

## THE REPUBLIC OF TURKEY

### CSW SUBMISSION TO THE 35TH SESSION OF THE UNIVERSAL PERIODIC REVIEW

#### Introduction

1. CSW (Christian Solidarity Worldwide) is a human rights organisation specialising in the right to freedom of religion or belief (FoRB).
2. This submission seeks to draw the Council's attention to human rights violations in Turkey from 2015 to 2019.
3. Throughout the reporting period CSW has remained concerned by the deteriorating human rights situation in Turkey, particularly following the thwarted military coup of 15 July 2016.

#### The state of emergency

4. On 20 July 2016, after the attempted coup, the government declared a three-month state of emergency, which was subsequently extended seven times.
5. Hundreds of thousands of civil servants were sacked and tens of thousands of others arrested for alleged links to the Fethullahist Terrorist Organisation (FETÖ), the group believed to have perpetrated the military coup. Arrests have continued to date.
6. The government issued over 35 emergency decrees and dismissed 130,000 civil servants, army and police personnel, legal professionals, academics and teachers for alleged terror links. More than 200 media institutions and 1,500 NGOs, foundations and associations were also closed.
7. The state of emergency came to an end when a new anti-terrorism law, proposed by the ruling Justice and Development Party (AKP), was passed in the Turkish parliament on 25 July 2018. Opposition groups consider the law "as oppressive as the state of emergency."<sup>1</sup>
8. The law allows the government to retain some emergency powers, including the ability to restrict freedom of movement for 15 days for security reasons, and to detain suspects for 48 hours without charge, or for up to four days for multiple offences. The law also enables provincial governors to restrict freedom of assembly.
9. Following the coup, pro-government media has increasingly targeted Turkish Christians, who have been deemed agents of the West, which the government suggests was involved in the coup. This has created a hostile environment in which Christians have been threatened and physically attacked. Foreign missionaries have also been targeted; many have been deported or had residency permits revoked.

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<sup>1</sup> Hurriyet Daily News, 'State of emergency ends amid proposal of new anti-terror law', 18 July 2018, <http://www.hurriyetdailynews.com/state-of-emergency-ends-amid-proposal-of-new-anti-terror-law-134715>

## Freedom of Religion or Belief

10. During the previous UPR, Turkey accepted recommendations from Angola (148.126) and Singapore (148.56), which respectively called on Turkey to ensure religious minorities were able to exercise their right to freedom of religion and conscience, and ensure equality for all citizens, particularly minorities, through legislative and regulatory means. Turkey further accepted recommendation 148.36 from Italy to “renew its commitment to a comprehensive reform of legislation aimed at guaranteeing the rule of law, the freedom of thought, religion, expression and of the media in compliance with international standards.”
11. In practice, FoRB violations increased in the aftermath of the failed coup. The Turkish public and political elite have felt an increased sense of grievance against Christians, particularly in response to the close link between the diplomatic dispute about Pastor Andrew Brunson and targeted US executive orders which contributed to the sudden collapse in the value of the Turkish Lira.
12. Pastor Brunson was arrested in October 2016 and accused of plotting to overthrow the government, he was formally indicted in March 2017. Charges included supporting the outlawed Kurdistan Workers' Party (PKK) and the Gulen Movement, which Turkey accuses of orchestrating the coup attempt.
13. On 12 October 2018 Pastor Brunson was released following his fourth court hearing, during which four witnesses changed their testimonies, unexpectedly denying any knowledge of his links to the PKK or Gulen Movement. According to Aykan Erdemir, a former Turkish MP, one witness claimed to have read the allegations in the news, another said he was misunderstood by the judge, and two claimed they first heard the allegations from one another.
14. Middle East Concern reports an increase in provocative and offensive articles in pro-government media. Christians have been accused of a variety of malpractices, including working against the Turkish state and receiving funds from foreign countries.
15. Accusations have predominantly been made against Turkish Christian converts and expatriate Christian residents in Turkey, with the intention of inciting broader societal hostility against Christians. In some cases, claims have explicitly sought to falsely associate Christians with Pastor Brunson. A lawyer representing one group of Christians appealed to the public prosecutor to order the removal of offensive pro-government articles from online media, but no action was taken.
16. In July 2018 a number of Turkey's religious minority leaders released a joint statement in which they denied that they faced any oppression.<sup>2</sup> Later, the Syriac community leader Tuma Celik said they had issued this statement under pressure from the government to improve Turkey's image.<sup>3</sup>

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<sup>2</sup> Daily Sabah, 'Turkey's minority leaders sign joint declaration denying 'pressure' on communities', 31 July 2018 <https://www.dailysabah.com/minorities/2018/07/31/turkeys-minority-leaders-sign-joint-declaration-denying-pressure-on-communities>

<sup>3</sup> Al Monitor, Are Turkey's Christians as 'fine' as they say?, 10 August 2018 <https://www.al-monitor.com/pulse/en/originals/2018/08/turkey-local-christians-after-detention-of-american-pastor.amp.html>

17. The media has particularly targeted Protestant churches, who are perceived as anti-Turkish and pro-US. Most Protestant leaders did not sign the July 2018 declaration. Following the declaration, many local newspapers published hostile articles against Christians, and several Christians were physically attacked and churches were threatened on social media as a result.
18. In August 2018 Adnan Cavusoglu published an article attacking a website run by the Order of St Andrew the Apostle, an Orthodox organisation. Mr Cavusoglu claimed the website is part of a US-directed information campaign against Turkey, and suggested the site's criticisms of Turkey's treatment of religious minorities were a pretext for the US to impose sanctions.<sup>4</sup>
19. In this atmosphere, religious minorities are increasingly vulnerable despite the existence of comprehensive legislation that protects FoRB. Article 24 of the constitution provides for freedom of belief, worship and the private expression of religious ideas, and prohibits discrimination on religious grounds. That said, problems remain in the areas of education, and registration of church buildings. During the last UPR Turkey rejected Austria (151.22.) and Canada's (151.21) recommendations to ensure the protection of the right to FoRB, in accordance with the ICCPR, and withdraw its reservations to article 27 on minority rights.
20. The current government has publicly endorsed a move towards a national Sunni Muslim identity in which being Sunni is seen as synonymous with being Turkish. The AKP has also made changes to the staff and theological positions of the Diyanet (Directorate of Religious Affairs) to reflect a more decidedly Sunni Islamist position.
21. This has further contributed to a rise in discrimination and hate speech inciting violence towards non-Sunnis. Such incitement is visible in a variety of sectors, including education, the workplace and day-to-day administrative procedures, particularly against Alevi Muslims, Baha'is and Christians who convert from Islam.
22. In 2016 a Syrian refugee living in southern Turkey was repeatedly summoned, threatened and beaten by police because he had left Islam. On one occasion his shoulder was broken and he required medical attention.
23. In January 2018 Nasser Navard Goltape, an Iranian convert from a Muslim background, was arrested by Turkish police and returned to the Iranian authorities. He is reportedly serving a 10-year sentence in Tehran's Evin Prison. Mr Goltape had taken part in a Christian engagement ceremony, where he was arrested with others.
24. CSW has also documented an increase in cases of bullying at schools, where non-Muslim children have been subjected to intimidation and insults by Muslim classmates. Staff and local authorities have done little to combat this, and many parents suggest they are complicit. One child from Trabzon said that his classmates threatened to stab him because he is a "dirty infidel."

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<sup>4</sup> Veterans Today, 'Turkish Media Slam Washington over Exploiting Christianity against Ankara', 5 September 2018  
<https://www.veteranstoday.com/2018/09/05/turkish-media-slam-washington-over-exploiting-christianity-against-ankara/>

25. Educational textbooks also fuel societal hostility against and distrust of religious minorities. This is despite the fact Turkey accepted Italy's recommendation (150.37) to ensure "the necessary respect for the beliefs of religious minorities, especially following the introduction of compulsory religious education in Turkish schools."
26. In a positive move in 2016, the Turkish Parliament decided to remove the religious affiliation component on Turkish identification cards as part of its accession requirements toward becoming a European Union member state. Whilst Turkish citizens will no longer be required to display their religion on their ID cards, this information may still be registered on the card's electronic chip.

#### Places of Worship

27. During the last UPR, Turkey accepted recommendations from the UK (150.47) and Australia (150.35) which called on the country to protect places of worship. The latter of these made specific reference to Alevi cemevis.
28. Turkey made some positive steps towards this during the reporting period, including the restoration and opening of a Bulgarian Orthodox church, the granting of permission to build a new Syriac Orthodox church, and the return of 50 property deeds to the Syriac Orthodox community. However, many religious minorities, particularly Alevis, Jehovah's Witnesses and Christians, continue to face restrictions on the construction of places of worship.
29. The government has repeatedly promised to return land confiscated from the Mor Gabriel Monastery; however, in February 2014 only half the land, totalling 244,000m<sup>2</sup>, was handed back. The remaining land was not returned until May 2018, after extensive advocacy efforts on behalf of the monastery and other organisations.
30. Turkey's Halki Seminary has remained shut since its forced closure in 1971. As such, Turkey has failed to implement accepted recommendations from Armenia (149.40), and Greece (149.15, 149.33) – the latter of which specifically urged the government to "take all necessary measures to solve the problems of non-Muslims minorities caused by the closure of the Halki seminary." Promises that the seminary would be reopened have been strongly opposed by Turkey's nationalist and Islamist parties.
31. In April 2018 the Halki Seminary's Ecumenical Patriarch, Bartholomew I, said he was "optimistic" that the school would be reopened following assurances from President Erdogan and Turkish Foreign Minister Mevlut Cavusoglu,<sup>5</sup> but the situation remains unchanged.

#### Recommendations

- 32. Respect the provisions for freedom of belief, worship and the private expression of religious ideas articulated in the national constitution.*

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<sup>5</sup> The Greek Observer, 'Ecumenical Patriarch Bartholomew: Halki Theological School will be opened soon', 5 May 2018  
<http://thegreekobserver.com/greece/religion/article/42440/bartholomew-halki-theological-school-will-be-opened-soon/>

33. *Proactively address the increasing polarisation of society in order to check the erosion of fundamental freedoms.*
34. *End arbitrary detention and ensure due process for all current detainees.*
35. *Address hate speech and discrimination against religious minorities, in order to discourage impunity.*
36. *Remove educational material that fosters suspicion or hatred of religious minorities from the national curriculum, replacing it with teaching material that encourages respect for all religious and belief communities.*
37. *Return all property confiscated from religious minority communities.*

## Freedom of Expression

38. In 2014 the Turkish government unveiled a Human Rights Action Plan that outlined measures to prevent violations of the European Convention on Human Rights (ECHR). The plan's section on freedom of expression highlighted the need for a revision of numerous articles in the Turkish Penal Code. For example, Article 299, stipulates a prison term ranging from six months to three years for anyone who makes a statement that "...denigrates Turkishness, the Republic or the Grand National Assembly of Turkey...the Government of Republic of Turkey, the judicial institutions of the State, and the military or security organisations."
39. In addition to these commitments, Turkey also accepted recommendations from Latvia (148.114) Luxembourg (148.116), USA (148.117), Austria (148.118), Norway (149.34), and Republic of Korea (150.16) to continue efforts to ensure that national laws protect freedom of expression online and offline, particularly freedom of the press.
40. Despite these commitments, the situation remains unchanged. The Penal Code still contains restrictive articles that are used to silence criticism of the government and president.
41. Section 13 outlines 'Offences against Signs of Sovereignty and Supreme Political Organs of the State', the definitions of which are open to abuse. As well as Article 299, this section contains Article 297, which stipulates a one to four year prison term for anyone who casts aspersions upon the president; and Article 298, which specifies a prison term from six months to two years for anyone who publicly humiliates the Turkish flag or who publicly humiliates the Turkish National Anthem. Each article contains provisions stipulating increased sentences for Turkish citizens deemed to have committed these offences while in a foreign country.<sup>6</sup>

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<sup>6</sup> European Commission for Democracy through Law (Venice Commission), 'Opinion on Articles 216, 299, 301 and 314 of the Penal Code of Turkey' Adopted by the Venice Commission at its 106th Plenary Session (Venice, 11-12 March 2016, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)002-e)

42. Since 2010, the government has systematically used Article 299 to restrict freedom of speech. Authorities have used social media posts, caricatures, and newspaper editorials as evidence to investigate and prosecute dissent.
43. Between 2010 and 2017, 12,893 cases of insulting the president were filed. 12,305 of which were related to President Erdogan, who assumed office in 2014. In 2016, the 43rd Istanbul Trial Court applied to the Constitutional Court for the repeal of Article 299. It presented the following arguments to justify its appeal:<sup>7</sup>
- The crime of insulting the president is treated differently to insults of other public servants and carries a higher penalty.
  - The transition to an executive-style presidency, affected by changes to Articles 101 and 102 of the Constitution, turns the role of the presidency into a political office.
  - The rule of law does not specify or define any particular crime when criticising any political official.
  - Laws that provide specific protections for heads of state violate the ECHR.
44. The Constitutional Court gave a ruling on this application on 14 December 2016. In its ruling (No: E.2016/25, K.2016/186), the Constitutional Court argued that:
- Equality before the law does not require everyone to be held to the same standards in every respect.
  - The president acts as head of state, and represents the Turkish Nation and Republic.
  - The crime of insulting the president is committed not only against the person, but also against the values and functions the presidency represents.
  - The stipulated punishment is proportional to the protected legal benefit.
  - Although freedom of expression secures the freedom to criticise, this does not grant individuals the right to insult.
  - Attacks on an individual's reputation and dignity will not be protected by the legal system.
45. The Constitutional Court's arguments conflict with the judgment of the ECHR, which ruled that protecting freedom of expression becomes more important in cases in which the government is attempting to protect its own head of state, and that the head of state should not enjoy special privileges.<sup>8</sup>
46. In January 2016 Turkey detained 27 individuals who signed a petition entitled 'We won't be a party to this crime', calling on the state to end violence against Kurds and prepare to negotiate conditions for peace. The petition was signed by over 1,000 academics from 89 Turkish universities, and over 355 academics and researchers overseas.

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<sup>7</sup> Ahval, 'Insulting the Turkish President: Article 299 and why Europe says its illegal', 16 November 2018

<https://ahvalnews.com/turkey-democracy/insulting-turkish-president-article-299-and-why-europe-says-its-illegal>

<sup>8</sup> Monitoring Report: European Court of Human Rights Judgment in the case of Artun and Guvener v. Turkey (Application no. 75510/01, 26/06/2007), March 2016,

[https://www.researchgate.net/publication/323522613\\_Monitoring\\_Report\\_European\\_Court\\_of\\_Human\\_Rights\\_Judgment\\_in\\_the\\_case\\_of\\_Artun\\_and\\_Guvener\\_v\\_Turkey\\_Application\\_no\\_7551001\\_26062007](https://www.researchgate.net/publication/323522613_Monitoring_Report_European_Court_of_Human_Rights_Judgment_in_the_case_of_Artun_and_Guvener_v_Turkey_Application_no_7551001_26062007)

47. According to international media sources, many professors have subsequently gone into hiding, facing threats and acts of aggression from those who agree with the president's actions and rhetoric. A notorious convicted criminal, Sedat Peker, published a threatening statement on his website directed at the academics: "We will spill your blood and we will take a shower with your blood!!" The state is not offering the academics any protection.<sup>9</sup>
48. This crackdown stands in contrast with the recommendations accepted during Turkey's second UPR. Recommendation 148.118. (Austria) called for the government "to fully ensure that journalists can pursue their profession without harassment and fear of reprisals, and review its legislation to bring it in line with international human rights standards," and recommendation 150.22 (France) urged the government to "reform the law on counter-terrorism in order to prevent imprisonment of journalists." These recommendations remain unimplemented.
49. Under a law passed by parliament in March 2018, streaming and digital TV services, both domestic and foreign, will have to register with Turkey's media watchdog, the Radyo ve Televizyon Üst Kurulu (RTÜK), and abide by the same rules as television broadcasters. The RTÜK can impose penalties, revoke licences, force providers to censor or withdraw content, and ask courts to block access to those who do not comply.
50. TV programmes in Turkey have been repeatedly fined for 'immoral' content. On screen, cigarettes and alcohol are replaced with blurred pixels, or with pictures of flowers. The authorities have occasionally blocked access to Twitter, Facebook and YouTube, citing national security. Wikipedia has been banned for over a year for refusing to take down posts alleging Turkish support for jihadists in Syria.<sup>10</sup>

#### Recommendations

- 51. Introduce measures to curb hate speech in the media, in order to offer confidence and protection to targeted minorities and bring an end to impunity for hate crimes.*
- 52. Reform Articles 299 and 301 of the penal code in order to curb discrimination against minorities and violations of the right to freedom of expression, and to uphold Turkey's international legal obligations.*
- 53. Review changes to police powers and consider their revision in order to introduce appropriate checks and balances, avoid confusion and protect the public.*
- 54. Ensure the policy exigencies of the War on Terror do not overshadow the need to protect civil and political rights and civil society.*

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<sup>9</sup> Hürriyet Daily News, 'Notorious criminal threatens academics calling for peace in Turkey's southeast', 13 January 2016 [www.hurriyetdailynews.com/notorious-criminal-threatens-academics-calling-for-peace-in-turkeys-southeast.aspx?PageID=238&NID=93834&NewsCatID=341](http://www.hurriyetdailynews.com/notorious-criminal-threatens-academics-calling-for-peace-in-turkeys-southeast.aspx?PageID=238&NID=93834&NewsCatID=341)

<sup>10</sup> The Economist, 'Turkey's government takes new powers to censor the internet', 24 May 2018 <https://www.economist.com/europe/2018/05/24/turkeys-government-takes-new-powers-to-censor-the-internet>