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USCIRF Annual Report 2010 - The Commission's Watch List: Turkey

FINDINGS: Serious limitations on the freedom of religion or belief continue to occur in Turkey. Turkey's active civil society, media, and political parties influence the climate for religious freedom and help define the debate about the appropriate role of religion in society. Turkey has a democratic government, and the country's constitution calls for the protection of the freedom of belief and worship and the private dissemination of religious ideas. Nonetheless, the Turkish government's attempt to control religion and its effort to exclude religion from the public sphere based on its interpretation of secularism result in serious religious freedom violations for many of the country's citizens, including members of majority and, especially, minority religious communities. The European Union (EU) continues to find that, despite some improvements since its 2001 bid to join the EU, "Turkey needs to make additional efforts to create an environment conducive to full respect for freedom of religion in practice." An additional factor influencing the climate during the past year includes the alleged involvement of state and military officials in the Ergenekon plot, which included alleged plans to assassinate the Greek Orthodox and Armenian Orthodox patriarchs and to bomb mosques.

Due to these concerns, USCIRF continues to place Turkey on its Watch List in 2010.* Turkey was first placed on the USCIRF Watch List in 2009.

State secularism in Turkey continues to depend on full government control over all religions, and has resulted in significant restrictions on religious freedom, including for the majority Sunni Muslim community, the minority Alevis (usually viewed as a unique sect of Islam), as well as Christian and other minority communities, such as the Greek, Armenian, and Syriac Orthodox Churches and others. Only Sunni Islam is officially permitted, and the state controls all official mosques, training of Muslim clergy and the content of sermons. Despite Turkey's obligations under the 1923 Lausanne Treaty, the government legally has not recognized minority religious communities as independent entities with full legal status, such as the Ecumenical Patriarchate of the Greek Orthodox Church. The resulting restrictions on religious minority communities, including state policies and actions that effectively deny non-Muslim communities the right to own and maintain property, train religious clergy, obtain and renew visas for religious personnel working for these communities, and offer religious education, have led to the decline – and in some cases the virtual disappearance – of these communities.

The Turkish government, in recent years, has responded quickly to arrest those suspected of violent hate crimes against members of religious minorities, such as individuals believed to be involved in several high profile murders of Christians. However, the resulting trials, like all Turkish trials, are protracted. The ruling party has instituted legal reforms aimed at preventing military involvement in civilian politics and providing a greater role for religion in public life; a constitutional reform package was before the parliament in March 2010. Anti-Semitism remains a problem in the media and public discourse, due in some measure to statements and gestures of the Prime Minister

that have been reported publicly.

PRIORITY RECOMMENDATIONS: The United States regards Turkey as an important strategic partner, especially in light of its NATO membership, shared borders with Iraq and Iran, and emerging leadership role in the Middle East and Central Asia. The United States also continues to support Turkey's bid to join the European Union. U.S. policy should place greater emphasis on Turkey's compliance with its international commitments regarding freedom of religion or belief. For instance, the United States should encourage the Turkish government to address the long-standing lack of full legal recognition for religious minorities, including Alevis; Greek, Armenian, and Georgian Orthodox; Roman and Syriac Catholics; Protestants; and Jews. As President Obama noted in his April 2009 address to the Turkish parliament, the United States should continue to urge Turkey to permit all religious minorities to train religious clergy in Turkey, including by reopening the Greek Orthodox Theological Seminary of Halki. The United States also should work with Turkish authorities to allow women the freedom to express their religious or non-religious views through dress in order to respect both their beliefs and the secular status of the Turkish republic, as well as to remove legal restrictions on the wearing of clerical garb by non-Muslims in public. Additional recommendations for U.S. policy towards Turkey can be found at the end of this chapter.

* Commissioner Eid abstained from the Watch List recommendation, concluding that the situation in Turkey is not as serious as in Greece, which is not on USCIRF's Watch List.

Religious Freedom Conditions

Secularism in Turkish Politics

According to the founding constitution of the Republic of Turkey established in 1923, Turkey is a secular state. Secularism, equated as the ideology of Mustafa Kemal Atatürk, has been a continuous source of political-social tension, and sometimes violence. Turkey has experienced four military coups since 1923. Atatürk and subsequent Turkish leaders adopted policies to subject religion to state control and remove the public influence of religion, including expressions of personal belief. The election of the Justice and Development Party (known in Turkish as the AKP, or the AK Party) in 2002 was viewed by some as the start of the rejection of secularism as the limitation of religion in public life, although the AKP's leader, Prime Minister Recep Tayyip Erdoğan, has made repeated public statements that his party supports secularism.

Over the decades, political parties that disagreed with the state's definition of secularism have been suppressed or banned, even though many Turks disagree with the absence of religion from public life. In 1960, 1971, and 1980, the Turkish military ousted governments, in part, due to concerns that secularism was under threat. In the 1990s, the *Refah* (Welfare) Party confronted Turkish secularism and won a plurality in elections, but in 1997 was maneuvered out of power by a soft coup by the military and forced to disband.

Despite its roots in the Islamist *Refah* Party, the AKP platform includes Turkey's accession to the EU and the democratic integration of Islam into public life. Nevertheless, while some view the AKP as a moderate party that espouses Islamic religious values within a modern, democratic society, others contend that it has more radical intentions, such as the eventual introduction of Islamic law in Turkey. In July 2008, the constitutional court ruled that the AKP had violated the constitution by serving as a center for "anti-secularist activities," but rather than ban the AKP, the constitutional court reduced the party's state funding by half, a more moderate action than in the past.

In March 2010, the AKP announced a constitutional reform package focused on judicial reform. The changes would restructure Turkish judicial institutions, increase presidential appointments to the judiciary, thereby weakening the role of the courts vis-à-vis AKP legislative initiatives, and grant parliament power to prevent the closure of political parties. In a speech that month to parliament, Prime Minister Erdoğan said that

the proposed constitutional amendments would "pave the way to EU accession and global integration for Turkey." Critics, however, note that the proposed measures appear to be aimed at solidifying AKP power before the 2011 elections. The prime minister threatened to take the proposed amendments to a popular referendum if the parliament does not ratify them. Although the AKP has a majority of votes in the parliament, it lacks the two-thirds majority needed to pass constitutional amendments. Observers believe that the parliament is unlikely to vote on these issues before mid-April; a popular referendum is likely by mid-June.

During the past year, Turkish authorities have taken action against an underground ultra-nationalist organization known as "Ergenekon," which is a constellation of military groups, organized crime operations, right-wing political actors, and hyper-secularist groups. Viewed as part of the "deep state," the Ergenekon network allegedly planned several actions that, taken together, were aimed at fomenting domestic societal unrest, in order to lead to a collapse of the government and/or a military coup. In addition, authorities alleged the group kept lists of potential targets, including Christians and Jews, and it has been implicated in the murders of a Catholic priest in Trabzon in February 2006, three Protestants working for an evangelical Christian publishing house in Malatya in April 2007, and the ethnic Armenian journalist, Hrant Dink, in 2007. Under the so-called Cage plan, non-Muslim community leaders allegedly were named for assassination, including the Ecumenical Patriarch Bartholomew of the Greek Orthodox Church, Patriarch Mutafyan of the Armenian Orthodox Church, and Ishak Alaton of the Jewish community in Turkey. In one Ergenekon-related case, a Turkish army general is alleged to have plotted to plant weapons in the homes of followers of Muslim preacher Fethullah Gulen to create fears of Islamic militancy.

In early 2010, more than 30 current and retired military officers were arrested in 13 Turkish cities in connection with allegations of another separate plot to overthrow the AKP government, known as the "Sledgehammer Plot." First revealed by the little known *Taraf* newspaper and then widely circulated in many of the country's best known newspapers, this plot allegedly included plans to bomb two Istanbul mosques, to bring down Turkish military aircraft and blame the event as a provocation by Greece, and to attack NATO facilities. Some Turkish military representatives have denied institutional involvement by the army in any plans for a coup.

By March 2010, nearly 200 alleged Ergenekon members reportedly had been charged in Turkish courts, including police and retired and active army officials, businesspeople, lawyers, academics, politicians, journalists, and organized crime figures. Some analysts have criticized the Ergenekon investigation, noting that numerous detainees are prominent critics of Erdogan's government and individuals known to support strict secularism. The Ergenekon controversy has deeply polarized Turkish politics and society regarding the role of Islam in politics and public life; the safety of non-Muslim religious and ethnic minorities in Turkey; and the role of the military in civilian political institutions. Observers have widely divergent views on whether the Ergenekon case represents progress or regression on the Turkish road to democratization and the rule of law. In the first instance, the investigation and arrests of alleged members of a coup against a democratically elected government shows the strengthening of Turkish democracy. By the same token, the allegations of a plot could be used to arrest individuals opposed to the AKP and its political agenda. Furthermore, the case underscores the continuing challenges to the full civilianization of politics in Turkey.

Restrictions on the Expression of Islam

The Directorate of Religious Affairs, or the *Diyanet*, a taxpayer-funded government body under the prime minister's office, controls all 80,000 mosques in Turkey and employs imams as state functionaries. The *Diyanet* only allows propagation of the Hanafi Sunni school of Islam, including through its control of the content of sermons in Turkey's mosques. Religious practice and education (compulsory in state schools for Muslim children) only follow Hanafi doctrines, although up to 20 percent of Turkey's Muslims are Alevis. Only the *Diyanet* is allowed to provide religious education courses outside of school for children above the age of 12. The practice of Islam outside of government-regulated institutions is not condoned. Turkey's renowned Sufi orders were officially

prohibited in the 1920s, though some still operate unofficially.

Turkish secularism bans religious dress as well as the wearing of head scarves in state buildings, including public and private universities, the parliament, courts, and schools. Women who wear headscarves, and those who advocate on their behalf, have lost public sector jobs such as nursing and teaching. Headscarf-wearing students officially are not permitted to register even for classes at private institutions. In December 2008, authorities charged five members of the military with "lack of discipline" for allowing their wives to wear headscarves or for performing Muslim prayers. In 2006, a court upheld a school's decision to fire a teacher who wore the headscarf outside of school hours. More recently, in March 2009, the Supreme Election Committee declared that workers at polling stations could not wear the headscarf during work hours.

The "headscarf issue" (*turban*) has long been the focus of political debate in Turkey. In 2005, the European Court of Human Rights (ECtHR) ruled that in view of Turkey's constitutional legal definition of secularism the headscarf ban by a Turkish university did not violate the European Convention on Human Rights, even though it contravened religious freedom standards. In February 2008, the Turkish parliament voted overwhelmingly to change the 1982 constitution (written by a military-led caretaker government following the military coup of 1980) to guarantee all citizens the right to attend university, regardless of dress. Under the amendment, only traditional scarves – tied loosely under the chin – would be allowed. Headscarves that cover the neck, as well as the full veil, would still be banned. In June 2008, however, the Turkish constitutional court ruled that these amendments were unconstitutional because they violated the Turkish requirement of secularism. As a result, the headscarf ban remains in effect, and only uncovered women are permitted access to public and private universities in Turkey.

In February 2010, the ECtHR ruled that a Turkish court violated the rights of 127 members of an Islamic group, *Aczimendi tarikaty*, by sentencing them for wearing religious dress in public. According to the ECtHR, the plaintiffs had been punished for wearing these traditional clothes in the street as they walked to a mosque, not in public institutional buildings, where religious neutrality is permitted and can override the right to express one's religion. The ECtHR also ruled that the Turkish authorities had not proven that the plaintiffs' dress constituted a danger to public order or that they had proselytized en route to the mosque, putting inappropriate pressure on passersby. The ban on public religious dress is more extensively targeted at non-Muslim groups, as all Christians (Orthodox, Catholic, and Protestant) and Jews are prohibited from wearing clerical garb in the public sphere in general, not only in state buildings.

Restrictions on Alevis

The Alevis are Turkey's largest religious minority community, comprising 15 to 25 percent of the population, though not recognized as an official minority by the state. The beliefs and practices of the Alevis remain a source of debate within Islam, and some Muslims consider the Alevis to be a sect of Twelver Shi'a Islam that has assimilated some elements of Sufi Islam, Gnostic, and Zoroastrian theology and rituals. The Turkish government generally views the Alevis as heterodox Muslims, although many Sunni Muslims and some Alevis maintain that Alevis are not Muslims. Though not granted status as a religious minority, Alevis reportedly are able to practice their beliefs relatively freely. Nevertheless, the Alevis are still subject to some discriminatory state practices, though their situation has improved in recent years.

Alevis worship in what are called "gathering places" (or "*cem evleri*," in Turkish). The Turkish government does not officially recognize *cem* houses as houses of worship, but rather considers them "cultural centers." Alevis have reported denials and protracted delays in receiving permission to build *cem* houses. These problems reportedly have decreased in recent years. In 2008, a Turkish regional court ruled that *cem evleri* are not houses of worship, while the same year two Turkish municipalities ruled that they will be considered places of worship in their jurisdiction. Moreover, Alevis note that while all Turkish taxpayers, including Alevis, fund the construction of Sunni mosques in

Alevi villages, Alevis are sometimes denied permission to build *cem* houses even in areas where they are in the majority. Some of the 300 groups within the large Alevi community have called for the abolition of the *Diyanet* because it exercises state control over Islamic religious life, promotes only Sunni Islam, and is funded by taxes from all Turkish citizens. Alevi leaders – called "Dede" or elders – are not entitled to that title under a 1925 law, which, under the Turkish Constitution, cannot be amended.

Alevis object to their children having to take part in compulsory religious education for Muslims. Some Alevis believe that these classes should be optional for members of their community, others have advocated for curriculum reform so that their religion is accurately presented, while others advocate the abolition of required religion courses. A member of the Turkish Alevi community brought the issue of compulsory Muslim education before the ECtHR, which ruled in 2007 that religious education should be optional for Alevis since the curriculum was limited to Sunni Islam. A Turkish regional court later upheld that ECtHR opinion. The religion curriculum for Turkish schools was modified in 2008, but some Alevis maintain that the new texts are still inadequate as they treat their community as a mystic order within Islam.

In the past several years, and most recently in June 2009, the Turkish government held several workshops with the Alevi community to discuss their concerns. The Alevis are seeking to address five key issues: legal status for Alevi houses of worship; the abolishment of compulsory religious education classes; an end to the building of mosques in Alevi villages; the return of Alevi properties confiscated under a 1925 law; and the establishment of a museum at the Madimak Hotel in Sivas where Alevis were killed in a 1993 arson attack. In late 2009, as many as 200,000 Alevis demonstrated peacefully in Istanbul to urge the Turkish government to implement these five requests. According to information received in February 2010 from the Turkish embassy in Washington, DC, a final document from these workshops will be submitted to Prime Minister Erdogan in the spring of 2010.

Restrictions on Legal Status of Non-Muslim Minorities

The 1923 Treaty of Lausanne, a peace treaty signed between Turkish military forces and several European powers that formally established the Republic of Turkey, contained specific guarantees and protections for all non-Muslim religious minorities in Turkey.¹⁹ Since that time, however, the Turkish government has interpreted those treaty obligations as limited to the Greek Orthodox, Armenian Orthodox, and Jewish communities. Nevertheless, despite this unique status, legal recognition of these three religious minority communities, and guarantees cited, have not been implemented in Turkish law or practice, and the Turkish government continues to use the denial of legal personality to these groups as a mechanism to restrict their rights of religious freedom.

Furthermore, religious groups that fall outside the Turkish government's view of the Lausanne Treaty's definition of religious minorities are severely limited in their right to freedom of religion or belief. Over the decades, the absence of legal personality has resulted in serious problems with regard to minority communities' right to own, maintain, and transfer both communal and individual property. They also face major obstacles in deciding internal arrangements and training religious clergy. In some cases, these obstacles have led to a critical decline in these communities on their historic lands. The problems for the Christian minorities – including on property rights, education, and in some instances, physical security – partly arise from the fact that most are both religious and ethnic minorities, and therefore are viewed with suspicion by some ethnic Turks.

In Turkey today, there are about 65,000 Armenian Orthodox Christians, 23,000 Jews, and approximately 1,700 Greek Orthodox Christians. When Turkey was founded in 1923, there were 200,000 Greek Orthodox Christians in the country. By 1955, the number had fallen to 100,000; that year, pogroms against the Greek Orthodox resulted in the destruction of private and commercial properties, desecration of religious sites, and killings. Due to ongoing threats, the Greek Orthodox community's numbers continued to decline to their present level. In addition to the three so-called "Lausanne minorities,"

at present, there are approximately 15,000 Syriac Christians, 10,000 Baha'is, 5,000 Yezidis, 3,300 Jehovah's Witnesses, and 3,000 Protestant Christians in Turkey, as well as small Georgian Orthodox, Bulgarian Orthodox, Maronite, Chaldean, Nestorian Assyrian, and Roman Catholic communities. The number of Syriac Christians in southeastern Turkey was once much higher, but government pressures and the war against secessionist Kurdish forces resulted in a major emigration.

A government agency, the General Directorate for Foundations (*Vakıflar*), regulates all activities of non-Muslim religious groups and their affiliated houses of worship and other property. According to the State Department, 161 religious community foundations that existed during the Ottoman Empire were legislated into the foundation system. The *Vakıflar* recognizes these 161 "minority community foundations," which include Greek Orthodox with some 74 sites; Armenian Orthodox with 48 sites, and Jewish foundations with 12 sites, as well as Syriac, Bulgarian and Georgian Orthodox, and Chaldean and Maronite Catholics. Establishing a foundation enables a religious community to gain the status of a collective legal entity, but rules on foundations are intrusive and onerous. Contrary to the Lausanne provisions, however, the properties of religious minorities in Turkey, including on the islands of Imvros and Tenedos, have been expropriated – private property of individuals and communal properties such as schools, cultural buildings, churches, and orphanages – and legal personality requirements irregularly are applied or suspended, with arbitrary, and sometimes, no access to the judicial system for recourse.

A religious organization also may apply to register for official status as a non-profit association, but such associations cannot own property. Obtaining association status is simpler and faster than gaining foundation status. Nevertheless, it is granted and also may be denied by provincial governors and provides fewer long-term protections.

For more than fifty years, the Turkish government has used convoluted regulations and undemocratic laws to confiscate hundreds of religious minority properties, primarily those belonging to the Greek and Armenian Orthodox communities, as well as those of the Catholic and Jewish communities. In 1936, the government required all foundations to declare their sources of income. Since the time of Turkey's invasion of Cyprus in 1974, the Turkish High Court of Appeals ruled that minority foundations had no right to acquire properties other than those recognized by the state in 1936. Since that time, the government has seized control of hundreds of properties acquired after 1936. Although religious minority foundations can acquire property, previously expropriated property cannot be reclaimed, nor is there any state compensation for expropriated properties. Moreover, these government actions are not subject to appeal. Greek, Armenian, and Syriac Christians also have been restricted in the maintenance of religious and cultural sites, partly due to the complex process for acquiring necessary official documents. Additionally, minority groups cannot use funds from their properties in one part of Turkey to support their population elsewhere in the country.

In recent years, some older members of the Syriac Christian community have returned to Turkey, and in one case, the Turkish government helped to evict a local group which had occupied homes that belonged to Syriac Christians. Metropolitan Yusuf Çetin of the Syrian Orthodox Church told USCIRF in 2006 that the Turkish government had provided some assistance in restoring churches and monasteries. More recently, however, a dispute has arisen over the attempted seizure by Turkish authorities of some territory of the 1,600-year-old Mor Gabriel monastery, the Syriac Patriarch's residence from 1160 to 1932. Turkish officials reportedly have attempted to redraw the monastery's boundary lines, claiming that the current boundaries impinge on the land of three neighboring, primarily Kurdish, villages. Some village leaders also have accused the local monks of "proselytism" for talking with students about their beliefs and in their Aramaic language. There have been two court hearings related to the case, which began in early 2009 and are ongoing.

Roman Catholics also have had their property confiscated by the Turkish government. In January 2010, Pope Benedict noted that the Catholic Church in Turkey still lacks legal status.

Protestants in Turkey, who number about 3,000, are primarily ethnic Turkish converts from Islam. They often meet in the churches of other denominations, homes, and in other venues. Meeting in homes is often viewed with suspicion and police sometimes prevent such services, including by detaining and prosecuting participants. In February 2009, the ECtHR ruled that a Protestant church in Izmir had the right to legal status as an association and, according to the State Department, the Turkish government has complied with that ruling.

Jehovah's Witnesses reportedly experience continuing harassment of their worship services, even though they gained the legal status of an association in 2007, thereby enabling the group to rent meeting space and collectively defend its legal interests in court. The State Department reported that in early 2009, court decisions, based on zoning laws against the use of two Jehovah's Witnesses places of worship, were reversed on appeal and two other similar cases were appealed and are awaiting a verdict.

In November 2006, the Turkish parliament, as part of EU accession reforms, passed a new law on Lausanne religious minority foundations, easing procedures and allowing non-Turkish citizens to establish such foundations. Although the law permitted the *Vakıflar* to continue to expropriate properties, it enabled religious minorities to recover limited categories of expropriated property, not including those that had been sold to third parties or were under government control. Then-President Ahmet Necdet Sezer, vetoed the law. In February 2008, the parliament passed a similar law on the return of non-Muslim minority properties, including orphanages, hospitals, and churches. However, the 2008 law still exempts property sold to third parties and the *Vakıflar's* expropriation authority continues. President Gul signed this legislation, supported by Prime Minister Erdogan.²⁰

Other Restrictions on Non-Muslim Minorities

The three officially-designated "Lausanne minorities" may operate primary and secondary schools as communities under the supervision of the Ministry of Education. Until 2007, in violation of the Lausanne Treaty, these schools were required to appoint a Muslim as deputy principal. However, in 2007, a new law allowed non-Muslims to take up the position. Nevertheless, regulations make it difficult for non-Muslim children to register and attend their community schools, thereby leading to the gradual disappearance of the community schools protected under Lausanne. School registration must be carried out in the presence of Ministry of National Education inspectors, who reportedly ensure that the child's father is from the relevant minority community.

The Turkish state also has closed minority communities' seminaries, denying these communities the right to train clergy, and has interfered with their internal arrangements and leadership decisions. For example, the Turkish government still does not recognize the Greek Ecumenical Patriarchate as a legal entity. Moreover, it only acknowledges the Patriarch as head of the Greek Orthodox community in Turkey, not as Ecumenical Patriarch, despite Prime Minister Erdogan's January 2008 statement in parliament that Patriarch Bartholomew's "Ecumenical" title was an internal church issue. In March 2010, the Venice Commission, a Council of Europe advisory body, stated that there is no factual or legal reason, including the 1923 Treaty of Lausanne, for the Turkish government not to acknowledge the status of the Patriarch as "ecumenical," based on the historically recognized title and prerogatives. The Turkish government also maintains that only Turkish citizens can be candidates to be Patriarch or hierarchs in the Church's Holy Synod. The Turkish embassy in Washington, DC informed USCIRF in February 2010 that the government had discussed the possible application for Turkish citizenship of the relevant Greek Orthodox Metropolitans in August 2009 in a meeting with the Patriarchate, but no action has been taken.

In 1971, the government's nationalization of higher education institutions included the Greek Orthodox Theological School of Halki on the island of Heybeli, thereby depriving the Greek Orthodox community of its only educational institution for its religious leadership in Turkey. Furthermore, in November 1998, the school's Board of Trustees was dismissed by the General Authority for Public Institutions. The Halki seminary

remains closed; according to the Turkish embassy in Washington, DC, as of early 2010, the Turkish authorities continued to explore with the Patriarchate possible venues for its reopening.

In 2008, the ECtHR ruled in a case brought by the Greek Orthodox Ecumenical Patriarchate that Turkey was in violation of Article 1 of Protocol No. 1 (protection of property) of the European Convention on Human Rights. The case concerned the Turkish government's expropriation of the Greek Orthodox orphanage on the Turkish island of Buyukada. The court unanimously ruled against the Turkish state for improperly taking the orphanage owned by the Ecumenical Patriarchate. The Turkish government has yet to implement the court's ruling.

The Armenian Orthodox community, which is Turkey's largest non-Muslim religious minority, also lacks a seminary in Turkey to educate its clerics and today only has 26 priests. In 2006, the Armenian Patriarch submitted a proposal to the Minister of Education to enable the Armenian Orthodox community to establish at a state university a faculty on Christian theology with instruction by the Patriarch. To date, the Turkish government has not responded to this request. Additionally, like the Greek Orthodox Patriarch, the Armenian Patriarch lacks legal personality. The Armenian Patriarch reportedly receives about 300 email threats daily, and has two secret police bodyguards who accompany him at all times.

Due to the Turkish law banning the public wearing of clerical garb, foreign Christian clergy, including Georgian, Greek and Russian Orthodox, were required in 2009 to remove their church vestments before they were allowed to enter Turkey. Christian clerics in Turkey who are Turkish citizens cannot wear their clerical dress anywhere in public.

Hate Crimes and Intolerance against Members of Non-Muslim Minorities

Hrant Dink, a prominent journalist of Armenian background, was murdered in January 2007. Dink had been convicted under Article 301 of the Turkish Penal Code for "insulting" the Turkish state by publicly referring to the "Armenian genocide." Due to international pressure, his conviction was changed to a suspended sentence. Some reports suggested that Dink had been targeted for murder because he was a Christian. When a USCIRF delegation met with Dink in Istanbul in 2006, he referred to repeated threats against his life. The trial of Dink's alleged killer, who now has been linked to the Ergenekon plot, continues. According to Reporters without Borders, the trial is being conducted in a "disappointing" manner. In February 2010, seven hundred activists, who called themselves Dink's "deep family," called for a parliamentary investigation into the murder.

Roman Catholics in Turkey occasionally have been subjected to violent societal attacks. In February 2006, an Italian Catholic priest was shot to death in his church in Trabzon by a youth angered over the caricatures of the Muslim prophet in Danish newspapers. Prime Minister Erdogan and other government officials strongly condemned the killing. A 16 year-old boy later was charged with the murder, tried, and sentenced to 19 years in prison. In July 2009, Gregor Kerkeling, a Catholic German businessman, was murdered in an anti-Christian hate crime by a mentally disturbed young man who later confessed and has gone on trial.

Although Protestants and their property have, in the past, been subject to violent attacks, reports indicated that there had been a decline in such incidents in 2009. Yet in August 2009, Ismail Aydin, who belongs to a Protestant church in Istanbul, was taken hostage at knife point. His captor announced he intended to kill Aydin for his missionary activities, but police persuaded the attacker to release him without harm. As of this writing, the trial is ongoing. Another trial also continues of two Muslim converts to Christianity who were charged in 2006 under Criminal Code Article 301 with "insulting Turkishness," inciting hatred against Islam, and secretly compiling data on private citizens for a Bible correspondence course.

In April 2007, three employees of an Evangelical Protestant publishing house in the city

of Malatya were murdered. A total of 10 suspects have been arrested. Later evidence indicated that the five who confessed to the murders were linked to local political officers, the special military forces, and regional members of Turkey's nationalist political party allegedly involved with the Ergenekon plot. In December 2007, Turkey's Interior Ministry also opened a judicial investigation into the alleged collusion of public officials in these murders; the trial is ongoing.

Although engaging in public religious expression and persuasion is not illegal in Turkey, those who do so are sometimes harassed and arrested. Two Christians went on trial in October 2009 for "insulting" Turkish identity after being arrested for discussing their faith. The issue is also the subject of public discussion. A day after the 2007 Malatya murders, a senior Justice Ministry official told the *Milliyet* newspaper that "missionary work is even more dangerous than terrorism and unfortunately is not considered a crime in Turkey." Missionary activity also has been on the agenda of the National Security Council, but the major Turkish media has reduced intolerant coverage of religious minorities since the 2007 Malatya murders. For example, ATV, a popular national TV channel, reportedly has dropped broadcasts on "illegal" churches or the conversion of Turks to Christianity. Nevertheless, intolerant reports continue in local and ultra-nationalist newspapers, as well as on Web sites and blogs, according to sources in Turkey. In addition, "missionary activity" is listed as a national threat linked to foreign funding in compulsory eighth-grade public school texts on the History of Turkish Republican Reforms and Atatürkism.

Approximately 96 percent of Jews in Turkey are descendants of those who fled religious persecution in Spain or Portugal in 1492. According to Jewish community representatives in Turkey, their situation is better than in other majority Muslim countries. They are able to worship freely and their places of worship generally receive government protection if needed. Jews also operate their own schools, hospitals, two elderly persons' homes, and welfare institutions, as well as a newspaper.

Nevertheless, in 2003 and 2004, extremists attacked synagogues in Turkey, and in recent years there has been growing anti-Semitism in some sectors of Turkish media and society. Some link increased anti-Semitism to Turkish opposition to the U.S. invasion of Iraq, the 2009 Israeli military campaign in Gaza, and an incident in which Prime Minister Erdogan left a roundtable at the G-8 meeting in Davos to protest comments by Israeli President Peres about the Gaza campaign. During the Gaza campaign, virulently anti-Semitic signs, posters, and caricatures appeared at anti-Israel demonstrations and in many Turkish newspapers. Jewish community organizations reportedly received anti-Semitic mailings and phone calls. Nevertheless, in a 2009 interview with Turkey's *Milliyet* newspaper, the president of the Turkish Jewish community said that he "does not believe that anti-Semitism exists throughout Turkey." He also praised Prime Minister Erdogan for publicly denouncing anti-Semitism, stating that the Jewish community's "only problem is the majority's tendency to view minorities as removed from the general population."

National Identity Cards

Religious affiliation is listed on Turkish national identity cards, but some religious groups, such as the Baha'is, are unable to state their religion because it is not on the official list of options. Although a 2006 law allowed individuals to leave the religion section of their identity cards blank or apply to change the religious designation, the Turkish government reportedly continued to restrict applicants' choice of religion. These denials cause difficulties for religious minority students to opt out of Islamic religion classes in public schools. In a case brought by an Alevi librarian, the ECtHR ruled in February 2010 that Turkish identity cards should not require the listing of religious affiliation.

Conscientious Objectors

Turkish law does not include a provision for alternative military service. Although a draft law was introduced in late 2008, it is considered unlikely to be adopted. A July 2008

Ministry of Justice decree states that deserters can only be arrested and detained by police with a court warrant, so that conscientious objectors no longer can be arrested by the military at a recruitment office. Nevertheless, if an objector refuses conscription, or to wear a military uniform, these acts are treated under the Military Criminal Code as a refusal to obey orders and may initiate a cycle of prosecution and imprisonment.

Conscientious objectors fall mainly into two groups: pacifists who totally refuse any compulsory state service, including civilian service, and Jehovah's Witnesses, who reject military service but are willing to serve in an alternative capacity that is strictly civilian. Although Turkish law does not provide for official conscientious objector status, reportedly there are about 89 conscientious objectors in Turkey who are not Jehovah's Witnesses, and about 30 Jehovah's Witnesses. In December 2009, a Muslim man, Enver Aydemir, who refused to serve in the secular Turkish army was arrested and put in military detention. In March 2010, he was sentenced to 10 months imprisonment for desertion. Aydemir alleged torture while in detention and his father sent a letter of complaint to the Turkish parliament's Human Rights Commission which is investigating the claim. In recent years, young Jehovah's Witnesses have been maltreated and repeatedly prosecuted for conscientious objection to military service. At the end of this reporting period, there are no known Jehovah's Witnesses in detention.

EU Accession and Legal Reforms

In March 2001, the EU adopted the Accession Partnership as a roadmap for the process of Turkey's bid to join the Union, requiring the Turkish government to implement numerous reforms to ensure that its laws are consistent with EU standards. In accord with his goal of EU membership, since 2002 Prime Minister Erdogan has instituted a number of unprecedented democratic reforms, including domestic human rights reforms. The Turkish constitution was amended to ensure the primacy of international and European human rights conventions over domestic law. Various laws, including the Penal Code, Anti-Terror Law, and the Press Law, also have been amended. Changes to the Penal Code limited convictions on incitement charges, narrowed the scope of defamation, and strengthened the principle of equality between men and women. In addition, Turkey has boosted efforts since 2002 to comply with the decisions of the ECtHR.

Due to Turkey's failure to implement the customs union arrangement with Cyprus, however, the European Union suspended eight chapters of the Accession Protocol in 2006. In February 2008, the Council of the European Union issued a revised accession partnership with Turkey and set goals that include human rights and religious freedom.

The Turkish government has ratified three major international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR). However, the Turkish government placed a reservation on Article 27 of the ICCPR, thereby setting conditions on its commitment to cultural, religious, and linguistic rights for members of those religious minority groups to which the Lausanne Treaty refers. Article 27 reads, "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language." The Turkish government reservation states, "The Republic of Turkey reserves the right to interpret and apply the provisions of Article 27 of the International Covenant on Civil and Political Rights in accordance with the related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendixes." Considering the government's narrow definition of the rights and status of those minorities under the treaty, the reservation potentially undermines the guarantees to "profess and practice" religion in Article 27, and possibly the more extensive religious freedom guarantees found in Article 18.

In a set of EU-related reforms passed in April 2008, the parliament amended Article 301 of the Turkish Criminal Code, which criminalizes alleged insults to the Turkish state or "Turkish identity." While the amendment appears to expand free speech protections, its vague language increases the possibility of abuse as has occurred in the past.

Although EU concerns with this provision focused on freedom of expression, there also are implications for freedom of religion or belief. Turkish prosecutors have brought charges under Article 301 to restrict the rights of religious expression and persuasion of members of minority religious and ethnic groups.

In 2009, according to the Turkish embassy, the Turkish government announced the establishment of an autonomous National Human Rights Institution that will serve also as the national preventive mechanism when parliament adopts the Optional Protocol to the UN Convention on the Prevention of Torture. The Turkish government also reportedly plans to establish a Commission against Discrimination, as well as a complaints mechanism on the work of law enforcement authorities.

Nevertheless, in its most recent progress report on Turkey, issued in October 2009, the European Union concluded that, although there had been some progress, serious religious freedom problems remained. The report stated: "Overall, implementation of the 2008 law on foundations has been smooth. The Government has undertaken a dialogue with the Alevi and non-Muslim religious communities. However, their specific problems have yet to be addressed. Attacks against minority religions still occur. A legal framework in line with the [European Convention on Human Rights] has yet to be established, so that all non-Muslim religious communities and Alevi community can function without undue constraints, including as regards training of clergy. Further efforts are needed to create an environment conducive to full respect of freedom of religion in practice."

U.S. Policy

The U.S. government has long viewed Turkey as an important strategic partner: Turkey is a NATO ally and there is a U.S. airbase in Incirlik, Turkey; the country has partnered with Azerbaijan and Georgia to open an oil pipeline from the Caspian Sea, thereby avoiding Russian-owned transit routes; and Turkey's proximity to Iraq and Iran put it literally on the frontlines of U.S. foreign policy. Although bilateral relations were strained in 2003 when Turkey refused to allow U.S. troops to deploy through its territory to Iraq, relations have since improved. The United States strongly supports Turkey's accession into the European Union. There also is significant U.S. trade and direct investment in Turkey.

According to the State Department's 2009 religious freedom report, the government of Turkey "generally respected religious freedom in practice; however, the government imposes limitations on Islamic and other religious groups and significant restrictions on Islamic religious expression in government offices and state-run institutions, including universities, for the stated reason of preserving the 'secular state.'" The primary goals of U.S. human rights policy in Turkey are to promote a more democratic government and to support relevant legal reforms, including constitutional revisions, an independent, professional press, and greater religious freedom. The United States also emphasizes that it is important to express and discuss minority viewpoints or controversial topics. In March 2010, the Foreign Affairs Committee of the U.S. House of Representatives narrowly condemned, by a 23 to 22 vote, as genocide the deaths of as many as 1.5 million Armenians by the Ottoman Turks in 1915 during World War I. The Turkish government, which has long denied that those mass killings constituted planned genocide, protested the resolution by recalling its ambassador from the United States and calling on the Obama administration to prevent the resolution from reaching the House floor.

The United States also promotes policies to protect freedom of religion and to allow the free functioning of non-Muslim religious institutions, and U.S. presidents have called consistently since the 1970s for Turkey to re-open the Greek Orthodox Theological School of Halki under the auspices of the Ecumenical Patriarchate and to take specific steps to address concerns of the ethnic Kurdish population and other minority communities. The U.S. government cooperates with Turkey to assist in the advancement of freedom of expression and religion, respect for individual human rights, civil society, and promotion of ethnic diversity. Several Congressional resolutions reiterate this focus.

On March 6, 2009, H.Res.220 was introduced, urging Turkey to respect the rights and freedoms of the Ecumenical Patriarchate. Congress also called upon the government of Turkey to facilitate the reopening of the Ecumenical Patriarchate's Theological School of Halki (H.Res.356).

On April 6, 2009, President Obama visited Turkey and addressed Turkish Parliament. He emphasized the U.S. interest in Turkey's recognition of the importance of religious freedom, for example by reopening the Halki seminary. While in the country, President Obama also met with the leaders of Turkey's majority and diverse religious minority communities.

Recommendations

I. Pressing for Immediate Improvements to End Religious Freedom Violations

In its bilateral relations with Turkey, the U.S. government should urge the Turkish government to bring its laws and practices into compliance with international standards on freedom of religion or belief, including by promptly taking the following steps:

- allow for the independent and peaceful practice of Islam outside of the *Diyanet* and end the legal prohibition on Sufi spiritual orders;
- allow women the freedom to express their religious or nonreligious views through dress so as to respect their beliefs as well as the secular status of the Turkish republic, while ensuring a lack of coercion for those choosing not to wear headscarves and protecting the rights and freedoms of others, and providing access to public education and to public sector employment for those choosing to wear a headscarf;
- remove restrictions on the ability of leaders of majority and religious minority communities to wear clerical garb in public areas, state institutions, and public and private universities, and remove additional restrictions on leaders of the minority Christian, Jewish, or other communities from wearing clerical garb in the public space;
- encourage the Prime Minister's office and the *Diyanet* to work with the Alevi community regarding the recognition of that community in Turkey; grant official status to Alevi *cem* houses of worship for those communities which have applied for such status; amend school curricula on religion in line with the 2010 European Court of Human Rights ruling; and act in accordance with international human rights obligations to protect and punish discrimination against Alevis;
- grant full legal recognition for religious minorities, including Alevis; Greek, Armenian, Georgian and Syrian Orthodox; Roman and Syriac Catholics; Protestants; and Jews; by
 - fully implementing the 1923 Lausanne Treaty and providing all non-Muslim communities with legal status that affords them full property rights including the right to inherit, purchase, possess, maintain, and sell property; or
 - amending the Law on Associations so that it provides religious communities with legal status that affords them the right to inherit, purchase, possess, maintain, and sell property;
- expand the process to regain clear title or fair compensation for expropriated holdings to include properties sold to third parties or held by the government, and to end the authority of the *Vakıflar* or any government agency to seize the property of any religious community;

- instruct officials to drop their legal case to seize some of the land which is the property of the Mor Gabriel Syrian Orthodox monastery;
- instruct officials to uphold the decision of the European Court of Human Rights and return the orphanage on the Turkish island of Buyukada to the Greek Orthodox Church;
- carry out Prime Minister Erdogan's 2008 statement that the Ecumenical status of the Greek Orthodox Patriarchate should be an internal church issue by granting official recognition to the Ecumenical status of the Patriarch, in line with the 2010 opinion by the Council of Europe Venice Commission;
- permit all religious minorities, including those not covered by the Lausanne Treaty, to train religious clergy, including by:
 - as repeatedly and formally requested by every U.S. President since 1971, permitting the reopening of the Halki Seminary, according to Turkey's international obligations, and allowing for religious training to occur; and
 - encouraging the Ministry of Education to respond favorably to the official request of the Armenian Patriarch to permit his community to establish a theological faculty on Christian theology that incorporates instruction from the Patriarch, as required under Turkey's international obligations;
- permit religious communities to select and appoint their leadership in accordance with their internal guidelines and beliefs, according to Turkey's international obligations, and end Turkish citizenship requirements for the Ecumenical Patriarchate and Holy Synod;
- continue to condemn violent hate crimes against members of religious and ethnic communities and ensure prompt investigation and prosecutions of such crimes;
- take all appropriate steps to prevent and punish acts of anti-Semitism, including condemnation of anti-Semitic acts, and, while vigorously protecting freedom of expression, counteract anti-Semitic rhetoric and other organized anti-Semitic activities;
- further amend Article 301 of the Turkish Penal Code, which restricts freedom of expression and has associated negative effects on freedom of religion or belief;
- omit the legal requirement to list religious affiliation on official identification cards, in line with the March 2010 ruling by the European Court of Human Rights; and
- continue to undertake practical initiatives to establish and enhance trust among the country's diverse religious and ethnic communities, including convening public roundtables on the local and national levels; at a high political level, publicly expressing commitments to a democratic and diverse Turkish society; and developing civic education programs that reflect the religious and ethnic diversity of Turkish society, past and present.

II. Advancing Religious Freedom through Multilateral Efforts

The U.S. government should:

- encourage the Turkish government, in view of its standing invitation to receive visits by UN human rights special rapporteurs, and, in the near future, actively to schedule and receive such visits, by relevant rapporteurs, including the UN Special Rapporteur on Freedom of Religion or Belief and the UN Independent

Expert on Minority Issues;

- to ensure full respect for the protection of freedom of religion or belief to minority communities, encourage the Turkish government to remove its reservation to Article 27 of the ICCPR;
- speak out publicly at Organization for Security and Cooperation in Europe (OSCE) meetings and events about violations by the government of Turkey of OSCE human rights commitments, including those concerning respect for freedom of religion or belief;
- urge the Turkish government to request that the OSCE Office of Democratic Institutions and Human Rights (ODIHR) Panel of Experts on Freedom of Religion or Belief to:
 - provide an assessment of Turkey's legislation relating to that issue;
 - conduct conferences with relevant government officials, leaders of religious communities, and members of civil society on teaching about religion in public schools from a human rights perspective; and
 - provide training sessions for members of the Turkish judiciary and law enforcement on how to combat hate crimes, including those motivated by religious prejudice; and
- interpret the Turkish Constitution and the Lausanne Treaty consistent with international obligations, such as Article 18 of the International Covenant on Civil and Political Rights and OSCE commitments on freedom of religion or belief.

19 "Article 40 – Turkish nationals belonging to non-Moslem minorities shall enjoy the same treatment and security in law and in fact as other Turkish nationals. In particular, they shall have an equal right to establish, manage and control at their own expense, any charitable, religious and social institutions, any schools and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein."

20 On July 22, 2009, USCIRF received a delegation led by Ambassador Andreas Kakouris from the Embassy of The Republic of Cyprus to the United States, which consisted of Dr. Charalampos Chotzakoglou (Professor of Byzantine Art and Archaeology, Hellenic Open University and Museum of Kykkos Monastery), Dr. Klaus Gallas (art historian and Byzantine expert), and Michael Jansen (author, "War and Cultural Heritage: Cyprus After the 1974 Turkish Invasion"). These individuals, accompanied by the Ambassador, made a presentation respecting the actions of Turkish Cypriot officials and the Turkish military in connection with the destruction and/or vandalism of Greek Orthodox churches, monasteries and cemeteries in northern Cyprus, as well as with ongoing limitations on access to and worship at Greek Orthodox Christian religious sites in Northern Cyprus. USCIRF has not examined this issue and cannot address it at the present time, but is in the process of considering what action, if any, the Commission should undertake.
