

## **MINORITY RIGHTS - WORKING SESSIONS 1, 6**

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So many of Turkey's human rights concerns are wrapped up with the nation's treatment and consideration of national minorities that this whole report can in a sense be read as a summary of minority rights in Turkey. Therefore this section seeks to outline the Turkish government's general attitude towards national minorities and the availability of basic rights for minority groups in Turkey.

### **Current Situation**

As with many human rights issues in Turkey, the current situation for national minorities can be read both positively and negatively. On the positive side, some of Turkey's minorities are hopeful that the recent elections will afford the opportunity for greater change as a number of independent candidates have run on reform platforms. In addition, minorities groups such as the Armenians, Jews and Greeks continue to look to the EU as a pressurizing force that will push the government to enact real changes. Indeed, Prime Minister Erdogan has at times advocated the expansion of the right to assemble, form new houses of worship and register new publications for Armenians, Jews and Greeks as part of Turkey's EU accession requirements. Nevertheless, changes on the ground have been slow to materialize, and the government has been reluctant actualise these reforms for fear that it will strengthen the Kurdish people's demands for greater

rights. The Law on Foundations, for example, was passed by Parliament in November 2006 and would have allowed these minorities to regain some of their expropriated properties. President Sezer vetoed the bill, however, and rather than attempt to override the veto as it has with many other pieces of legislation, Parliament simply let the bill die there.

For several national minorities in Turkey the biggest overarching obstacle to real reform remains the government's stubborn adherence to the definition of "national minority" put forward by the Treaty of Lausanne in 1923, which excluded all Muslim minorities. By using this definition, the Turkish government has been able to argue that the Kurds are not in fact a national minority, and that therefore it does not owe them the same obligations that it does Armenians, Greeks, Jews and other non-Muslims under international law. This distinction enables the Turkish government to effectively ignore the country's largest national minority, for while Turkey is home to 60,000 Armenians, 25,000 Jews and 3,000 Greeks, roughly 23 per cent of its 72 million citizens are Kurdish. By claiming that all Muslims in Turkey are ethnically Turks, the Turkish government has also been able to frustrate efforts made by the Kurds to maintain their own cultural identity through such practices as mandating the use of Turkish in all organisations and schools. The government has also sought to cling to this definition to temper the breadth of its obligations under international law. It ratified Article 27 of the International Covenant on Civil and Political Rights (ICCPR) in 2003, for example, but has maintained that it

will only honour and uphold the collective rights for minority groups this article describes so far as the Treaty of Lausanne and the Turkish Constitution permit.

Finally, the Turkish government seems determined to keep pro-minority political parties out of political office, even as they find ways to get around the 10 per cent threshold that current electoral law requires. In October 2006 the government submitted a proposal to the Turkish Parliament to amend electoral laws such that independent candidates' could not print ballot papers separate from those used for candidates running on party lists. In January 2007 the government presented to Parliament a 'Political Ethics Law', which, if passed, would establish a Parliamentary Commission for Political Ethics to monitor the affairs of the deputies, who would have to declare all financial assets to the Commission. The proposed law also provides a heavy prison sentence for deputies who transfer between parties, which was a tactic used by some Kurdish politicians to win a Parliamentary seat despite the ten per cent hurdle. The goal of both of these pieces of legislation is to prevent pro-minority parties from attaining representation in government, and the government's pursuit of these ends shows that it remains hostile to the airing of minority interests in a public political forum.

### **OSCE Commitments**

We recall to the Turkish state the following commitments that it has made and ask it to renew its undertaking to respect them.

- **Regarding National Minorities in the Context of International Relations and Obligations under Law**

- Participating States “will co-operate closely in the competent international organizations to which they belong, including the United Nations, and, as appropriate, the Council of Europe, bearing in mind their on-going work with respect to questions relating to national minorities”. (Copenhagen Document 1990, par. 39)
- Participating States recognise that “issues concerning national minorities, as well as compliance with international obligations and commitments concerning the rights of persons belonging to them, are matters of legitimate international concern and consequently do not constitute exclusively an internal affair of the respective State”. (Geneva Document 1991, part II)
- Participating States “in their efforts to protect and promote the rights of persons belonging to national minorities, will fully respect their undertakings under existing human rights conventions and other relevant international instruments and consider adhering to the relevant conventions, if they have not yet done so, including those providing for a right of complaint by individuals”. (Copenhagen Document 1990, par. 38)

- **Regarding OSCE Participating States' Attitude Towards National Minorities**
  - Participating States “will take all the necessary legislative, administrative, judicial and other measures and apply the relevant international instruments by which they may be bound, to ensure the protection of human rights and fundamental freedoms of persons belonging to national minorities within their territory. They will refrain from any discrimination against such persons and will contribute to the realization of their legitimate interests and aspirations in the field of human rights and fundamental freedoms”. (Vienna Document 1989, “Questions relating to Security in Europe”, par. 18)
  - Participating States “recognize that the questions relating to national minorities can only be satisfactorily resolved in a democratic political framework based on the rule of law, with a functioning independent judiciary. This framework guarantees full respect for human rights and fundamental freedoms, equal rights and status for all citizens, the free expression of all their legitimate interests and aspirations, political pluralism, social tolerance and the implementation of legal rules that place effective restraints on the abuse of governmental power”. (Copenhagen Document 1990, par. 30)

- OSCE States must “promote understanding and tolerance, particularly in the fields of education, culture and information”. (Copenhagen Document 1990, par. 40.3)
- “Every participating State will promote a climate of mutual respect, understanding, cooperation and solidarity among all persons living on its territory, without distinction as to ethnic or national origin or religion, and will encourage the solution of problems through dialogue based on the principles of the rule of law”. (Copenhagen Document 1990, par. 36)
- Participating States “concerned by the proliferation of acts of racial, ethnic and religious hatred, anti-Semitism, xenophobia and discrimination, stress their determination to condemn, on a continuing basis, such acts against anyone”. (Geneva Document 1991, part VI)
- Participating States “clearly and unequivocally condemn...ethnic hatred...and discrimination against anyone”. (Copenhagen Document 1990, par. 40)
- Participating States recognise that “the protection and promotion of the rights of persons belonging to national minorities are essential factors for democracy, peace, justice and stability within, and between, participating States (...) Full respect for human rights, including the rights of persons belonging to national minorities, besides being an end in itself, may not undermine, but strengthen territorial integrity

and sovereignty". Accordingly they "pledge to take measures to promote tolerance and to build pluralistic societies where all, regardless of their ethnic origin, enjoy full equality of opportunity". (Istanbul Document 1999, "Charter for European Security: III. Our Common Response)

- **Regarding Specific Protections OSCE Participating States Offer National Minorities**

- They further reaffirm that "persons belonging to national minorities have the right to exercise fully and effectively their human rights and fundamental freedoms without any discrimination and in full equality before the law...[and will] adopt, where necessary, special measures...[that ensure] persons belonging to national minorities full equality with other citizens". (Copenhagen Document 1990, par. 31)
- In participating States, "persons belonging to national minorities can exercise and enjoy their rights individually as well as in community with other members of their group. No disadvantage may arise for a person belonging to a national minority on account of the exercise or non-exercise of any such rights". (Copenhagen Document 1990, par. 32)
- Minority groups may "establish and maintain unimpeded contacts among themselves within their country as well as contacts across frontiers with citizens of other States with whom they share a common

ethnic or national origin or cultural heritage". (Copenhagen Document 1990, par. 32.4)

- Participating States "will respect the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities". (Copenhagen Document 1990, par. 35)
- "In accordance with paragraph 31 of the Copenhagen Document, the participating States will take the necessary measures to prevent discrimination against individuals, particularly in respect of employment, housing and education, on the grounds of belonging or not belonging to a national minority". They will therefore provide "for effective recourse to redress for individuals who have experienced discriminatory treatment on the grounds of their belonging or not belonging to a national minority, including by making available to individual victims of discrimination a broad array of administrative and judicial remedies". (Geneva Document 1991, part IV)
- Participating States "affirm that persons belonging to a national minority will enjoy the same rights and have the same duties of citizenship as the rest of the population". (Geneva Document 1991, part IV)
- OSCE participating States promise to "provide protection against any acts that constitute incitement to violence against persons or groups



based on national, racial, ethnic or religious discrimination, hostility or hatred". (Copenhagen Document 1990, par. 40.1)

### **Assessment 2006-2007**

On 21 March 2007 Turkey rose to number 39 from 54 on the annual Minority Rights Group International (MRG) list of countries with the most-threatened national minority groups. The MRG "Peoples Under Threat" list highlighted the Turkish government's oppression of its sizable Kurdish population, but also noted that the country's Roma people suffer for lack of rights. 2006-2007 has in fact witnessed the deterioration of the situation for national minority groups in Turkey as surges of nationalism stemming from the murder of Hrant Dink and the Presidential and Parliamentary elections have been articulated through violence towards minority groups. Furthermore, continued struggles with insurgent groups in the south-east have taken their toll on the Kurdish people, who have witnessed the increased presence of the Turkish military in their villages, and have remained vulnerable to attack from both sides.

#### **a) Non-Recognition of the Kurdish People and Access to Resources**

In 2006-2007 the official state policy of the Turkish government has been to continue to regard the Kurdish people as a part of the ethnic Turkish majority based on the definition of national minority put forward in the Treaty of

Lausanne and repeated in the Turkish Constitution. As recently as 10 January 2007, President Sezer described the Kurdish people as part of the majority in Turkey and not a minority. This statement, made on an official visit to Italy and in the context of EU accession requirements, shows that this limited definition of national minority continues to receive support from the very top of the Turkish political hierarchy and shape domestic policy. It also underscores the government's consistent denial of collective rights, such as those described in both the Copenhagen Document and the ICCPR Article 27, to the Kurdish people as a whole. Indeed, the constant harassment and intimidation Kurdish political parties and even individual politicians face are symptomatic of a general view that the Kurdish people need not be represented as a group in government, despite the fact that they constitute nearly 25 per cent of the total Turkish population.<sup>13</sup> The Kurds are not the only minority group that feels politically disenfranchised; just 10 days before the 22 July 2007 Parliamentary elections, the Alevi Bektashi Federation (ABF) and the European Confederation of Alevi Unions (AABK) published "election demands" that called for candidates to create a true democracy in Turkey and represent Alevi rights.<sup>14</sup> The Parliamentary Elections of 22 July 2007 did in fact see the election of 28 independent candidates, 24 of whom will reform the pro-Kurdish DTP party once elected. These candidates, however, would never have been able to take up

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<sup>13</sup> For more on the harassment of minority political parties please refer to Freedom of Association.

<sup>14</sup> 'No Votes for Those Ignoring Alevites', BIA News Centre 12 July 2007.

their Parliamentary seats had they run as a party as they would not have reached the 10 per cent threshold. National minorities should not have to find loopholes in Turkish electoral laws in order to gain Parliamentary representation; rather, the Turkish government should respect its commitment as an OSCE participating State to allow all national minority groups to be represented in government.

As a consequence of considering the Kurdish people as ethnic Turks under the law, the Turkish government has not included the Kurds in its reform programmes and has not considered improving their position as part of its EU accession requirements. Thus while the Turkish government has instituted changes to allow greater freedoms to certain minorities, it never includes the Kurdish people in its reform agenda. Indeed, while Greek and Jewish leaders report greater freedom of association and expression rights since EU accession talks began, Kurds who try to exercise these rights continue to be repressed or arrested. Even as the Turkish government insists that the Kurdish people form part of the ethnic Turkish majority, however, it continues to deny them access to services that ethnic Turkish citizens receive. Kurdish women and children, for example, are often denied the 'green card' necessary to receive free healthcare if they or any of their relatives are members of the pro-Kurdish DTP Party.<sup>15</sup> Applicants for a 'green card' will also be denied if applicants or members of their family have been detained by the police at any time and for any reason. In fact, the 'green cards' are issued by the police. Kurdish women and children who are

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<sup>15</sup> 'European Parliament Project: The Increase in Kurdish Women Committing Suicide', KHRP 2007, p.21.

able to overcome these hurdles and access doctors may still go untreated as most doctors and hospital workers speak only Turkish. KHRP has noted that there “is clearly a desperate need for increased mental health services and professionals who speak Kurdish and understand the culture of the people in the region”.<sup>16</sup> The Turkish government must both recognise the Kurds as a minority and afford them the collective group rights described in the Copenhagen Document and the ICCPR, and also provide Kurds individually the same services it would any other Turkish citizen.

#### **b) Nationalism and Attacks on National and Religious Minorities**

2006-2007 has seen a resurgence of nationalism spurred by both the international outcry after Armenian journalist Hrant Dink’s murder, and the unrest caused by the Presidential and Parliamentary elections. Indeed, Dink was murdered by nationalists after being charged with “insulting the Turkish nation” for saying that an Armenian genocide had taken place. Though it was reported that the government removed the chief of police and governor for their inability to stop politically motivated crimes by nationalists, in the weeks after Dink’s death the Vice-Chair of the Nationalist Movement Party called his funeral “an insult to the Turkish people and a daring challenge to the Turkish State”.<sup>17</sup> The trial of his killers was interrupted when members of the prosecution’s legal team

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<sup>16</sup> ‘European Parliament Project: The Increase in Kurdish Women Committing Suicide’, KHRP 2007, p.22.

<sup>17</sup> *Nationalists Surface After Dink’s Funeral*, BIA News Center, Erhan Ustundag, 29 January 2007.

made reference to “those Armenian bastards”. In April and May of 2007, nationalist and secularist demonstrators rallied to protest the election of an AKP President for fear that total domination of government by this party would allow for the passage of Islamic laws and measures. The Turkish General Staff also published nationalist and secularist messages on its website. With reference to the Presidential elections of May 2007, it declared vigorous opposition to the election of an AKP President. Later in June 2007 it called on “the noble Turkish people” to fight “terrorist activities”, and identified the concept of a “united Kurdish area” as a threat to Turkey’s “national and unitary structure”. Continued fighting with insurgents in the south-east and the build up of Turkish armed forces on the Iraqi border have also contributed to tensions between the Turkish government and the Kurdish people.

The Kurds and Armenians, however, have not been the only people to come under attack; Christians, Greeks, Jews and the Roma people also suffer harassment and live in fear of attack from nationalists. On 28 June 2007 a Protestant church in Samsun, a northern Turkish town, was desecrated. Assailants broke windows and covered the church in black paint. In that same town a French priest was stabbed in July of 2006, and in February of that year a Catholic priest was killed by a sixteen-year-old nationalist in a town a few miles away. Nationalists also claimed responsibility for the murder of three Christians in Malatya on 18 April 2007, and an online local paper later voiced its support for

these murders as well as those of Dink and the Catholic priest.<sup>18</sup> As of July 2007, no serious efforts had been made to find the perpetrators of the April murders, a fact which underscores the government's continued suspicion of its Christian community, which it views as divisive. Minister of State Mehmet Aydin summarised the government's stance on Turkey's Christian population when he declared on 27 March 2007 that "the goal of missionary activity is to break up the historical, religious, national and cultural unity of the people of Turkey", a dangerous statement in these times of nationalist-inspired violence.<sup>19</sup> Other government officials and even some journalists have echoed these sentiments and gone even further to suggest that Christian missionaries, and particularly those from other countries like Georgia and Greece, have "attacked the Turkish people" and carry out their work "in secret" because it is so revolutionary and dangerous.<sup>20</sup> The repercussions on the Christian community, and particularly those parts of it living in the north of Turkey, have been profound. Christians living in these areas now receive almost daily threats of physical violence, and indeed in late spring 2007 two Georgian priests visiting Borcka in Turkey's remote north-east as tourists were attacked by an angry mob.<sup>21</sup> Even Christians in the more Europe-focussed Istanbul complain that after Dink's murder they have been threatened and harassed. On 12 April 2007 graffiti appeared on the

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<sup>18</sup> *A Chronology: Hrant Dink's Murder*, BIA News Center, 27 June 2007.

<sup>19</sup> 'Turkey: Dangerous Consequences of Intolerance of Religious Minorities', Dr. Otmar Oehring, Forum 18 10 July 2007. [http://www.forum18.org/Archive.php?article\\_id=990](http://www.forum18.org/Archive.php?article_id=990) last accessed 18 July 2007.

<sup>20</sup> 'Turkey: Dangerous Consequences of Intolerance of Religious Minorities', Dr. Otmar Oehring, Forum 18 10 July 2007. [http://www.forum18.org/Archive.php?article\\_id=990](http://www.forum18.org/Archive.php?article_id=990) last accessed 18 July 2007.

<sup>21</sup> 'Turkey: Dangerous Consequences of Intolerance of Religious Minorities', Dr. Otmar Oehring, Forum 18 10 July 2007. [http://www.forum18.org/Archive.php?article\\_id=990](http://www.forum18.org/Archive.php?article_id=990) last accessed 18 July 2007.

Greek Christian high school of Phanar saying “you will not divide the Turkish nation”, and a journalist reporting on the area stated that many Greeks live “in fear” after Dink’s death.<sup>22</sup> Fear of nationalism-inspired violence runs rampant in Istanbul in part because the Greek Orthodox community receives little support from the government. Turkey’s highest court, for example, ruled on 26 June 2007 that the Patriarch of Istanbul is the head of the church in Turkey, but not abroad. This ruling is consistent with the government’s long-standing position that it must not grant the Patriarchate special status or concessions as doing so could open the door to other minority groups, like the Kurds. Finally the country’s Roma people are also rallying for reform. On 27 March 2007 Roma students founded Romankara, a Roma rights organization that they hope will mobilize reform and pressure the government to recognise the impact that anti-Roma discrimination in schools, employment and government has on the Roma people in Turkey.

### **Recommendations to the Government of Turkey**

In order to meet its commitments as an OSCE participating State and more generally support the concept of a true representative democracy, Turkey must treat all of its citizens equally and further recognise that in certain situations its national minority groups require additional protections to guarantee their human rights. Accordingly KHRP urges the state of Turkey to:

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<sup>22</sup> *Le Malheur des Chrétiens a Istanbul*, Le Point.fr, Guillaume Perrier, 12 April 2007.

- repudiate the limited definition of national minority put forward in the Treaty of Lausanne, and instead adopt a more inclusive definition that recognises Muslim minority groups such as the Kurds and the Alevi;
- withdraw its reservations to Article 27 of the ICCPR, recognising the Kurds, Alevi and other Muslim minority groups as national minority groups with collective rights and deserving of protection;
- ratify the 12th Optional Protocol to the European Convention on Human Rights (ECHR), which reinstates a bar against discrimination.
- follow up on the suggestions made by former İHD Chairman Yusuf Alataş on 22 March 2007 and:
  - develop legislation that defines discrimination and the rights of those discriminated against;
  - criminalise acts of discrimination;
  - remove discriminatory phrases and definitions from previously enacted legislation, schoolbooks and the media;
  - develop public education against discrimination, to ensure that Turkish citizens realise what discrimination is and how it affects their country.<sup>23</sup>

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<sup>23</sup> These suggestions were published in *IHD Chairman: "Law Against Racial Discrimination Needed"* BIA News Center, Tolga Korkut, 22 March 2007.



- amend section 33 of law no. 2839, which mandates a minimum threshold of 10 per cent of the national vote in order to win a Parliamentary seat;
- provide Kurds and other national minorities with equal access to national healthcare;
- sign and ratify the Framework Convention on the Rights of National Minorities put forward by the Council of Europe;
- implement the measures suggested by OSCE commitments found in the Geneva Document, such as:
  - Creating government research agencies to review legislation and disseminate information related to equal rights and non-discrimination;
  - Mandating governmental assistance for addressing local difficulties relating to discriminatory practices (e.g. a citizens relations service);
  - Encouraging grassroots community relations efforts between minority communities, between majority and minority communities, and between neighbouring communities sharing borders, aimed at helping prevent local tensions from arising and address conflicts peacefully should they arise;

- Encouraging the establishment of permanent mixed commissions, either inter-State or regional, to facilitate continuing dialogue between the border regions concerned;
- Creating advisory and decision-making bodies in which minorities are represented, in particular with regard to education, culture and religion;
- Electing bodies and assemblies of national minority affairs;
- Creating local and autonomous administration, as well as autonomy on a territorial basis, including the existence of consultative, legislative and executive bodies chosen through free and periodic elections;
- Allowing self-administration by a national minority of aspects concerning its identity in situations where autonomy on a territorial basis does not apply;
- Allowing decentralized or local forms of government.

### **Recommendations to the OSCE**

Recalling the OSCE's commitment to ensure that all national minorities found within OSCE participating States are recognised and given the full range of human rights to which they are entitled both individually as citizens and collectively as a minority group, and further recognising that in certain situations

these groups need additional protections to ensure that their rights are not abridged, KHRP urges the OSCE to:

- create a new commitment defining “national minority” such that, as a participating State, the Turkish government would need to recognise the Kurds, the Alevi and other minority Islamic peoples within their territory as ethnic minorities in order to be compliant. While the Geneva Document allows that “not all ethnic, cultural, linguistic or religious differences necessarily lead to the creation of national minorities”, presently there is no OSCE commitment that mandates the recognition of certain groups as ethnic minorities. KHRP recommends that the OSCE command such a recognition on the part of all participating States;
- As suggested in the Copenhagen Document, maintain its good offices with the United Nations and European Union and encourage Turkey to abide by their obligations as a part of these organisations;
- Keep an open dialogue with NGOs, human rights defenders and other IGOs operating in Turkey concerning the state of minority rights in the country.