

HOW THE SUPPORTERS OF THE HIZMET MOVEMENT SUFFER FROM PERSECUTIONS BY THE TURKISH GOVERNMENT?

Introduction

The Turkish government's oppressive regime and strict measures against dissidents, especially the Hizmet Movement, have created a new group of people seeking asylum around the world. This paper includes many statements from various organizations and experts on the current situation in Turkey in terms of human rights and fundamental freedoms. Hence, this study aims to shed light on how the authorities are expected to react towards asylum cases from Turkish applicants citing the risk of persecution based on their links with the Hizmet Movement.

1. Situation in Turkey in terms of Human Rights, Fundamental Freedoms, Rule of Law and Democracy

1.1. Freedom House, *Freedom in the World 2018*, 19 January 2018¹

Turkey's status declined from Partly Free to Not Free, its political rights rating declined from 4 to 5, and its civil liberties rating declines from 5 to 6 due to a deeply flawed constitutional referendum that centralized power in the presidency, the mass replacement of elected mayors with government appointees, arbitrary prosecutions of rights activists and other perceived enemies of the state, and continued purges of state employees, all of which have left citizens hesitant to express their views on sensitive topics.

Constitutional revisions that concentrated power in the presidency were adopted in an April referendum. The campaign featured a grossly uneven playing field, and last-minute changes to the criteria for validating ballots—made in contravention of the law—undermined the legitimacy of the vote count.

The fear of arbitrary arrest stifled public discussion and weakened civil society.

1.2. Human Rights Watch, *World Report 2018*, 18 January 2018²

Many decrees adopted contained measures that undermine human rights safeguards and conflict with Turkey's international human rights obligations.

In January, the government ruled on the establishment of an ad hoc commission to review decisions made under the state of emergency. The commission lacks independence since its seven members are appointed by the same authorities responsible for approving dismissals and closures. ... In the meantime, those affected have no right to work in public service, their bank accounts are frozen, and passports confiscated.

Turkey is the world leader in jailing journalists and media workers as they face criminal investigations and trials, with around 150 behind bars at time of writing. Most newspapers and television channels lack independence and promote the government's political line.

¹ Freedom House, *Freedom in the World 2018 - Turkey*, 19 January 2018, available at: <https://freedomhouse.org/report/freedom-world/2018/turkey> [accessed 25 January 2018]

² Human Rights Watch, *World Report 2018 - Turkey*, 18 January 2018, available at: <https://www.hrw.org/world-report/2018/country-chapters/turkey> [accessed 25 January 2018]

There were widespread reports of police beating detainees, subjecting them to prolonged stress positions and threats of rape, threats to lawyers, and interference with medical examinations.

1.3. United Nations, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Turkey*, 7 June 2017³

The state of emergency decrees adopted in the aftermath of the coup attempt are far-reaching and give authorities wide discretionary powers to derogate from human rights obligations, without providing adequate channels for judicial review and appeal.

The Government is obligated to ensure that any restriction on freedom of expression during the state of emergency is strictly proportionate to the exigency of the situation. The tests of necessity and proportionality are not suspended during a period of derogation linked with a state of emergency.

1.4. Amnesty International, *Amnesty International Report 2016/17*, 21 February 2017⁴

Freedom of expression deteriorated sharply during the year. After the declaration of a state of emergency, 118 journalists were remanded in pre-trial detention and 184 media outlets were arbitrarily and permanently closed down under executive decrees, leaving opposition media severely restricted. People expressing dissent, especially in relation to the Kurdish issue, were subjected to threats of violence and criminal prosecution. Internet censorship increased. At least 375 NGOs, including women's rights groups, lawyers' associations and humanitarian organizations, were shut by executive decree in November.

After July, the authorities used state of emergency laws to issue blanket bans preventing demonstrations in cities across Turkey. [P]olice used excessive force against people attempting to exercise the right to freedom of peaceful assembly regardless of the bans.

The state of emergency removed protections for detainees and allowed previously banned practices, which helped facilitate torture and other ill-treatment: the maximum pre-charge detention period was increased from four to 30 days; and facilities to block detainees' access to lawyers in pre-charge detention for five days, and to record conversations between client and lawyer in pre-trial detention and pass them to prosecutors were introduced. Detainees' access to lawyers and the right to consult with their choice of lawyers – rather than state-provided lawyers – was further restricted. Medical examinations were carried out in the presence of police officers and the reports arbitrarily denied to detainees' lawyers.

Widespread torture and other ill-treatment of suspects accused of taking part in the coup attempt was reported in its immediate aftermath. In July, severe beatings, sexual assault, threats of rape and cases of rape were reported, as thousands were detained in official and unofficial police detention. Military officers appeared to be targeted for the worst physical abuse but holding detainees in stress positions and keeping them handcuffed behind their backs, and denying them adequate food and water or toilet breaks were reported to have taken place on a far wider scale. Lawyers and detainees' relatives were often not informed that individuals had been detained until they were brought for charge.

1.5. Amnesty International, *Annual Report 2015/16*, 24 February 2016⁵

³ UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Turkey*, 7 June 2017, A/HRC/35/22/Add.3, available at: <http://www.refworld.org/docid/59394c904.html> [accessed 25 January 2018]

⁴ Amnesty International, *Amnesty International Report 2016/17 - Turkey*, 21 February 2017, available at: <https://www.amnesty.org/en/countries/europe-and-central-asia/turkey/report-turkey/> [accessed 25 January 2018]

⁵ Amnesty International, *Amnesty International Report 2015/16 - Turkey*, 24 February 2016, available at: <http://www.refworld.org/docid/56d05b0f29.html> [accessed 25 January 2018]

Politically motivated appointments and transfers of judges and prosecutors continued throughout the year, wreaking havoc on a judiciary already lacking independence and impartiality. Criminal Courts of Peace – with jurisdiction over the conduct of criminal investigations, such as pre-charge detention and pre-trial detention decisions, seizure of property and appeals against these decisions – came under increasing government control.

1.6. Hugh Williams, Europe and Central Asia Director at Human Rights Watch, 18 January 2018⁶

Everywhere you look, checks and balances that protect human rights and rule of law in Turkey are being eroded. The move to a presidential system, the ongoing state of emergency, and charges against opposition lawmakers have all weakened parliament, the courts are under ever tighter government control, and the crackdown on media and civil society deepens.

1.7. Nils Muiznieks, Council of Europe's Commissioner for Human Rights (former), 7 October 2016⁷

The decrees have introduced sweeping measures affecting, among others, civil society, municipalities, private schools, universities and medical establishments, legal professionals, media, business and finance, as well as the family members of suspects.... [T]he series of emergency decrees adopted in Turkey since July created very far-reaching, almost unlimited discretionary powers for administrative authorities and the executive in any areas, by derogation from general principles of rule of law and human rights safeguards ordinarily applicable in a democratic society.

Turkish authorities should immediately start repealing the emergency decrees, starting with the provisions which allow the highest degrees of arbitrariness in their application and stray the widest from ordinary guarantees.

1.8. British Legal Experts Lord Woolf, Sir Jeffrey Jowell, Sir Edward Garnier, July 2015⁸

Since December 2013, the government has taken unprecedented steps to exert executive control over Turkey's judiciary, to interfere with and derail the corruption investigation, to stifle criticism in the media and on the internet. The government has brought the main institution responsible for the judiciary, the High Council of Judges and Prosecutors, under its control by purging its members of anyone suspected of opposing the AKP government.

1.9. Riza Turmen, Judge at the European Court of Human Rights (former)⁹

Turkey has a serious regime problem; it is not a democracy – you can probably call it 'elected authoritarianism.' It is a majoritarian and hegemonic system.

2. Persecutions that the Supporters of the Hizmet Movement Face

2.1. Freedom House, *Freedom in the World 2018*, 19 January 2018¹⁰

⁶ "Turkey: Media, Activists, Political Opposition Targeted." *Human Rights Watch*, 18 January 2018, www.hrw.org/news/2018/01/18/turkey-media-activists-political-opposition-targeted.

⁷ Council of Europe: Commissioner for Human Rights, *Memorandum on the human rights implications of the measures taken under the state of emergency in Turkey*, 7 October 2016, CommDH(2016)35, available at: <http://www.refworld.org/docid/58120efb4.html> [accessed 25 January 2018].

⁸ Lord Woolf, Jeffrey Jowell, Edward Garnier, Sarah Palin, A Report on the Rule of Law and Respect for Human Rights in Turkey Since December 2013, London, July 2015 available at: http://www.onebrickcourt.com/files/report_combined__2__60576.pdf [accessed 25 January 2018]

⁹ "Former ECtHR judge Türmen: Journalist, police officers should have been released." *Hizmet Movement (Gülen Movement)*, 3 May 2015, hizmetmovement.blogspot.com/2015/05/journalist-police-officers-be-released.html.

Using emergency powers and vaguely worded terrorism laws, the authorities had suspended or dismissed more than 110,000 people from public-sector positions and arrested more than 60,000 others by year's end. Extensive use of pretrial detention meant that many suspects were held behind bars for long periods without due process. There was increasing evidence of extrajudicial "disappearances" and routine torture of political detainees.

2.2. Human Rights Watch, *World Report 2018*, 18 January 2018¹¹

Hundreds of media outlets, associations, foundations, private hospitals, and educational establishments that the government shut down by decree remained closed in 2017, their assets confiscated without compensation.

2.3. Amnesty International, *No End in Sight: Purged Public Sector Workers Denied a Future in Turkey*, 22 May 2017¹²

[D]ecrees include similarly vague and non-individualized references to their connection to (unspecified) terrorist organizations or threat to national security. Nor has any individualized evidence been presented in the few examples of written decisions carried out under the authority of the decrees.

The government decrees also require their passports to be cancelled, preventing them from leaving the country. Others, along with their families, have lost housing and health care benefits provided through their jobs. Many have lost not only their jobs but the ability to carry on their professions, even in the private sector. After being tainted as "terrorists" through their dismissal, many have not been able to find work at all, inhibiting their right to work and their right to an adequate standard of living in the long term.

No individualized justification or evidence for the dismissal of public sector employees has been provided in the decrees or in subsequent administrative decisions made under the authority of the decrees. Neither have dismissed public sector employees been able to obtain information about the grounds for their dismissal either before or following their dismissal, beyond the vague generalized criteria of links to a terrorist organization or threat to national security. ... Among the reasons advanced by dismissed public sector employees and their supporters, are people's actual or perceived opposition to the ruling AK Party government, union activism, and local score-settling.

It remains uncertain for example whether dismissed individuals will be able to claim their full pension rights resulting from their years of service in the public sector. What is clear and stated explicitly in the decrees, is that in addition to being dismissed from their employment, they are expelled from all forms of public service. Given the broad interpretation of public service in Turkey, in many cases this means that dismissed people are effectively banned from continuing their professions.

All of the people Amnesty International spoke to were either living off their savings, being assisted by friends or family, doing jobs such as cleaning in the irregular economy, or surviving on the minimal amount paid to dismissed workers who are members of trade unions. None of the people interviewed believed that they could survive in the long term under these circumstances.

The fact that lists of dismissed people have been published in the decrees and on the internet, and form part of a person's record, visible to state institutions and the public at large has led to additional pressures on them and their families.

¹⁰ Freedom House, *Ibid.*

¹¹ Human Rights Watch, *Ibid.*

¹² Amnesty International, *No End in Sight: Purged Public Sector Workers Denied a Future in Turkey*, 22 May 2017, available at: <http://www.refworld.org/docid/5922915c4.html> [accessed 25 January 2018].

2.4. United States Department of State, *Country Reports on Human Rights Practices for 2016*, 3 March 2017¹³

Other human rights problems included prison overcrowding compounded by the influx of tens of thousands of new prisoners after the coup attempt. The government fired more than 3,000 members of the judiciary, creating an atmosphere of fear that further limited judicial independence and complicated or delayed court proceedings.

The vast majority were accused of ties to the Gulen movement, as opposed to direct participation in the coup attempt itself. Under the state of emergency, detainees could be held without charge for up to 30 days. There were numerous accounts of persons waiting beyond 30 days to be formally charged.

The suspension, detention, firing, and freezing of personal assets of more than 3,000 members of the judiciary after the July 15 coup attempt (representing about 22 percent of the total) accused of affiliation with the Gulen movement had a chilling effect on judicial independence.

After the July 15 coup attempt, the government seized hundreds of businesses and an estimated 15 billion lira (\$4 billion) in assets from alleged members of the Gulen movement.

After the coup attempt, the government targeted family members to exert pressure on some wanted suspects. Under the state of emergency, the government cancelled the passports of family members of civil servants suspended from work as well as of those who had fled authorities. In some cases, the government cancelled or refused to issue passports for the minor children of accused Gulenists who were outside the country, forcing family separation.

3. Approaches of Other Foreign Government Towards Asylum Cases from Turkish Applicants Citing the Risk of Persecution based on Their Links with the Hizmet Movement

3.1. Norway, *Norwegian Ministry of Justice and Public Security*, 12 October 2017¹⁴

[A] generally worsening human rights situation in that country have led to a new group of applicants seeking protection in Norway. These are persons who cite the risk of persecution based on links, or alleged links, to the Fethullah Gülen network/ movement. ... These applicants can risk arrest, imprisonment, torture and conviction and will be entitled to protection ... and that in some cases also family members of active Gülen affiliates may be entitled to protection. ... The majority who have sought protection in Norway to date have been professors at, or have some other professional connections to, the Gülen schools and colleges at home and abroad.

[A]pplicants with credible indications of involvement within the Gülen movement, or applicants who can show that the domestic authorities in their country of origin have alleged such involvement, and where the actual or alleged involvement may trigger persecution by the authorities, shall be entitled to protection under the Immigration Act. ... Referral to internal displacement will not be applicable, since the Turkish authorities control the whole country.

3.2. Canada, *Immigration and Refugee Board of Canada*, 29 September 2016¹⁵

¹³ United States Department of State, *2016 Country Reports on Human Rights Practices - Turkey*, 3 March 2017, available at: <http://www.refworld.org/docid/58ec8a7113.html> [accessed 25 January 2018].

¹⁴ Norway: *GI-15/2017 Instructions on the practising of the Immigration Act, section 28 [Residence permit for foreign nationals in need of protection (asylum)] - Asylum seekers who cite the risk of persecution due to (alleged) links to the Gülen network*, 12 October 2017, available at: <https://www.regjeringen.no/no/dokumenter/gi-152017--instruks-om-praktisering-av-utlendingsloven--28--asylsokere-som-anforer-risiko-for-forfolgelse-pa-grunn-av-tillagt-tilknytning-til-gulen-nettverket/id2575439/?q=gi-15/2017> [accessed 25 January 2018].

¹⁵ Canada: Immigration and Refugee Board of Canada, *Turkey: The Fethullah Gulen Movement, including structure, areas of operation and activities; procedures for becoming a member; roles and responsibilities of*

[I]nstead of targeting Gulen's followers who "engaged in genuine criminal activity or abuse of power ..." the AKP prosecutors targeted "journalists, businesspeople and academics who appear to be guilty of little more than sympathy for Gulen's publicly expressed calls for moderation, non-violence and interfaith dialogue.

3.3. United Kingdom, *Home Office Country Policy and Information Note, Turkey: Gulenism*, April 2017¹⁶

As the person's fear is of persecution or serious harm from the state, they will not be able to avail themselves of the protection of the authorities. ... As the person's fear is of persecution or serious harm at the hands of the state, they will not be able to internally relocate to escape that risk. ... Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded.'

Overall Evaluation

In the light of all this information and comments, we ask governments, law enforcement officers and security officers to be aware of the risks that the supporters of the Movement may face when they return to their home countries. The Hizmet Movement is known to be promoting non-violence, inter-faith dialogue and education. Members of the Movement have not engaged any violent/criminal activity so far representing a moderate understanding of Islam. Therefore, existence of the Movement is important for the whole world to diminish radicalism where radicals have been creating disasters around the world. We request authorities to consider all these while taking action and speed up the asylum processes as much as possible since these people need immediate help.

membership; treatment of supporters; the Gulen Movement in Canada, including connections with organisations in Turkey and ability to confirm an individual's involvement with the Gulen Movement in Turkey (2014-September 2016), 29 September 2016, available at: <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=456718> [accessed 25 January 2018].

¹⁶ United Kingdom: Home Office, *Country Policy and Information Note - Turkey: Gulenism*, April 2017, v 1.0, available at: <http://www.refworld.org/docid/58e798354.html> [accessed 25 January 2018].