

20 August 2013

TURKEY: Is it possible to manifest religion or belief in teaching and education?

By Mine Yildirim, Norwegian Helsinki Ctte

Can the right to manifest the freedom of religion or belief in education and teaching be effectively exercised in Turkey? Forum 18 News Service notes that recent developments have highlighted this question. From the 2012-2013 school year onwards the government has introduced optional lessons in Islam. But in many schools these "optional" lessons have not been optional in reality, as both Alevi and Christian pupils have publicly stated. Families have felt pressured by school administrations to choose the "optional" Islamic religion lessons - even though the families did not want to choose them. Also, the government is once-again apparently considering allowing the re-opening of the long-closed Greek Orthodox theological seminary on the island of Heybeliada (Halki). But Halki should not be approached as an isolated issue. For Turkey to meet its international human rights obligations the "optional" lessons should be optional in reality, and all belief communities should be able to establish institutions to train their followers or leaders.

Recent developments in Turkey raise questions around how far the right to manifest freedom of religion or belief in education and teaching can be exercised in Turkey, Forum 18 News Service notes. The first Turkish school year with optional religion lessons came to an end in June, and the government is once-again apparently considering allowing the re-opening of the long-closed Greek Orthodox theological seminary on the island of Heybeliada (Halki).

Turkey has undertaken solemn obligations under the International Covenant on Civil and Political Rights (ICCPR) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). These include legally binding commitments to respect the religious or philosophical beliefs of parents and legal guardians in the education of children, and the right of religious communities to run their own theological training establishments; both manifestations are integral parts of the right to freedom of religion or belief.

But in Turkey the state holds a monopoly over religious education, and does not exercise this in way that fully respects the rights of parents, guardians, the evolving capacities of the child, or the right to run theological training establishments. This was disappointingly supported by a recent Constitutional Court judgment, which formulated a new interpretation of "Turkish secularism" (see F18News 9 July 2013 http://www.forum18.org/archive.php?article_id=1855).

Possible start to meeting international obligations?

If the state permits the re-opening of Halki Theological School, it would be the solitary exception to the current universal state monopoly. This might enable Turkey to begin to meet its international obligations in relation to allowing everyone to manifest freedom of religion or belief in teaching. But it would only be a beginning if the state abandons for everyone its monopoly on religious education of all kinds.

The Minister of Justice made a statement on 1 August that a democratisation package the government is considering includes the possibility of re-opening Halki. But it is not clear when this democratisation package will be adopted or what exactly will be in the package. Halki Seminary was closed in 1971, and long-standing government promises to consider allowing its re-opening have never led to re-opening (see eg. F18News 27 October 2009 http://www.forum18.org/archive.php?article_id=1368). The closure has had a major impact on the Greek Orthodox community, as it now has no educational institution to train clergy within Turkey.

The similar 1969 closure of the Armenian Apostolic Church's theological college in Üsküdar has been far less publicised, but its continued closure also raises the issue of the right of communities to run their own theological training establishments.

Reluctance to implement binding international commitment

The right to manifest religion or belief in teaching is explicitly protected in human rights law, both in Article 9 ("Freedom of thought, conscience and religion") of the ECHR and Article 18 ("Freedom of thought, conscience and religion") of the ICCPR. Nevertheless, Turkey has always displayed a certain reluctance to implement its binding international commitment to protect the

right to manifest religion or belief in teaching – despite clear judgements of the European Court of Human Rights (ECtHR) in Strasbourg (see eg. F18News 5 January 2011 http://www.forum18.org/archive.php?article_id=1526).

Turkey has also sought to minimise its obligations in relation to the ICCPR and Article 2 of Protocol No. 1 ("The right to education") of the ECHR, by declaring that Turkey will adhere to these provisions in line with Law No. 430 ("Unification of the Educational System") of 3 March 1924, which so far has been interpreted to place all educational institutions offering religious education under the national education system (see eg. F18News 5 January 2011 http://www.forum18.org/archive.php?article_id=1526).

In addition, Turkey's current Constitution does not recognise the right to manifest religion or belief in teaching. Instead Article 24 ("Freedom of religion and conscience") of the Constitution requires state supervision of religious education and compulsory Religious Culture and Knowledge of Ethics (RCKE) lessons (see F18News 30 November 2011 http://www.forum18.org/archive.php?article_id=1641). The ECtHR in its *Zengin v. Turkey* judgment have held that RCKE lessons are incompatible with the country's human rights obligations (see F18News 23 August 2011 http://www.forum18.org/Archive.php?article_id=1603). Turkey has yet to introduce measures to prevent similar violations occurring, despite the ECtHR judgment requiring Turkey to do this.

Similarly, Turkey has not complied with her obligations to protect those institutions of non-Muslim religious communities which are protected under the 1923 Lausanne Treaty. Article 42 (3) states: "The Turkish Government undertakes to grant full protection to the churches, synagogues, cemeteries, and other religious establishments of the above -mentioned [non-Muslim] minorities. All facilities and authorisation will be granted to the pious foundations, and to the religious and charitable institutions of the said minorities at present existing in Turkey, and the Turkish Government will not refuse, for the formation of new religious and charitable institutions, any of the necessary facilities which are guaranteed to other private institutions of that nature."

However, many of the properties named in Article 42 have been confiscated from non-Muslim community foundations by the Turkish government, particularly since the Cyprus crises from the 1960s onwards. But since the ruling Justice and Development Party (AKP) came to power, some steps have been taken to restore some properties to non-Muslim community foundations (see F18News 6 October 2011 http://www.forum18.org/archive.php?article_id=1621).

Religious education in schools

An important related issue is the state's monopoly over all religious education in all public and private schools. This means that only the state can provide religious education in middle and high schools. From the 2012-2013 school year onwards the government has implemented the provisions of its controversial 2012 Education Reform Law. Among many other changes which have caused controversy in Turkey, the Law introduced optional lessons in Islam, including the Koran, the Life of the Prophet Mohammed, and Basic Religious Knowledge (Islam). These lessons and their implementation raise a number of issues concerning human rights, in particular the right to freedom of religion or belief (see F18News 9 July 2013 http://www.forum18.org/archive.php?article_id=1855).

Positive obligation?

Firstly, the fact that the state has assumed that it has a positive obligation to introduce religion lessons in Islam, because the state has a monopoly over religious education, is problematic. In international law, positive obligations imply that the state should remove obstacles to the exercise of human rights – not that the state should create or reinforce such obstacles.

International law's understanding of the state's positive obligations would require Turkey to make legal changes to ensure respect for the freedom of religion or belief rights of parents, guardians, and children, as well as the right to run theological training establishments.

It is no part of international law's understanding of positive obligations that any state is required to provide religious education in any religion or belief.

Optional?

Secondly, there are indications that the supposedly optional religion lessons have not been optional in reality in some cases. The experience of the compulsory RCKE classes indicates that even those entitled to exemptions from RCKE classes have found this very difficult to exercise (see F18News 23 August 2011 http://www.forum18.org/archive.php?article_id=1603). So it is not surprising that the greatest challenge related to the new optional Islam classes is ensuring that they really are optional.

Normally in Turkey, school students are given a form with a list of all optional lessons to choose from at the beginning of the school year. To gain enough credits to move up to the next school year, pupils must take some optional lessons. This means that a limited choice of optional lessons places great pressure on pupils to choose lessons they may not want to take. Some schools appear to have in effect denied parents and pupils the right to choose whether or not to choose the "optional" Islam lessons.

In some schools there are not enough teachers for all the optional lessons, such as art classes. This means that these schools only offer the lessons they have teachers for. As RCKE teachers can teach the optional Islamic lessons, this significantly increases the chances that the optional Islam classes will be offered instead of other optional classes.

For example, Dogan Bermek, the Chair of the Federation of Alevi Vakifs (Alevi Vakiflari Federasyonu), and Ali Kenanoglu, the Chair of the Hubyar Sultan Alevi Kültür Derneği [Association] (HSAKD), both told Forum 18 on 20 August that many Alevi families have felt pressured by school administrations to choose the "optional" Islamic religion lessons - even though the families did not want to choose them. School administrations told the families that as there was a lack of teachers only the optional Islamic religion lessons – and no other optional lessons - could be offered.

Pupils from other smaller religious groups also face problems. For example, a Christian student in Diyarbakir had to take an optional Islamic religion course to gain the number of credits needed to move up a school year. She was already exempt from RCKE classes as she is a Christian. But the school did not allow her to take other optional lessons offered in other schools nearby. Her father, Ahmet Güvener, told Forum 18 on 18 July that after he complained to the Ministry of Education, the teachers in his daughter's school were instructed to provide some optional lessons just for his daughter, so that she can complete her credits.

For the 2013-2014 school year the Ministry of Education has sent a circular to schools instructing them to "not to make any choices in relation to which optional lessons will be offered in schools, and refrain from not offering any of the optional lessons." It remains to be seen what impact this will have.

Kenanoglu of the HSAKD further commented that families fear that their children would face discrimination and harassment from teachers and other pupils if they do not choose the "optional" Islam lessons. Such discrimination is a common experience for pupils from smaller religious communities in Turkey (see F18News 23 August 2011 http://www.forum18.org/archive.php?article_id=1603).

The Alevi community has, backed by an ECtHR judgment, long been demanding that the compulsory RCKE lessons be changed (see F18News 23 August 2011 http://www.forum18.org/archive.php?article_id=1603). "Now we also have to deal with these new mandatory optional religion lessons", Kenanoglu commented. In meetings the HSAKD has asked the Ministry of Education for optional lessons on the Alevi faith to be taught by Alevi teachers. But the Ministry rejected this, claiming that as the Alevi faith is Islam and this is already covered in the compulsory RCKE lessons. The Ministry also claimed that the RCKE lessons address the Alevi tradition. Alevis dispute both these contentions.

Other optional religion or belief lessons?

There is no theoretical obstacle to providing optional religion or belief lessons on other religions or beliefs, such as Christianity, Judaism, the Baha'i faith, or atheism. But no such lessons have been offered. An ecumenical commission established by a variety of Christian churches (including Orthodox, Armenian Apostolic, Syriac Orthodox, Syriac, Catholics, Protestants) has been tasked by the state with writing the curricula for an optional Basic Religious Knowledge (Christianity) course. The commission members operate in a personal capacity and do not formally represent their churches, and the Ministry of Education has appointed a coordinator who is a faculty member of an Islamic theological university appointed by the state.

Forum 18 has learnt that the draft course has been recently submitted to the Ministry of Education. This lesson is not offered among the optional lessons to be taught in the 2013-2014 school year. As there are no educational institutions where teachers on Christianity can be trained, and all religious education must be provided under state supervision, it is totally unclear who will teach the possible optional lesson on Christianity.

It does not appear that other similar commissions – for example for Judaism or the Baha'i faith – have been established.

There is also no provision for atheists and agnostics, who in Turkey face serious restrictions and even prosecutions for manifesting their beliefs in public. For example, the Education Ministry bars access to atheist websites from schools (see F18News 15 February 2012 http://www.forum18.org/archive.php?article_id=1667).

The number of students needed to open an optional course may also make it impossible for students belonging to smaller religious or belief communities to actually take any other possible optional courses. Currently the number of students needed to open an optional lesson in any school is 10. It is highly likely that, in the overwhelming majority of Turkey's middle or secondary schools, it will not be possible to find 10 pupils who are not Muslim.

Opening Halki?

The political will to both allow the re-opening of Halki Seminary, and also to make it possible for all religious or belief communities to establish institutions to train their followers and leaders has not been shown.

Instead, there have been a number of statements from the AKP focussing only on the Greek Orthodox community's demands to re-open Halki. Deputy Prime Minister Bülent Arinc on 6 March 2013 stated that the AKP is in favour of allowing the re-opening the Halki. However, Prime Minister Recep Tayyip Erdogan that month stated that Halki can be re-opened only if a mosque could be built in the Greek capital Athens.

Erdogan's statement demonstrates that the reopening of Halki is not seen as a matter of Turkey's binding human rights obligations, but as a matter of foreign policy reciprocity between Turkey and Greece in the context of the Lausanne Treaty. A tendency to treat freedom of religion or belief as linked to foreign policy can also be seen in Turkish state interference in the election of Chief Rabbi, Greek Orthodox and Armenian Patriarchs (see F18News 11 August 2010 http://www.forum18.org/archive.php?article_id=1477).

What kind of a solution should there be?

If Turkey is to honour its binding obligations respect and protect the freedom to manifest religion or belief in teaching for all, at least four key issues need to be resolved.

Firstly, the law must be changed to allow all religious and belief communities to establish and run their own theological training establishments.

Secondly, the state must cease funding only the training of religious leaders of the state-backed Sunni Islamic community. To avoid creating conditions that result in discrimination based on religion or belief, all religious of belief communities – including if they wish Muslims independent of the state's Presidency of Religious Affairs (Diyanet), atheists and agnostics - should have access to state funding.

Thirdly, it is not only the re-opening of Halki that should be permitted. A solution that only remedies the Halki problem will contribute little or even nothing to resolving Turkey's systemic problems concerning the right to manifest religion or belief in teaching and train religious personnel.

Fourth, it should be possible for foreigners to be educated in these theological schools, as it is the case for foreign students to be trained in Turkish Islamic theological faculties. This is particularly important for the small Greek Orthodox Church, which now depends on non-Turkish citizen followers for its future. (There are only about 2,000 Turkish citizens who are members of this community.)

Two important steps

Ensuring that all religious or belief communities are able to establish their own theological institutions, independent of state interference, to train their clergy and other members would be a very important step to enabling the collective manifestation of freedom of religion or belief. This would result in greater freedom for religious or belief communities in their internal affairs.

Consequently, Turkey should take two important steps:

firstly, the optional religion lessons must be in their optional character, content, and all processes related to them, respect the right of the child to freedom of religion or belief and the rights of parents and guardians;

and secondly, Halki should not be approached as an isolated issue. A holistic approach should be taken to ensure that all belief communities are able to establish institutions to train their followers or leaders.

Only if Turkey does this will it be possible in Turkey to exercise the right to manifest freedom of religion or belief in education and teaching effectively. (END)

For more background, see Forum 18's Turkey religious freedom survey at http://www.forum18.org/Archive.php?article_id=1379.

More analyses and commentaries on freedom of thought, conscience and belief in Turkey can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=68>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

A printer-friendly map of Turkey is available at <http://education.nationalgeographic.com/mapping/outline-map/?map=Turkey>.

All Forum 18 News Service material may be referred to, quoted from, or republished in full, if Forum 18 is credited as the source.

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY