classes remain problematic for converts to Christianity. If children wish to be exempted from these classes, their parents are required to prove that they are non-Muslim by submitting their identity cards. The process for converts to change the designation on their ID cards from Muslim to Christian is technically straightforward, but some parents prefer not to do so, fearing harassment, social exclusion and discrimination.

Three further elective Islamic religious classes have been added to the school curriculum: The Qur'an, The Life of The Prophet Muhammad, and Foundations of Religion (Islam). As the content of these classes features on the high-school entrance examination paper (TEOG), students who do not elect these options are likely to receive lower grades. A case was brought before the Ombudsman regarding these classes, and the Jewish community succeeded in having questions on Judaism included in exam papers for Jewish students. However, it was discovered subsequently that those who had exempted themselves from classes were still registered as having taken them, and therefore automatically received zero on this section of the exam.

Furthermore, there has been an increase in the number of Imam Hatip schools. These have compulsory religious education on the curriculum and anyone who achieves low scores on the TEOG, or simply lives in the catchment area of such a school, is required to attend them.<sup>11</sup>

In September 2014 the European Court of Human Rights ruled in *Mansur Yalçın and Others v. Turkey* (Application no. 21163/11) that compulsory religious education for students violated the right of Alevi parents to have their children receive instruction in a manner consistent with their own beliefs. Judges stated that Turkey should allow exemption without parents having to disclose their religion. The decision became final in February 2015 after Turkey's request for a review was denied.

### SECURITY OF MINORITIES

The safety of Turkey's religious and ethnic minorities is precarious. This is in part due to Turkey's porous borders, which facilitate the passage of radical Islamists to and from Syria and Iraq, and the government's engagement in asymmetric conflict with the Kurds.

Minorities are concerned by the measures the government has introduced to protect society in light of these threats.

11 Norwegian Helsinki Committee (2015), *The Right To Freedom Of Belief In Turkey: Monitoring Report July 2014 - June 2015* [http://nhc.no/no/nyheter/New+Monitoring+Report+on+the+Right+to+Freedom+of+Religion+or+Belief+in+Turkey.b7C\\_wlvGWa.ips](http://nhc.no/no/nyheter/New+Monitoring+Report+on+the+Right+to+Freedom+of+Religion+or+Belief+in+Turkey.b7C_wlvGWa.ips)

The recent introduction of a domestic security law has greatly expanded the powers of the police, and removed certain checks and balances. Turkish police can now search members of the public and their vehicles without obtaining a warrant from a public prosecutor. They can also detain people for up to 48 hours without presenting them before a judge. Given the recent suspension of a chief of police whose officers arrested female members of the Gulen Movement wearing Islamic dress,<sup>12</sup> and the levels of impunity for crimes perpetrated against minorities, minorities have raised concerns that the new measures may be used in a discriminatory manner.

One member of the Alevi community stated that their local chief of police had informed the community that "We should take care of ourselves, because ISIS have us on their hitlists, [and the police] won't take responsibility. They are passing off the problem. What can we do?" Members of the Alevi community still remember the Civas massacre of 1993, in which 37 people were burned to death inside a hotel, and the Maras massacre of 1978, when red marks were painted on the doors of Alevi families in order to single them out. Worryingly, these marks have started to appear on doors once again in some rural parts of Turkey.

The security situation profoundly impacts the Jewish community's ability to practise their faith. Ever since the 2003 double synagogue bombings that killed 26 people, the community has invested heavily in private security and security training. Requests to the government for funds to better protect themselves have largely gone unanswered. The number of worship services has been reduced, and some synagogues have been closed as the Chief Rabbinate cannot afford to provide security for all of them at all times.

### HATE SPEECH

Hate speech in Turkey has increased significantly and is often a precursor to social hostility against religious and ethnic minorities. The invective directed towards these communities, often by the media and even by members of the political community, has seeped deep into mainstream narratives.

In May 2015 the Turkish airline company Pegasus Airlines published a crossword in its inflight magazine which included the clue 'What do you call a non-Muslim?' The answer was 'a kafir' (a derogatory term for non-Muslims). When the crossword was brought to the attention of the airline, Pegasus denied responsibility and blamed the advertising company for producing the crossword. It also issued an apology and removed the magazine from circulation. Neither Pegasus nor the advertising company faced investigation or charges.

The Hrant Dink Foundation has been monitoring and reporting on hate speech in the media since 2009. Its report *Monitoring Hate Speech in Media* identified 321

12 Al-Monitor, 'Veiled women detained, handcuffed spark public outcry in Turkey', 19 November 2015 [www.al-monitor.com/pulse/originals/2015/11/turkey-new-controversy-for-headscarf-in-handcuffs.html#](http://www.al-monitor.com/pulse/originals/2015/11/turkey-new-controversy-for-headscarf-in-handcuffs.html#)

instances of hate speech against ethnic and religious groups between September and December 2014 alone.<sup>13</sup>

Three of the key findings of the report relate directly to religious minorities. Firstly, the report shows that religious identity was the primary catalyst for hate speech: 'Religious identity stands out as the primary cause for generating hate speech', with Jews, Christians, Armenians and Kurds being the main victims. Of the 321 incidents of hate speech that were recorded, 281 instances were directed towards non-Muslim minorities.

Secondly, the report notes that hate speech against minority communities increases around dates of religious and commemorative importance. Thus the Armenian community faces a rise in hate speech annually around the time of commemorations marking the Armenian genocide of 1915-18, and Christians see such a rise during the Christmas period. Indeed during Christmas 2014, Christians experienced four times more hate speech than they had over the summer months.

Thirdly, the report observes that the Jewish community is the largest target of hate speech and faces hostile rhetoric from both prejudiced journalists and politicians. One opinion column by journalist İlhan Yardımcı, that was published seven times over the duration of the reporting period, carried the title 'Calamity of the world: Zionism (Judaism)'.

Hate speech in the media both in print and online is, as one Jewish representative said, a 'big issue' for the Jewish community. Spikes in anti-Semitism correlate directly with acts of aggression by the Israeli Defence Forces (IDF). There is a public assumption that all Jews support and are thus somewhat responsible for Israeli government policies and actions. After a synagogue in the Jewish neighbourhood of Balat in Istanbul was recently defaced with the words 'Terrorist Israel; there is Allah', the editor of the Jewish weekly paper *Salom* lamented the linking of the Turkish Jewish community with Israel.<sup>14</sup>

Unfortunately, certain government officials, such as the current Mayor of Ankara, İbrahim Melih Gökçek, consistently perpetuate inflammatory narratives against minorities including against the Jewish community. For example, in 2014 Mr Gökçek wrote "I applaud you" in response to an anti-Semitic tweet by a Turkish singer, Yıldız Tilbe, that said 'God bless Hitler. The end of the Jews is near.' Even though this incident was widely reported in the media, neither Mr Gökçek nor Ms Tilbe faced investigation or prosecution for their remarks.

Article 216 of Turkey's penal code punishes 'offences against public peace', including incitement to hatred and hostility against a group in society based on 'class, race, religion, denomination or geographical region', and

acts that 'openly denigrate a segment of society based on social class, race, religion, denomination, gender, or geographic region'.

However, there is a clear discrepancy in policy when it comes to combating hate speech. The Turkish government has done little to combat hate speech against minorities, facilitating the emergence of impunity for perpetrators, while seeming to use this legislation only to prosecute criticism of Sunni Islam. While those who criticise this branch of Islam are prosecuted, those denigrating other religions can do so without fear of legal consequences.

## REFUGEE CRISIS

Turkey currently hosts over two million refugees as a result of the crisis in Iraq and Syria. According to local embassy staff and representatives of international organisations, these people live in some of the best refugee accommodation they have seen.

However, infiltration into the camps by Islamist extremists endangers the lives of those professing other faiths. Some Christians and Yazidis are too intimidated to stay in camps. Others are reported to have been dissuaded from registering as refugees, allegedly by UNCHR officials with ulterior agendas.<sup>15</sup> Consequently, many Christians in particular seek alternative accommodation, renting rooms or houses outside of the camps; this in turn places them under financial pressure, as they receive next to no funding from the UNHCR.

The refugee crisis also affects Turkey's demographics. With an ever-increasing number of Yazidis and Christians, among others, being driven from Syria and Iraq by Daesh, more members of these communities are arriving in Turkey.

Unfortunately, the media does not always report sensitively on the refugee issue. The Hrant Dink Foundation's research shows that insulting and denigrating text has appeared in several national newspapers, sensationalising the refugee situation in Turkey and the effect of the refugees' presence in the country. In a number of articles examined by the report, Syrians were stereotyped as criminals and the cause of social tensions.<sup>16</sup>

15 Statements from Syrian refugees in Turkey

16 Hrant Dink Foundation, *Media Watch on Hate Speech & Discriminatory Discourse, September-December 2014* <http://nefretsoylemi.org/rapor/September-December2014Report.pdf>

13 Hrant Dink Foundation, *Media Watch on Hate Speech & Discriminatory Discourse, September-December 2014* <http://nefretsoylemi.org/rapor/September-December2014Report.pdf>

14 Today's Zaman [www.todayszaman.com/anasayfa\\_hate-speech-marked-wall-by-i-istanbul-synagogue\\_410027.html](http://www.todayszaman.com/anasayfa_hate-speech-marked-wall-by-i-istanbul-synagogue_410027.html)

## FREEDOM OF EXPRESSION

### LEGAL ASPECTS

In 2014 the Turkish government unveiled a Human Rights Action Plan that outlined the ways in which it would prevent violations of the European Convention on Human Rights. The section regarding freedom of expression highlighted the need for revision of numerous articles in the Turkish penal code, including Article 299, which stipulates a prison term ranging from six months to three years for anyone who makes a statement that '...denigrates Turkishness, the Republic or the Grand National Assembly of Turkey...the Government of Republic of Turkey, the judicial institutions of the State, [and] the military or security organizations.' This plan was hailed as a positive step forward by the Council of Europe and the European Commission.

However, despite the commitments outlined in the action plan, the penal code still contains restrictive articles that are used to silence criticism of the government and the president. The 13<sup>th</sup> section outlines 'Offences against Signs of Sovereignty and Supreme Political Organs of the State', the definitions of which are open to abuse. As well as the punishments outlined in Article 299, this section also contains Article 297, which stipulates a one to four year prison term for anyone who casts aspersions upon the president; and Article 298, which specifies a prison term from six months to two years for anyone who 'publicly humiliates the Turkish flag by destroying, burning it, or in any other manner' or who 'publicly humiliates' the Turkish National Anthem. Each article contains provisions stipulating an increase in the stipulated prison sentences for Turkish citizens who are deemed to have committed these offences while in a foreign country.

### SHRINKING SPACE FOR FREEDOM OF EXPRESSION AND GOVERNMENT CRITIQUE

Between August 2014, when Erdoğan came to power, and March 2015, over 263 people have been investigated for insulting the president. On 28 October 2015 two boys aged twelve and thirteen were charged with insulting the president, after they tore down posters bearing Erdoğan's image in order to sell the paper. When asked by a judge what had motivated their actions, one of the boys replied that he had no idea whose image was on the poster and that they simply wanted to sell the scrap paper to a junk dealer.

Another incident that made newspaper headlines, and illustrates how this charge is open for abuse, is the case of Secil Y v. Turgut Y. Mrs Secil Y filed for divorce from her husband on the grounds that he had insulted the president, stating that he had sent disparaging comments about the president to 500 contacts over the messaging

service WhatsApp. Her father, a public prosecutor, drafted the indictment.<sup>17</sup>

Academics have also been subject to investigations for encouraging free thinking and diversity. Baris Unlu, a lecturer in the Faculty of Political Science of Ankara University, has been charged with 'promoting terrorist propaganda' and 'glorifying a criminal' after referencing two texts written by the founder of the PKK in the end of year examination paper that he had drafted for his class. His trial will take place in the coming months. A group of researchers was detained in 2015 for attending a protest; they claim not to have attended this protest, and their criminal case is still pending, despite the fact that the Ombudsman Institution issued a report stating that they were not seen in any camera footage from the protest.

In January 2016 Turkey detained 27 signatories of a petition entitled 'We won't be a party to this crime', calling on the Turkish state to end its violence against the Kurds and prepare to negotiate conditions for peace. The petition was signed by over 1,000 academics from 89 Turkish universities, and over 355 academics and researchers from abroad. Signatories include such prominent figures as Noam Chomsky, Slavoj Žižek, Immanuel Wallerstein, Judith Butler and David Harvey.

A criminal investigation into their activities is ongoing and they face being charged with insulting the state under Article 299 of the penal code. According to international media sources, many of the professors have subsequently gone into hiding, facing threats and acts of aggression by Turks who agree with the President's actions and rhetoric.<sup>18</sup> A notorious convicted criminal, Sedat Peker, published a statement on his website directed at the academics. The statement threatened, 'We will spill your blood and we will take a shower with your blood!!' The state is not offering the academics any protection.

### THE MEDIA CRACKDOWN, ON- AND OFFLINE

Reporters Without Borders lists Turkey as one of the worst places in the world for press freedom, ranking it as number 149 of 180 countries in their 2015 index. In recent years Turkey's position on this index has worsened drastically, falling 50 places from 99 in 2002 to 149 in 2015.

CSW interviewed journalists who had been sacked for speaking out against the government and its policies. One journalist informed CSW she was sacked by Meliet – one of the leading newspapers in Turkey – while on honeymoon. The alleged reason for her dismissal was financial. She went on to state that she had been very vocal on human rights and women issues; when she

17 Today's Zaman, 'Woman accuses ex-husband of "insulting Erdogan," using false document as evidence' [http://www.todayszaman.com/anasayfa\\_woman-accuses-ex-husband-of-insulting-erdogan-using-false-document-as-evidence\\_402554.html](http://www.todayszaman.com/anasayfa_woman-accuses-ex-husband-of-insulting-erdogan-using-false-document-as-evidence_402554.html)

18 Hürriyet Daily News, 'Notorious criminal threatens academics calling for peace in Turkey's southeast', 13 January 2016 [www.hurriyetdailynews.com/notorious-criminal-threatens-academics-calling-for-peace-in-turkeys-southeast.aspx?PageID=238&NID=93834&NewsCatID=341](http://www.hurriyetdailynews.com/notorious-criminal-threatens-academics-calling-for-peace-in-turkeys-southeast.aspx?PageID=238&NID=93834&NewsCatID=341)

wrote articles about Kurdish prisoners the newspaper would refuse to publish them.

Other journalists stated they had seen mass dismissals across this sector, and that publishing in English can be deemed anti-national. Still others spoke of receiving phone calls from government ministries asking for unfavourable stories to be amended. Another source labelled journalists who are still able to publish as 'mechanisms of the government'. The comment came after police raided the headquarters of Ipek Media

Group – a company well known for its critical stance towards the government. Following the raid, a judge ruled in favour of a takeover of the company by a board of appointed trustees, who subsequently dismissed 82 of the company's journalists.<sup>19</sup>

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19 Today's Zaman [www.todayszaman.com/anasayfa-union-heads-condemn-dismissal-of-82-i-pek-media-journalists\\_403812.html](http://www.todayszaman.com/anasayfa-union-heads-condemn-dismissal-of-82-i-pek-media-journalists_403812.html)

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