

Universal Periodic Review – 21st Session

CSW – Stakeholder Submission

Turkey

Introduction

1. Christian Solidarity Worldwide (CSW) wishes to draw attention to Turkey's domestic human rights situation, and specifically, the situation of freedom of religion or belief over the period of 2010-2014, and the treatment of religious minorities in Turkey.
2. Despite some positive reforms addressing the concerns of religious minorities since Turkey's last Universal Periodic Review (UPR) in 2010, significant concerns remain. There is still hostility and discrimination towards religious minorities, both on a state and societal level, as well as occasional violent attacks against Alevis, the largest religious minority, and Christians - particularly converts from Islam.
3. Since Turkey's last UPR, there has been a noticeable increase in restrictions on freedom of expression, particularly with regard to the media, free speech and bans on social media.

Scope of international obligations

4. Turkey has ratified the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) as well as other international treaties; however, its reservations to these treaties impact the right to freedom of religion or belief. Furthermore, its reservations to Article 27 of the ICCPR and Article 13 of the ICESCR effectively allows Turkey to deny its religious minorities the right to practice their culture, religion and language or educate their children freely.
5. As a member of the Council of Europe, Turkey has ratified, with reservations, the European Convention on Human Rights.
6. Turkey has not acceded to the Convention for the Protection of All Persons from Enforced Disappearance or ICESCR's Optional Protocol, disallowing individuals to bring complaints against violations of ICESCR. Additionally, the nation has neither signed nor acceded to the Rome Statute of the International Criminal Court or Additional Protocols I and II of the 1949 Geneva Conventions.
7. In response to Brazil's recommendation during its last UPR, Turkey stated that its "reservations are in line with the Vienna Convention on the Law of Treaties", which states: "that only reservations against the purpose and spirit of the treaty are impermissible". However, this is not the case.

Recommendations:

8. **Turkey must accede to the Convention for the Protection of All Persons from Enforced Disappearance, the optional protocol on ICESCR, the Rome Statute and Additional Protocols I and II of the 1949 Geneva Conventions;**
9. **The Government must also remove all reservations to international human rights treaties and uphold the rights outlined in the international statutes to which it is party.**

Constitutional and legislative framework

10. Article 10 of the Turkish Constitution states that “everyone is equal before the law without distinction as to language, race...political opinion, philosophical belief, religion and sect”. In addition, Article 24(1) holds that everyone has the right to “freedom of conscience, religious belief and conviction”, while article 24(2) allows for acts of worship to be “conducted freely” as long as they do not contravene stipulations contained in article 14, which centres on the territorial integrity and democratic secular nature of the state. Moreover, article 24(3) underlines the principles of non-coercion and non-discrimination. However,, Article 24(4) stipulates that “education and instruction in religion and ethics [being compulsory] shall be conducted under state supervision”, which often results in discrimination against religious minorities within the education system.
11. Other positive articles within the Constitution include: articles 25, 26, 33 and 34, which uphold freedom of thought, expression, association and assembly.
12. Article 90 of the Constitution, regulating the status of international treaties in domestic law, give international agreements to which Turkey is a signatory precedence over national law when contradictions occur.
13. Although a secular state, as per Article 24, Turkey is caught between its Islamic and secular identities. The fact that 80-5% of the population are Sunni Muslim, along with the widely –held belief that to be Turkish means to be Muslim, discriminatory practices against non-Sunni Muslim groups have occurred, thereby violating freedoms articulated in the Constitution and international obligations.
14. Various constitutional reforms since 2011, including a 2013 democratization package have been proposed to tackle freedom of religion or belief issues. Despite, positive steps having been made, such as the creation of a Council on Equality and Fight against Discrimination, these reforms have failed to establish effective legislation to prevent violations of international human rights standards pertaining to freedom of religion or belief. A draft of the Equality and Fight against Discrimination Law has been pending in the National Assembly for over four years, prohibiting the Council’s independent establishment on a firm legal basis.
15. Despite promises of reform to the country’s Penal Code and anti-terror laws, which would strengthen freedom of religion or belief, these have either been stalled, or the anti-terror law has been reformed in a way that permits unfair prosecution and conviction of journalists and human rights activists.
16. During its last UPR, Turkey promised to recognise non-Muslim minorities’ rights “according to certain bilateral agreements and the Lausanne Peace Treaty”, where designated minorities (Greek Orthodox, Armenians and Jews) were given special legal minority status. Despite the fact the Lausanne Treaty attributes minority status designates to all non-Muslims,,the Turkish government refuses to recognize non-Turkish religious minorities, such as Alevis, Protestants and Syriacs as such.

Recommendations:

17. **That Turkey amend legal and judicial structures to ensure independence and impartiality of the judiciary and commence investigations in order to ensure all victims of rights violations receive reparations;**

18. **That Turkey implement effective constitutional and legislative reform so as to curb discrimination of religious minorities and ensure their treatment is commensurate with international obligations to which Turkey is party.**

Institutional and human rights infrastructure

19. Significant discriminatory issues arise from Turkey's Presidency of Religious Affairs, the Diyanet, whose duties, include "enlightening the public about and administering the sacred worshiping places of Islam." With a budget that is larger than that of the Ministry of Justice, approximately 100,000 employees and operating under the Prime Minister's office, the Diyanet serves to promote Sunni Islam, and in doing so, not only undermines the secular nature of Turkey, but affords other religious a secondary status.
20. During its last UPR Turkey has positively responded to recommendations to create a National Human Rights Institution by establishing an Ombudsman in 2012. However, progress was undermined by the appointment of Nihat Ömeroğlu to head the ombudsman institution. He was one of the judges that approved the ruling against the late Hrant Dink over charges of "insulting Turkishness" under the later amended Article 301 of the Turkish Penal Code.

Recommendations:

21. **That Turkey ensure that all Diyanet measures are implemented in a non-discriminatory manner vis-à-vis non-Muslim religious minorities;**
22. **That Turkey ensures the establishment of an independent national human rights institution in accordance with the Paris Principles and in conjunction with other human rights bodies.**

Interaction with international human rights mechanisms

23. Turkey is party to over 12 international human rights treaties. In line with its extension of a standing invitation to all Special Procedures in March 2001, during its previous UPR, Turkey agreed to recommendations from Greece and Norway that it receives the Special Rapporteur on the Independence of Judges and Lawyers, the Independent Expert on minority issues and the Special Rapporteur on Human Rights Defenders. Although the Special Rapporteur on the Independence of Judges and Lawyers was received in October 2011, requests for visits by other special procedures are yet to be accommodated.
24. In 2012, Turkey accepted visits from the Rapporteur on Turkey for the Parliamentary Assembly of the Council of Europe, Josette Durrieu.
25. In October 2012, Turkey underwent its first review by the Human Rights Committee regarding its implementation of the ICCPR. The committee criticised the vague wording of Turkey's anti-terror law, which fails to protect freedom of expression and the right to conscientious objection to military service - recognised as part of the right to freedom of religion, conscience or belief.

Recommendations:

26. **That Turkey must respond to all outstanding requests from Special Procedures and implement recommendations made by all recognized independent experts and treaty bodies regarding its human rights situation;**

27. **Turkey must additionally review its anti terror law, ensuring that this and other legislation is in conformity with international obligations to which Turkey is party.**

Freedom of religion or belief

28. Since its last UPR, Turkey has failed to address a number of issues affecting the rights of religious minorities to manifest or change their beliefs.
29. Identity cards continue to undermine Turkey's anti-discrimination laws by maintaining a religion category allowing only recognised religions to be entered, and forcing unrecognised groups such as Alevis and Baha'is to leave their ID cards blank. This is despite a 2012 ruling by the European Court of Human Rights, which ordered Turkey to allow Alevis to state their religion on ID cards or face sanction. Rights. Unrecognised minorities are often discriminated against on a societal level and those changing their religion from Islam to Christianity can face a lengthy process, often being abused by officials in the process.
30. In an outworking of Article 24 of the Constitution, Turkey has implemented compulsory instruction in the religious culture and moral education of Sunni Islam in all primary and secondary schools. Although Jewish and Christian pupils may be exempt from 'Religious Culture and Knowledge of Ethics' (RCKE) classes in theory, this is harder to implement at local level. Other religious minorities such as Alevis and Baha'i are still not exempt, occasioning discrimination by teachers and classmates, and sometimes resulting in children having to leave school.
31. Unrecognised minorities remain unable to run private schools. The Greek Orthodox Halki Theological Seminary remains closed since 1971, despite promises by successive governments to re-open it. Concerns remain over a bill recently introduced to parliament that seeks to change the status of the historic Hagia Sophia building, formerly a church and now museum, into a mosque. Given that the Hagia Sophia was once the most visible representation of Christianity in the Byzantine era; the bill has antagonised Turkey's Christian community, with many calling on the Prime Minister to publicly reject it.
32. Restrictive legislation and practice continues to result in non-Muslim communities being unable to acquire place of worship status for the premises they use for worship, thereby infringing on their right to manifest their religion or belief in communion with others. This is especially the case in relation to Alevi cemevi (houses of worship).
33. The Istanbul Protestant Church gained 'foundation' status in 1999, the first to gain this status. However, many churches report they frequently face insurmountable criteria and legal battles to register church buildings and obtain legal personality. Although registration is not mandatory, 'foundations' have far more rights and are the only groups able to own real estate and receive money other than through donations.
34. Since 1936, successive Turkish governments have confiscated property belonging to Christian, Baha'i and Alevi communities on the pretext that they constitute public property, are unused or are inactive. As part of a 'democratization package' in late 2013, significant portions of land confiscated from the Mor Gabriel Monastery was returned to the Syriac community. However, this represented only half of the 60 acres. Despite a 2011 decree giving Christians and Jews the right to reclaim property confiscated by the state, its success remains debatable, given that only 15% of property has had been returned by October 2013.

35. Hostility to missionary activity remains pervasive, with further animosity being directed towards the Turkish Protestant community, most of whom were previously Muslims. Anti-missionary rhetoric still exists in school textbooks, entrenching hostility and mistrust within society. Furthermore, students that have met with missionaries are known to have been reported to their families or to university authorities by the police.
36. In its last UPR, Turkey stated it would continue to take constructive measures to address issues facing non-Muslim communities, such as the education of clergy and school children; although this has yet to be fully implemented.
37. Justice for victims of hate crimes remains elusive. A decision in the Malatya case, regarding the murders of three Zirve Christian publishing house employees in 2007 has yet to be made. In February 2014, and not for the first time in this case, several judges and prosecutors were changed, thereby increasing the likelihood of a decision on this case being further delayed, as new judges familiarize themselves with the case. Amendments to the anti-terror law in February 2014 reduced the detention limit for suspects from ten to five years, resulting in the immediate release on bail of the suspects, who are under house arrest and electronically tagged until the next court in June 2014.
38. The 2007 murders of several Christians, including: Hrant Drink (journalist), Andrea Santoro (priest) and the Malatya victims are reported to have been orchestrated by TUSHAD, an undercover umbrella organization of the Turkish Armed Forces. In January 2013, a plot was uncovered to assassinate Emre Karali, an Islamic convert and pastor of the Izmit Protestant Church.
39. Article 216 of Turkey's Criminal Code punishes 'offences against public peace', including incitement to hatred and hostility against religious groups, and has been used to convict individuals. In April 2013 an outspoken critic of the ruling AKP party, Fazil Say was charged with criticizing Islamic practice. His sentence demonstrates a pattern of arrests of academics, artists, and journalists – many who have expressed their opposition to AKP government policies, which has raised concerns of a lack of freedom of expression in Turkey. Furthermore, the use of Article 216 as a legal basis for prosecution has worrying implications for freedom of religion or belief and freedom of expression.
40. Following the leaking of a government corruption scandal by Twitter users, the Prime Minister imposed a ban on several social media sites, including Twitter and YouTube, on the basis of "national security", thereby prohibiting expression that in no way amounted to a security threat.
41. What began as the Gezi Park protests against governmental infrastructural projects in May 2013, evolved into a scenario whereby the right to peaceful assembly was denied. Excessive force was utilised against unarmed protesters, resulting in 10 deaths and 8,000 injured.
42. Turkey proclaimed freedom of expression as fundamental to its reform and undertook to guarantee freedom of expression and opinion and create conditions to prevent violations of this freedom by lifting restrictions on the use of internet. Additional promises were made to ensure limitations on freedom of expression are enforced in line with international standards, and are thus necessary and proportional. However empirical evidence since Turkey's last UPR illustrates the nation has failed to uphold its undertakings.

Recommendations:

43. **Turkey must proactively accommodate non-Muslim minorities and address their socio-economic concerns, fulfilling obligations under Article 18 of the ICCPR not only with regard to national legislation and policy, but in practice and particularly at local level;**

44. **Promote inter-faith harmony and understanding in order to change societal perceptions of and hostility towards non-Muslim communities, and amending discriminatory aspects of RCKE classes and textbooks that mischaracterize missionary activity by religious minorities;**
45. **Monitor the implementation of Article 17 within the Law of Foundations, pertaining to the return of confiscated properties to minority communities, and ensure that the General Foundations Board of Turkey processes each application for return of assets quickly and fairly;**
46. **Immediately end discriminatory use of Article 216 of the Criminal Code and re-evaluate the cases of individuals charged under this article;**
47. **Undertake a thorough investigation into the excessive use of force against legitimate protests, ensuring justice for victims, as well as the immediate overturning of the ban against social media websites.**