

Freedom of Education

Gross Violations by Turkey of the Right to Education and of the Right to Property

Submission to the United Nations Universal Periodic Review -
Working Group on the UPR Human Rights Council

1. EXECUTIVE SUMMARY

The present report examines the systematic legislative, administrative and other efforts by the Justice and Development Party (AKP) since 2011 - and especially in the aftermath of the 15 July 2016 coup attempt – to destabilize and dismantle the Hizmet¹ Movement Schools Abroad.

- The Hizmet-affiliated schools came under immense pressure after the Turkish government declared Hizmet public enemy number one, both in Turkey and abroad. Since 2014 the government has pursued a persistent, coordinated and systematic campaign against Hizmet schools abroad by claiming that these schools were an extension of a “parallel state” – a term coined by Erdogan to label individuals and civil society groups that refused to participate in government wrongdoings. The Turkish government tried to shut down Hizmet-inspired schools in countries from Latin America to the Balkans; from, Central Asia to Africa. Closing these schools has been, since 2014, an undisputed priority of Turkish foreign policy².
- Among many irrational actions in the foreign policy of the Turkish government, foreign governments were particularly “puzzled” by these actions, since the same government “lobbied” to a certain extent, for the establishment and opening of these schools in the first place. In addition, targeting its own citizens abroad diminished a core soft power element of Turkish foreign policy. The influence of the schools was widely considered something unique in contemporary foreign relations.
- The 15 July 2016 attempted coup only served to intensify the Turkish government's efforts. The government started using the failed coup as a pretext to shut down thousands of the best secular schools in Turkey³, none of which had any record of criminal or unpatriotic activity. Turkey's government further mobilized the nation's diplomatic, economic, and political power to hunt down members of the Hizmet movement abroad⁴, asking foreign governments to jail and deport such members, as well as to shut down their institutions, including high-performing science schools abroad.

¹ Hizmet means “service” in Turkish.

² <http://jwf.org/jwf/wp-content/uploads/2018/05/ASSAULT-ON-EDUCATION-In-Turkey-And-Abroad-Short-version.pdf> (all the footnotes have been accessed on July 16, 2019)

³ <https://www.theguardian.com/world/2016/jul/23/turkey-erdogan-closure-of-1000-private-schools-gulen>

⁴ <https://www.bbc.com/news/world-europe-37422822>

2. BACKGROUND AND FRAMEWORK

The Hizmet movement has been a phenomenon in Turkish society since the 1960s and its participants are well known for their efforts to promote secular education, interfaith dialogue, and to alleviate poverty, especially in the poorest parts of the country. The Hizmet movement believes that education is key to solving social and economic challenges, both in Turkey and across the globe.

With the break-up of the Soviet Union in the early 1990s, inspired by the values shared by the Hizmet movement, philanthropic businessmen were encouraged to contribute to efforts at establishing quality educational institutions in Central Asia and within a short period of time Hizmet-inspired schools were functioning in the territories of the former Soviet Union, Europe, Australia, and North America and later Africa, Asia, and finally South America. The standards shared by Hizmet-affiliated schools abroad are built upon core principles, such as altruism, love and humility. The schools therefore reject violence and radical interpretations of Islam, with the Hizmet movement systematically rejecting the idea of using Islam as a political ideology and as a tool for political competition.

However, with the public exposure of the 17 December 2013 corruption scandal, which implicated family members of AKP officials, including family members of then-Prime Minister Erdogan, everything changed. Following the scandal, the government labeled the allegations of corruption - “a conspiracy to topple the government” and actively and zealously embarked upon a mission to discredit, criminalize and eventually liquidate the Hizmet/Gülen movement in Turkey and abroad, for its perceived and alleged role in the corruption investigations.

3. ASSAULTS ON HIZMET EDUCATIONAL INSTITUTIONS AND HUMAN RIGHT VIOLATIONS

- In late May 2016, the government presented a draft-law to Parliament aiming to establish a foundation named as Maarif⁵ Foundation, which would operate under the Ministry of National Education. The bill was adopted by the Turkish Parliament on June 17, 2016 and entered into force as Law No. 6721 on the “Turkish Maarif Foundation.” In reality the Maarif Foundation is the organization established and tasked by the Turkish government with encouraging foreign governments to seize Turkish educational foundations already operating in their respective countries, possibly targeting enterprises run by individuals close to the Gülen movement.⁶ In the event seizures are successful, through different legal, administrative and practical actions, the Maarif Foundation would be offered as an alternative foundation with the authority to purchase, take over, and rent properties. The right to property is a human right enshrined among others in Article 17 of the 1948 Universal Declaration of Human Rights, which provides that **“Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property”**⁷ Also it is stated that **“The preceding provisions shall not, however, in any way impair the right of a State to enforce**

⁵ Ottoman Turkish word for education, which comes from the Arabic word for knowledge or wisdom.

⁶ <https://en.qantara.de/content/turkey-and-the-gulen-movement-erdogan-seizes-the-school-initiative>

⁷ <http://www.un.org/en/universal-declaration-human-rights/>

such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”⁸

- **Yavuz Selim Anatolian School** was established in 2010 in Kanifing, Gambia and provided an international, all-English education (with French and Turkish taught as foreign languages) for students from three-years old through senior secondary school. On March 2014, in an abrupt move the Gambian authorities ordered the immediate closure of Yavuz Selim Anatolian School, through what was reportedly “a one-sentence letter” addressed to the school's principal, who in turn immediately informed all parents of the government's decision to close the school. The Ministry of Basic and Secondary Education (MoBSE) of Gambia did not mention any reason for the school's closure. Then-Prime Minister Erdogan allegedly offered Gambia \$500 million to convince them to shut down the Yavuz Selim Anatolian School (YSAS).”**According to Article 6 of the European Convention on Human Right: “1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice. 2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.”⁹** These provisions were clearly violated in the Gambian Case.
- **On 16 July 2016**, a few hours after the attempted coup in Turkey, the Somali government convened in an extraordinary session and ordered Turkish citizens working for the Gülen movement affiliated Nile Organization schools and hospital “to leave the country within seven days.” The government further decided that services provided by the closed organizations, including in education and health care “would continue to be provided under new administration.” After the schools’ closure and the departure of 40 staff members and their families, a source within the Somali government revealed that the schools and the hospital affiliated with the Nile Academy would continue operating under the control of the Turkish Embassy in Mogadishu. The Somalian case manifests a violation of **the aforementioned articles which are: “Everyone has the right to own property alone as well as in association with others” and “everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.” and “Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.”¹⁰**
- Initially opened in 1999 in Khartoum (Sudan), two schools established by Turkish volunteers were among the best accomplished schools in the capital. On August 4, 2016 the Sudanese President Omer al-Bashir issued a decision to close all the

⁸ <http://www.un.org/en/universal-declaration-human-rights/>

⁹ <http://www.un.org/en/universal-declaration-human-rights/>

¹⁰ <http://www.un.org/en/universal-declaration-human-rights/>

entities in the country related to the Hizmet movement. The above decision was announced less than a week after a call by President Erdogan to the Sudanese authorities urging them to close Hizmet-linked schools. According to the Turkish Embassy “a large number of teachers,” including school principals were detained and asked to leave the country. Their fate remains unknown. By the beginning of December however, the Turkish Embassy in Khartoum reported that the schools and other seized entities would be taken over by Turkey’s Maarif (Education) Foundation, in accordance with a protocol signed earlier between Khartoum and Ankara. Beside violating the **mentioned provisions, it also violates Article 17 of the European Convention on Human Rights, which prohibits abuse of rights and stipulates “Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.”**¹¹ This case also violates **Protocol Number 4 Article 2 of the Convention: “ Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence”** Moreover Protocol 7 is violated: **“1. An alien lawfully resident in the territory of a State shall not be expelled therefrom except in pursuance of a decision reached in accordance with law and shall be allowed:**

- **to submit reasons against his expulsion,**
- **to have his case reviewed, and**
- **to be represented for these purposes before the competent authority or a person or persons designated by that authority.**¹²,

- The International Chad Educational Institutions were founded in 2001 with only 17 students. By 2016 three schools, offering quality education to approximately 600 students have been established in N’Djamena. On 22 August 2016, reporting through Anadolu Agency, the Turkish representative in N’Djamena expressed his hope that the Chadian government would shut down the “Chadian–Turkish School Complex.” He further reported spending the previous few weeks trying to “convince” the Chadian Authorities that the schools had (in his words) a “*sectarian objective*”, extensively propagated by the schools and hidden behind an allegedly “noble mission”. On 18 November 2016 Turkey and Chad signed a Protocol to transfer the International Chad Educational Institutions to the Maarif Foundation, a subsidiary of the Turkish government.

- **Article 1 of Protocol No. 1, Article 6 of the European Convention on Human Rights, Article 17 of the Convention, Article 38 of the Convention, Article 1 of 1952 Protocol, Article 2 of Protocol 4, Article 2 of 1952 Protocol, Article 4 of Protocol 4, Article 1 of Protocol 7 have been violated.**

- Pak Turk International Schools and Colleges were set up by an international Turkish nongovernmental organization, the Pak Turk International Cag Educational Foundation (PakTurkICEF). The first schools were established in 1995, and since then the PakTurk Foundation network has grown to include twenty-eight (28) schools. At a media briefing on 23 July 2016 the Turkish Ambassador in Pakistan

¹¹ <http://www.un.org/en/universal-declaration-human-rights/>

¹² <http://www.un.org/en/universal-declaration-human-rights/>

stated that “we have called on all friendly countries to prevent activities of this (Hizmet) group.” These “calls” were reinforced during the 2-day visit to Pakistan by the Foreign Minister of Turkey on 1-2 August 2016. The Turkish government's request that Pakistan close the PakTurk schools put the Pakistani government in a quandary as it constantly attempts to get a grip on the education sector in which normally militant Islamists and jihadists factor prominently. The above request - to transfer administration/ownership to the Maarif Foundation triggered outrage from different segments of Pakistani society. The fact that the PakTurk Education Foundation, a duly registered NGO, has been operating these schools and colleges for the last 21 years under Pakistani laws, made it difficult for the Pakistani government to fulfill the latest demand to transfer the ownership and administration of the educational institutions.

The right to property is enshrined in clear and unambiguous terms in Article 24 of the Constitution of the Islamic Republic of Pakistan (1973) as a fundamental right, entitling an owner of a property to hold and enjoy his property as long as he does not infringe any law regarding the same.

Relevant to the case of the PakTurk schools in Pakistan, in 2008 the Commission on the Legal Empowerment of the Poor, a working group under the UNDP co-chaired by former U.S. Secretary of State Madeleine Albright and Peruvian economist Hernando De Soto, published a report entitled “**Making the Law Work for everyone.**”¹³ The commission may at any time by order in writing, revoke a license granted under sub -section (1) with such direction as it may fit on being satisfied that the company has acted against the interest, sovereignty and integrity of Pakistan, the security of the state and friendly relations with foreign states.” **All the assets of the company after satisfaction of all debts and liabilities in a manner, as may be specified, be transferred to another company licensed under section 42, preferably having similar or identical objectives to those of the company, within 90 days from the revocation of the license or such extended period as may be allowed by the commission.**”

- Educational institutions belonging to the Mohamed al-Fatih Group were established in Morocco in 1994. In the beginning of August 2016 Turkey’s Ambassador to Morocco informed the Moroccan authorities that Turkey was ready to cooperate with the country to shut down the Gülen-linked institutions. Later that month a Turkish delegation consisting of three AKP members of the Turkish parliament visited Morocco to “warn” Moroccan authorities about what they described as “dangers and risks” the Gülen movement may pose to the interests of the countries where it is present. On 5 January 2017, the Moroccan Minister of the Interior stated that “Investigations into the institutions of the Mohamed al-Fatih Group linked to Fethullah Gülen have revealed that the schools were spreading the ‘ideology’ and ideas of the Gülen movement, ideology and ideas which contradict the educational system and religious principles of Morocco. In view of the failure to comply with the warnings issued by the Ministry of Education to remedy the recorded shortcomings, it was decided to close all the schools belonging to this group within a maximum period of one month. ”**This case violates Article 1 of Protocol No. 1,**

¹³ https://www.un.org/ruleoflaw/files/making_the_law_work_II.pdf

Article 6 of the European Convention on Human Rights, Article 17 of the Convention, Article 38 of the convention, Article 1 of 1952 Protocol, Article 2 of Protocol 4, Article 2 of 1952 Protocol, Article 4 of Protocol 4, Article 1 of Protocol 7.

- Moreover, all the above-mentioned cases violate **Article 2 of Protocol I to the European Convention: “No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.**¹⁴

4. CONCLUSION

In the aforementioned cases Hizmet Movement schools have been either unlawfully closed or transferred to the AKP-based foundation known as the Maarif Foundation.¹⁵ The overall sum of the laws violated in the above-mentioned cases in different countries are: Article 1 of Protocol No. 1, Article 6 of Convention, Article 17 of the Convention, Article 38 of the Convention, Article 1 of 1952 Protocol, Article 2 of Protocol 4, Article 2 of 1952 Protocol, Article 4 of Protocol 4, Article 1 of Protocol 7.

5. RECOMMENDATION

In the face of the unprecedented attack on the right to education, key recommendations to the Turkish authorities include the following:

1. Immediate cessation of pressures on other national authorities to close and transfer Hizmet-related schools abroad.
2. Immediate reversal of all legal, administrative and practical measures, as well as all policies and actions that are part of the assault on education, both in Turkey and abroad.

Key recommendations to the international community include:

1. Strongly urge the Turkish authorities to end the assault on education, both in the country and abroad.
2. Strongly urge the Turkish authorities to return all the premises that they caused to close or transfer to Maarif Foundation.
3. Strongly urge the Turkish authorities to abide by Turkey's obligations under international law and its own domestic legislation.
4. Prevent, in accordance with applicable international human rights law, any forcible return of Turkish teachers or academics at extreme risk to Turkey, or any other place where they face torture, ill-treatment or a real risk to their lives.

¹⁴ https://www.echr.coe.int/Documents/Guide_Art_2_Protocol_1_ENG.pdf

¹⁵ <https://en.qantara.de/content/turkey-and-the-gulen-movement-erdogan-seizes-the-school-initiative>