

2 March 2011

TURKEY: The right to have places of worship – a trapped right

By Mine Yildirim, Åbo Akademi Uni. and

The right to establish, own, and maintain places of worship is set out in the international human rights standards Turkey is a party to. Yet religious communities face serious obstacles – both formal and informal – preventing this, Forum 18 News Service notes. Only the state-run Diyanet can open mosques and administer them. The largest community demanding to have its own places of worship is the Alevi community, which is around one third of the population. But despite government promises of a solution, none has yet appeared. Indeed, the state is currently attempting to close down an Alevi association because its statute describes its cemevi as a place of worship. Communities, such as Protestants and Jehovah's Witnesses, face serious obstacles in establishing places of worship, while Catholics, Greek and Syriac Orthodox and other communities face serious problems in maintaining places of worship. The right of all to establish places of worship is trapped in political inaction and the arbitrary decisions of public administrators. To implement human rights obligations this right must be freed from this trap.

The right to establish, own, and maintain places of worship is a fundamental part of the right to freedom of religion or belief. This is very clear in the international human rights standards – such as Article 18 of the International Covenant on Civil and Political Rights, to which Turkey is a party. Yet religious communities in Turkey face serious obstacles – both formal and informal – preventing them from enjoying this right effectively, Forum 18 News Service notes. For example, only the Diyanet, or Presidency of Religious Affairs which reports to the Prime Minister's Office, can open mosques and administer them.

These obstacles are in addition to the fundamental problem that no community – whether Muslim, Jewish, Armenian Apostolic, Greek Orthodox, Syriac Orthodox, Catholic, Protestant, Baha'i, Jehovah's Witness, or any other - has any legal status in Turkish law. This leads to situations such as communities being unable to legally prove they own buildings they pay property tax on (see F18News 7 February 2011 http://www.forum18.org/Archive.php?article_id=1537).

Is an Alevi solution close?

A similarly wide range of communities face obstacles affecting places of worship. The largest community which has demanded that this be addressed is the Alevi community, which is around one third of the population. (No reliable survey of religious affiliation numbers exist, not least as many people are reluctant to openly identify themselves as Alevi or from another disfavoured religious group.)

In the run-up to the general election, due on 12 June, they have called for their places of worship – cemevi or cem houses – to be recognised by the state. State Minister Faruk Celik has announced that a solution is close under the ruling Justice and Development Party's (AKP) "Alevi Opening" process, which attempts to address Alevi concerns. However the Chair of the Alevi Cem Foundation, Professor Izzettin Dogan, told the Haberturk television channel on 24 February that they want to see concrete results.

The AKP might indeed want to find a solution for the Alevi community before the election – but it is unclear what the solution might be, or whether it will be compatible with freedom of religion or belief and the prohibition of discrimination.

There is much discussion in Turkey about the non-recognition of Alevi places of worship, although there is less discussion of the needs of the Caferi. The Caferi, who are closest to Shia Islam, want to open their own mosques and complain that the Diyanet appoints Sunni imams to mosques used by the Caferi. The leader of Turkey's Caferi community, Selahattin Gündüz, called on 14 March 2010 for there to be no obstacles to opening non-Diyanet mosques.

Mostly unrecognised within Turkish public debates is that other communities, such as Protestants and Jehovah's Witnesses, also face serious obstacles in establishing places of worship. Catholics, Greek Orthodox and other communities also face serious problems in maintaining their places of worship (see F18News 27 October 2009 http://www.forum18.org/Archive.php?article_id=1368). There are also the ongoing well-known serious problems faced by the Mor Gabriel Syriac Orthodox Monastery, in trying to retain their land against ongoing attempts by the AKP government to deprive them of it (see F18News 7 February 2011 http://www.forum18.org/Archive.php?article_id=1537).

Mosques not an alternative for Alevis

Most members of the Alevi community use cemevi as a place of worship, as well as social centres. While there is a certain variety of practices within the Alevi community most Alevi do not go to mosques (which are all run through the Diyanet which the Alevi consider to be guided by the Sunni Muslim tradition), their clergy are not the imams who minister in mosques but dede (elder or grandfather), and their rituals and prayers are different from Turkey's majority Sunni Muslim tradition.

Before the Turkish Republic was established in 1923, the Alevi worshipped in what were called tekke. But the new republic banned these as well as some religious pilgrimages and ritual under the 1925 Law on the Closure of Dervish Lodges, so restricting all Muslim public worship to mosques. Like closely-related Sufi groups, Alevi worship and rituals now took place only in private. While Alevi did not like this, they accepted it because the restrictions also affected Islamic movements the Alevi saw as hostile to them.

Restricting Muslim worship solely to the mosques administered by the Diyanet clearly raises serious questions in relation to Turkey's international law obligations to be impartial between religions and beliefs. It is for followers of religions or beliefs to decide where they worship – this cannot be a state decision. Turkey is willing to give Alevi places of worship the status of cultural associations, but not to recognise them as places of worship.

Why not?

Resistance is strong, for a variety of reasons, to recognising Alevi places of worship. Firstly, the Diyanet, which reports directly to the Prime Minister's Office, teaches that mosques – which it administers - are the only places of worship for Muslims. Secondly, most of the ruling AK Party's supporters come from Sunni Muslim backgrounds, and do not like the idea of granting freedoms to the Alevi and so fostering Alevi identity. And thirdly, Article 174 of the Constitution ("Preservation of Reform Laws") bars changing certain laws, including the 1925 Law on the Closure of Dervish Lodges. It may be possible to overcome the restrictions imposed by this Law, by interpreting it and related laws to facilitate freedom of religion or belief (see F18News 7 February 2011 http://www.forum18.org/Archive.php?article_id=1537).

What difference can having a legal place of worship make?

It is possible, de facto, for Alevi, and others to worship in a building not legally recognised as a place of worship. But there are financial, legal and social consequences of non-recognition.

Financially, places of worship enjoy exemptions from a number of taxes, for instance, property tax, electricity and water tax. Belief communities whose buildings do not have a legal place of worship status cannot benefit from these exemptions.

Legally, gathering for worship in a building that is not legally recognised, or calling it a cemevi, church or similar name may result in prosecution. In Istanbul a Christian was prosecuted on 25 May 2010 for calling his association (established for running seminars on Christianity) a church. He was acquitted when he stated that his poor Turkish as a foreigner led him to wrongly describe his legal association as a church. A number of self-described "churches" without legal place of worship status, but with legal associations, have been formally warned by local police that worship in their buildings is unlawful. The reason given is that the buildings are not legally recognised as places of worship.

Similarly, the authorities are currently attempting to close down an Alevi association, the Cankaya Cemevi Building Association (CCBA), in the capital Ankara. The reason for the ongoing court case is that the CCBA's legal statute describes the cemevi as a place of worship.

Non-recognition of cemevi as places of worship is based on an opinion by the Diyanet – which does not in Turkish law have binding legal force. A Communication (No. 1773), sent by the Diyanet to the Interior Ministry on 17 December 2004, states that: "It is not possible to consider cemevi and other places as places of worship because Alevism, which is a sub-group within Islam, cannot have a place of worship other than mosques or mescit that are common places of worship within Islam".

The Associations Directorate of the Ministry of Interior on 30 March 2005 sent a letter (No. 1277) to the Ankara Governorship, referring to this Diyanet opinion. The Interior Ministry asked for the CCBA to remove references to cemevi as a place of worship from its statute. The CCBA refused to do this when the Ankara Governorship wrote to them requesting this, stating that for all Alevi cemevi are accepted as places of worship. The Governorship then initiated a court case via the Ankara Prosecutor's Office to close the CCBA down.

The Alevi have protested strongly against this, not least as the Diyanet opinion has no legal force and they object to their religious community being made subject to the opinions of another religious community. The state's interference in Alevi internal religious affairs by attempting to dictate whether or not cemevi are places of worship, as well as its subjugation of one religious community to the dictates of another, seems indeed seriously incompatible with international law. Were the case to reach the European Court of Human Rights in Strasbourg, it is very likely that Turkey would lose.

Socially, having a legally-recognised place of worship gives a religious community a high social standing and helps their followers not to be marginalised. This is important in Turkish society – not least for those communities whose followers are at risk of violent attack (see Forum 18's Turkey religious freedom survey at http://www.forum18.org/Archive.php?article_id=1379).

Theoretically possible, but in practice..

Legally, it has been since 2003 theoretically possible to establish places of worship other than mosques, under legal changes brought in because of the European Union accession process. But local authorities are allowed wide discretion in granting permission for this (see F18News 27 October 2009 http://www.forum18.org/Archive.php?article_id=1368).

Local planning regulations, prepared by municipalities, have detailed Implementation Guidelines for what are referred to as "religious facilities". These guidelines also contain detailed structural and construction requirements. For example, the Greater Izmir Municipality's Guidelines require a place of worship to have an at least 2,500 square metre [3,000 square yard] plot of land in newly developing areas. This is beyond the means of small religious communities, and in any case they normally do not want such large buildings. Also, as religious communities cannot legally exist, how can they buy land and build buildings as themselves?

Protestant communities for example, which have mainly been founded since 1980, would like to build or establish legally-recognised places of worship. Since 2003 one Protestant foundation (not a church) - the Istanbul Protestan Vakfi – has had in 2006 its building granted the status of place of worship. But more than 20 applications have been turned down for various reasons.

In the south-eastern city of Adana for example, the local Protestant community applied in writing on 5 February 2005 to the local municipality for a building to be approved as a place of worship. They received no written reply and enquired about this. They were then told verbally after a long time by an official of the sub-provincial municipality that the municipality assembly said: "This is a Muslim neighbourhood. You cannot sell snails [which are forbidden by Muslim dietary laws] here". No further reply has been received and their application was returned to them (see "A threat" or under threat? Legal and social problems of Protestants in Turkey, 2010, p. 35ff http://www.protestankiliseler.org/Protestants_in_Turkey-_A_Threat_of_Under_Threat_2010__.pdf).

Mosques, which can only be run by the Diyanet, are subject to a different planning and regulatory regime. They have to be constructed in conformity with the regulations of the Diyanet.

A trapped right

It is extraordinary that a basic and fundamental right such as freedom of religion or belief should be so restricted, when it is protected under international human rights treaties and Article 24 of Turkey's Constitution ("Freedom of religion and conscience"). The right of all to establish places of worship is trapped in political inaction and the arbitrary decisions of public administrators. Turkey's unwillingness to implement its international obligations, and inaction against arbitrary decisions by public officials, continues to leave Turkey's vulnerable religious communities disadvantaged.

Turkey's international and domestic human rights obligations, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and Turkey's aspirations to become a member of the European Union, all demand that this right be freed from its current trap. (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://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=mideast&Rootmap=turkey>.

PDF and printer-friendly views of this article can be accessed from http://www.forum18.org/Archive.php?article_id=1549. It may freely be reproduced, redistributed or quoted from, with due acknowledgement to Forum 18 <http://www.forum18.org>.

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY