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TURKEY: Expectations of the new Constitution and what this means for freedom of religion or belief

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A survey by the Turkish Economic and Social Studies Foundation (TESEV) has found that change in Turkish society is ongoing and there is a certain willingness to see constitutional changes that would protect freedom of religion or belief, Forum 18 News Service notes. Indeed, society seems to be to some degree ahead of the AKP government in its willingness to implement human rights obligations. 74.9 per cent of respondents said that the new Constitution should be compatible with international human rights obligations. But there are inconsistencies in social attitudes which are most apparent in concrete cases, such as attitudes concerning the Diyanet, compulsory Religious Culture and Knowledge of Ethics lessons, and conscientious objection to military service, society does not seem to be ready to accept the implications of human rights treaties. But society's evolving conceptions of Turkish secularism, and the role of the state in relation to freedom of religion or belief, are indications of a willingness to advance democracy and the protection of human rights.

The deadline for Turkey's Constitutional Reconciliation Commission (AUK) to submit a draft for the new Constitution to the Grand National Assembly is 31 December 2012. Yet no draft has yet been produced, and Prime Minister Recep Tayyip Erdogan said on several occasions that, if the AUK cannot reach a consensus by the end of 2012, the ruling Justice and Development Party (AKP) will draft the new Constitution on its own. If it can gain enough support in the Assembly it will refer the Constitution for a referendum. Currently the AKP does not have enough support to force through a new Constitution on its own. The Director of the Turkish Economic and Social Studies Foundation (TESEV) Democratisation Program, Özge Genc, told Forum 18 on 30 November that she expects that the AUK will present a draft for public discussion in 2013.

The political parties on the AUK have not reached agreement on a number of issues, including the protection of freedom of religion or belief. The AKP's proposal for protecting this fundamental human right rejected proposals from the main opposition Republican People's Party (CHP), which – unlike the AKP proposal - protected the right to conscientious objection to military service, and defined Turkish secularism (laiklik) as meaning that the state will observe equal distance towards all religions. The AKP has also shown strong opposition to implementing Turkey's international human rights obligations. This would for example involve abolishing the current compulsory Religious Culture and Knowledge of Ethics (RCKE) lessons and changing the Diyanet (see F18News 22 August 2012 http://www.forum18.org/Archive.php?article_id=1734).

But whatever is in the new Constitution, the fact that protecting freedom of religion or belief and other fundamental rights is being widely discussed is a significant and positive development for Turkey. For example, public attention was gained for the views of religious or belief groups that the new Constitution must genuinely protect real equality between followers of all religions or beliefs, as against a merely formal equality that has no practical impact (see F18News 13 June 2012 http://www.forum18.org/Archive.php?article_id=1711). There was also public attention for the demand that the Constitution be brought into line with international human rights law, such as Article 9 ("Freedom of thought, conscience and religion") of the European Convention on Human Rights and Fundamental Freedoms (ECHR) (see F18News 30 November 2011 http://www.forum18.org/Archive.php?article_id=1641).

But what impact have the discussions on protecting freedom of religion or belief had on public attitudes?

The TESEV Survey

The TESEV has, in association with its Constitution Watch Project <http://www.turkeyconstitutionwatch.org>, published a survey of public attitudes. This demonstrates that many in Turkey have a positive attitude towards change, but some expressed insecurity about possible changes. This is reflected in attitudes towards the role of the state, Turkish secularism, and pluralism as reflected in the Diyanet and compulsory RCKE classes.

Secularism

Turkish secularism (laiklik) is strongly protected in the current 1982 Constitution and has a major impact on the protection of

freedom of religion or belief. It is very different from either the French concept of "laïcité", or what many outside Turkey understand by the term "secularism". In Turkish practice it means close state supervision of religious activity, and less autonomy of religious communities than in many other countries (see F18News 7 February 2011 http://www.forum18.org/Archive.php?article_id=1537). Also, there is not one definition but several, with different political parties using the term to mean different things (see F18News 30 November 2011 http://www.forum18.org/Archive.php?article_id=1641).

Perhaps one of the most interesting findings of the TESEV Survey is that 74.9 per cent of respondents said that the new Constitution should be compatible with international treaties and universal human rights norms. But along with this, 82.3 per cent wanted the new Constitution to include the nationalism, reforms and principles of the Republic's founder, Mustafa Kemal Atatürk, as enshrined in the 1982 Constitution. Some may consider these two goals as contradictory since in the past, Atatürk's approaches have often been interpreted by law makers and the judiciary to curb human rights protected in the international treaties Turkey is obliged to implement. However, it might be an indication of evolved understandings of nationalism and Atatürk's principles that may harmonise with the values of democracy and human rights.

According to the TESEV Survey, 50.6 per cent said Turkish secularism should remain in the new Constitution with no alterations, while another 47 per cent said they want this secularism maintained, with a definition that the state will observe equal distance to religions. Only 8.7 per cent said they would want no reference to Turkish secularism in the new Constitution. The Survey notes that Kurds, Alevis, and those who define themselves as democratic emphasise "equidistance to religions". The Survey does not specifically reflect the views of non-Muslim minorities, but it is likely that these groups would support "equidistance to religions" as their submissions to the AUK stressed the importance of this (see F18News 22 August 2012 http://www.forum18.org/Archive.php?article_id=1734).

Other answers reveal that Turkish secularism is not seen as incompatible with manifestations of religious symbols or dress by public employees. A large majority, 76.3 per cent, agreed that public employees, including teachers and judges, should be allowed to wear Islamic veils if they so choose. The AKP's proposals may open the way for this to be permitted (see F18News 22 August 2012 http://www.forum18.org/Archive.php?article_id=1734). This view contrasts with the jurisprudence of the Turkish Court of Cassation, which has generally considered the use of religious symbols by public employees as incompatible with Turkish secularism (see Forum 18's Turkey religious freedom survey at http://www.forum18.org/Archive.php?article_id=1379).

The Diyanet

The Diyanet, or Presidency of Religious Affairs, reports to the Prime Minister's Office and holds a monopoly over certain Islamic manifestations in Turkey, such as appointing imams. Massive state financial and institutional support of the Diyanet along with its activities can undermine the effective enjoyment of freedom of religion or belief by some. But civil society proposals for changing the Diyanet have been described by the AKP as "unjust" and "too assertive for such a sensitive issue" (see F18News 4 May 2011 http://www.forum18.org/Archive.php?article_id=1567). Survey participants thought that the Diyanet should remain as a constitutional institution, but 84.1 per cent thought that it should include representatives of other denominations and religions. It is unclear how this could be achieved, as many followers of non-Sunni Muslim beliefs are strongly critical of the Diyanet and its activities.

Only 21.9 per cent said that the Diyanet should be abolished and every religious group should support their own institution. The greatest supporters of this last option are those who define themselves as socialists (45.8 per cent), supporters of the opposition Peace and Democracy Party (BDP) (45.8 per cent), and Alevi Muslims (40 per cent).

The Diyanet has not yet been considered by the AUK. Many civil society submissions noted the incompatibility of the Diyanet with Turkey's human rights obligations. The majority opinion expressed in the TESEV Survey favours the continuation of the Diyanet, yet supports the idea that it should reflect religious plurality. It is unclear whether the AUK will reach a consensus, but most in Turkey clearly expect that the state will retain an active involvement in the life of the Sunni Muslim community, both in terms of shaping dogma and providing religious services. There may perhaps be an unclear added dimension taking account of pluralism in Turkish society.

Religious Culture and Knowledge of Ethics lessons

The compulsory Religious Culture and Knowledge of Ethics (RCKE) are incompatible with international human rights obligations, as the European Court of Human Rights (ECtHR) and Turkey's Court of Cassation (before the 2011 appointment of 60 new members of the Court) have found (see F18News 23 August 2011 http://www.forum18.org/Archive.php?article_id=1603). Despite recent changes to RCKE lessons, significant problems remain (see F18News 13 June 2012 http://www.forum18.org/Archive.php?article_id=1711).

Nevertheless, the ruling AKP government is determined to maintain RCKE lessons (see F18News 13 June 2012 http://www.forum18.org/Archive.php?article_id=1711). A Court of Cassation decision of 27 November found that RCKE lessons are not religious instruction, therefore were compatible with Turkish secularism and did not interfere with the right to freedom of religion or belief.

The AUK was divided on the issue of compulsory RCKE lessons, with the ruling AKP and the opposition Nationalist Movement Party (MHP) wanted compulsory lessons to be maintained. But the main opposition party, the Republican People's Party (CHP), wanted RCKE lessons to be optional.

According to the TESEV Survey Turkish people appear almost equally divided on this issue. Nearly half of the participants said that the classes should be mandatory, while 46.3 per cent thought they should be optional. Only 3.6 per cent said that they should be completely abolished.

As with the Diyanet, there are demands to include pluralism into existing structures, with 76.9 per cent wanting compulsory RCKE classes to include teaching on other religions and Islamic denominations. 93.8 per cent of Alevis, 95.2 of BDP supporters, 88.5 per cent of CHP supporters, and 71.6 per cent of AKP supporters agreed with this. But a significant minority, 23.1 per cent, wanted only Sunni Islam to be taught in a compulsory manner. This minority was made up of one third of self-identified Islamists and conservatives.

Conscientious objection to military service

Turkey has yet to create a legal framework in order to recognize the right to conscientious objection to military service. Relevant ECtHR decisions await enforcement, but there has been limited improvement domestically through two military court decisions (see F18News 1 May 2012 http://www.forum18.org/Archive.php?article_id=1696). The AUK has not been able to reach consensus on the issue with opposition to conscientious objection from both the AKP and the MHP, after the CHP and civil society groups called for conscientious objection to be permitted (see F18News 22 August 2012 http://www.forum18.org/Archive.php?article_id=1734).

According to the TESEV Survey, 69.7 per cent of respondents said that military service should be compulsory and no exemptions should be allowed, while 17.4 per cent said it should not be compulsory. 6.2 per cent said it should be possible to have a kind of social service as an alternative to military service, and only 6.7 per cent said that the right to conscientious objection should be recognised. It seems to be mostly young people who are in favour of social service and conscientious objection. Apart from BDP supporters, supporters of all other political parties favour the status quo. But CHP supporters appear to give the greatest support to the possibility of social service.

Change without fundamental change wanted?

Turkish society appears to want make further democratic reforms, but without fundamental change that would mean breaking away from the existing principles and structures. The Director of TESEV's Democratization Program, Özge Genc, told Forum 18 that "these contradictions reflect Turkey and Turkish society. Indeed, these views reflect a society in transition and change where contradictions are to be expected". It is possible that the social attitudes could evolve to support principles and structures – such as those of Atatürk - being re-interpreted to become compatible with a democratic state where the rule of law and human rights are respected (see F18News 7 February 2011 http://www.forum18.org/Archive.php?article_id=1537).

It is important to bring Turkey's human rights obligations into Constitutional change. The implications of a commitment by the majority of Turkish society to the protection of human rights, implementing international treaties, or to Turkish secularism, can be easily overlooked. For example, commitments to upholding freedom of religion or belief must be made real in concrete cases – such as the Diyanet and compulsory RCKE classes. Society's willingness to change the Diyanet and RCKE lessons to include pluralism will not on its own ensure that human rights are protected. There appears to be resistance to the fundamental change necessary to significantly advance the protection of freedom of religion or belief.

Another question is what does the AKP want. As the government it bears the main responsibility to ensure that legislation and practice in Turkey complies with international norms. It does not appear to share society's willingness to include a pluralistic dimension in the Diyanet and compulsory RCKE lessons. This lack of willingness to recognise the reality of Turkey's diverse society can be seen in the AKP's resistance to the recognition of the Alevi cem houses as places of worship, creating a legal framework for people to train their clergy (see F18News 13 June 2012 http://www.forum18.org/Archive.php?article_id=1711), and recognition of the right to conscientious objection to military service (see F18News 22 August 2012 http://www.forum18.org/Archive.php?article_id=1734).

Turkish society has some willingness to change, albeit with inconsistencies that may make changes inadequate for the protection of human rights. But society's evolving conceptions of Turkish secularism and the role of the state in relation to freedom of religion or belief are indications of a willingness to advance democracy and the protection of human rights. Indeed, society seems to be to some degree ahead of the AKP in its willingness to implement human rights obligations. So it is important to ensure that discussions in society take place with reliable information on the implications of Turkey's human rights obligations. This would be of great benefit in helping Turkey's new Constitution protect everyone's right to freedom of religion or belief. (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/education/mapping/outline-map/?map=Turkey>.

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