

Discrimination and intolerance in Turkey

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Serdar Alyamac

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The Human Rights Agenda Association has recently issued a report on discrimination and intolerance in Turkey by underlining the rise of nationalist movements.

Human Rights Agenda Association President Orhan Kemal Cengiz, explaining the reasons for such a report, said: "As the Human Rights Agenda Association, we are deeply concerned with increasingly intolerant attitudes in Turkish society, which goes hand in hand with the new wave of nationalism. Intolerance, discrimination, anti-Semitism and even some racism have recently reached a peak, while the ambivalent feelings of Turkish society towards Europe have turned into a fear of disintegration and a loss of national identity."

Cengiz stressed the importance of diagnosing the problem correctly. "You cannot solve a problem that you cannot see and diagnose. I'm not only talking about the social level. I am also talking about the attitudes of government, the judiciary and even the intellectuals of Turkey. I'll give you an example. You don't see a single incident where someone has been punished because of his or her racist remarks, which are punishable under the Turkish Penal Code. Instead, the judiciary has always applied this article for statements that assert that there are Kurds in Turkey. It is ironic, is it not, that an article which aims at preventing racist remarks and hate speeches and aims to protect vulnerable groups has always been applied to protect the state from its supposed separatist citizens."

He said the biggest problem was lack of awareness and acknowledgement. "This blurred consciousness has its roots in collective amnesia and failure to confront the past. Look at this new Foundation Law, for example. It has been revived again and again, but it is still not capable of solving the fundamental problems of non-Muslim community foundations. How can you solve a problem when you refrain from acknowledging its causes and sources? Turkey cannot solve its minorities' problems. There are many things to do. But an important start is to be aware of the fact that there are racist, discriminative and intolerant attitudes within Turkish society. Therefore, it is very important to acknowledge these attitudes and be ready for an open confrontation with Turkey's past."

The report states discrimination committed in the past continues today in various forms and described the discrimination as a frontal attack against all basic values that form human rights. According to the report, "In 1989, the U.N. Human Rights Committee defined in its 37th session as General Comment 18 discrimination in connection with the 'International Convention on the Elimination of All Forms of Racial Discrimination,' Article 1 on 'racial discrimination' and in the 'Convention on the Elimination of All Forms of Discrimination Against Women.' In Article 1 on 'discrimination against women,' it states 'the Committee believes that the term "discrimination" as used in the Covenant should be understood to imply any distinction, exclusion, restriction or preference which is based on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms'."

In light of this definition one can say that the Council of Europe does not differ from the U.N. Human Rights Committee. In Article 1 of the additional protocol to the European Convention on the Protection of Human Rights and Fundamental Freedoms, a similar broad definition is made and discrimination is generally prohibited. This reads as follows: "Article 1 -- General prohibition of discrimination. 1 - The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion,

national or social origin, association with a national minority, property, birth or other status. 2 - No one shall be discriminated against by any public authority on any ground such as those mentioned in this paragraph."

In this aspect the report focused on declarations and incidents of violence based on racism, discrimination and intolerance that have increased in Turkey over the last few months to understand the damage created by discrimination. "The events that unfolded after the celebration of Nevruz in Mersin on March 20, 2005, and the attempt to burn the Turkish flag made intolerance created by nationalism, which has increased over the past few years, rapidly well visible. The attempt of two children, aged 14 and 12, to burn the flag resulted in an atmosphere of violence that was quite unpleasant. Tension from this incident spilled over into violence in Trabzon and later in Adapazari (Sakarya). A rumor that a flag was about to be burned resulted in an attempted lynching of four students by some 2,000 people. Yet, no flag was burned. The students were only distributing leaflets protesting poor conditions in F-type prisons. A similar incident occurred in Adapazari on April 12, 2005. Some 100 people attacked and tried lynching a group that wanted to protest the incident in Trabzon," according to the report.

Relating all these recent events to the discussion on the question of minorities, the report said: "The question of minorities is one of the most sensitive questions since the early years of the republic. Though, during the process of adjustment to the European Union, progress was made on the rights of minorities parallel to other rights and freedoms in Turkey, this is not enough. The authorities show a strong resistance, in particular, with implementation. One of the most concrete examples of this is when on Nov. 1, 2004, the Prime Ministry's Advisory Board to Human Rights (BYHDK) announced the report of the 'working group on rights of minorities and cultural rights.' On the other hand, there was the Orhan Pamuk case. Famous writer Pamuk said: 'Here they killed 30,000 Kurds and one million Armenians, and almost nobody dares to talk about it. Therefore I do it and they will hate me for it.' After this statement of his to a newspaper, he became the object of threats, hatred and violence. Sütçüler district (Isparta) Governor Mustafa Altinpinar ordered the destruction of all of Pamuk's books."

The report continued: "Following these developments the National Security Council called the [seminary] on Heybeliada a 'threat' in its National Security Document, opposing the reopening of the school. This attitude against minorities shared between high-ranking military and civilian authorities is another bothersome example, even though the secretary-general of the National Security Council, on the suggestion of the Ministry of Foreign Affairs, later refrained from calling the school a threat. But there was no change in opposing the reopening of the school. The latest scandal on the question of minorities was the cancellation of a conference on 'Ottoman Armenians during the Decline of the Empire,' which the Bosphorus University rector wanted to hold but had to cancel because of a negative reaction before the start of the conference. The conference was cancelled immediately after a speech in Parliament by Justice Minister Cemil Çiçek, who said, 'this [holding the conference] means stabbing the Turkish nation in the back'."

Claiming that, after these incidents, violence and intolerance against non-Muslims began to increase, the report said: "The International Protestant Church first received threatening letters from the 'Turkish Revenge Brigade' and on April 21, 2005, and was the victim of a Molotov cocktail attack. The Human Rights Agenda Association holds that activities and the existence of people of other religions should not be taken as a threat to the Turkish and Muslim community. On the contrary, it should be seen as enhancing cultural richness and be protected."

Addressing the domestic sales of Hitler's racist book "Mein Kampf," the report worried about the rise of the book's sales in Turkey. "According to newspaper reports, Hitler's book was among the top 10 selling books in February and March of 2005," said the report.

"Another dimension of the subject is the decision to close down teachers' union Egitim-Sen just because it defended the right to education in the mother tongue. On June 27, 2003, the Presidency of the General Staff wrote a letter to the Prime Ministry, the Interior Ministry, the Ministry of National Education, the Justice Ministry and the secretary-general of the National Security Council stating that an article in the charter of Egitim-Sen asking for the right to educate in the mother tongue was against the Constitution.

"Following this letter, the Presidency for Employment and Social Security wrote to the governor in

Ankara repeating the claim and asking that the wording be removed from the charter. On demand of the governor of Ankara, the Republican Prosecutor's Office filed a complaint asking for the closure of Egitim-Sen and punishment for seven of its leading members. The case concluded with a decision by a court to close Egitim-Sen. This brought the relation between the military and politics to the agenda again and is an alarming hint that the military does not support steps towards democratization," said the report.

The report also pointed out new means of racist communication. "The Council of Europe adopted in 2001 the 'Convention on Cybercrime' and in 2003 the 'Additional Protocol to the Convention on Cybercrime' concerning the criminalization of acts of a racist and xenophobic nature committed via computer systems. At this point the classic timid approach of Turkey towards international conventions concerning human rights can be seen. Turkey has neither signed nor ratified the convention or the protocol. At the same time, Web sites spreading racism, xenophobia and intolerance have grown in numbers. No measures have been taken against these sites."

Laws on discrimination:

Assessing the laws on discrimination, the report said "the legal framework in Turkey offers some provision on discrimination, but there is no comprehensive law. In a report that listed measures in 13 countries that applied for membership in the European Union, the legal framework is highlighted from various aspects. Article 122 of the new penal code (TCK) stipulates the prohibition of discrimination, providing for punishment in case of conviction. It is sad to say that, although the first draft of the penal code included 'discrimination based on sexual orientation,' the final law made no reference to it. The other problematic area is that Turkey hesitates to sign and implement the international conventions on human rights.

"Turkey has ratified a number of international conventions but always attached a reservation to provisions on discrimination. On Sept. 14, 1990, Turkey signed the Convention on the Rights of the Child and ratified it on Dec. 9, 1994. On articles 17, 29 and 30 it placed a reservation that the provision has to conform to the 1982 Constitution and the July 24, 1923, Lausanne Treaty. A similar situation applies to the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocol No. 11. Turkey has signed and ratified additional Protocol No 1, but put a reservation to Article 2, pointing at the 1924 Law on Unity and Teaching. Finally, Turkey ratified the International Covenant on Economic, Social and Cultural Rights on June 4, 2004, again with comments and reservations."

In the last part of the report the association made some recommendations. "Mankind has many different identities of race, ethnicity, sex, social offspring, etc. These differences express the cultural richness of mankind. The richness has to be protected. Taking this perspective, Turkey should:

Legislative power:

- * Take the existing draft for an Ombudsman Law as a starting point and pass the Ombudsman Law;
- * Ratify the Framework Convention for the Protection of National Minorities;
- * Ratify the European Charter for Regional or Minority Languages;
- * Remove the reservations to international human rights conventions relating to minorities;
- * Ratify Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms;
- * Ratify the Optional Protocol to the International Covenant on Civil and Political Rights;

* Review legislation concerning refugees and take measures to prevent discrimination towards refugees;

* Urgently adopt a law to prevent discrimination based on race and ethnic origin. Yet, legal measures should not be restrained to it. Separate laws have to be passed for various forms of discrimination;

* Cleanse the laws of offenses such as 'creating a minority';

* Ratify the revised European Social Charter without delay;

* Take a positive step in defining direct and indirect discrimination and assault in the legal system;

* Include the term 'ethnic origin' in the Constitution (Article 10) and laws;

* Review the definition of minority in the light of international norms; and

* Refrain from regulating minority related issues by 'elastic' norms such as regulations. The rights of minorities need to be protected by a legal framework."

The executive:

Furthermore, according to the report's recommendations, Turkey should:

* "Consult relevant units of the United Nations, the Council of Europe and the EU during the necessary works of reform; and

* Establish a National Human Rights Institute according to the Paris Charta. All these initiatives have to be conducted together with nongovernmental organizations, taking their views into account. The cooperation of NGOs should be encouraged."

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