



Alevi *cem* houses: Freedom of Religion or Belief in Turkey

An input for public discussion

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An Important Turning Point on the Road to Democratization: The Status of *Cemevi* as a Place of Worship

The refusal to recognize the *cemevi* [Alevi houses of worship] as a place of worship remains a serious infringement on the right to freedom of religion or belief and the identity of the Alevi, who constitute Turkey's largest religious minority. While the right to establish places of worship is a fundamental human right, which Turkey has undertaken to protect in accordance with international human rights law, the current policies and decisions pertaining to *cemevis* are framed with reference to theological legitimacy, national unity and security concerns. As Turkey finds its way back to reform processes the Norwegian Helsinki Committee: Freedom of Belief Initiative would like to contribute to the public discussion from a human rights perspective.

Introduction

The development of a policy on *cemevis* that conforms to human rights norms remains a matter of urgent importance. Whether or not *cemevis* attain the legal status of *place of worship* is a test of how the right to freedom of thought, religion, and belief is protected in Turkey. Mindful of the path Turkey is taking toward democratization, we argue here that the refusal to recognize Alevi *cemevis* as a place of worship is not a sustainable policy in the long term.

The so-called *Alevi Opening*, a process the Turkish government began in 2009 to improve its policy toward the Alevi community, has not resulted in concrete progress, because

steps have not been taken to solve a great number of deeply rooted issues that are important for the Alevi community.

Among the most important issues are inequalities stemming from the lack of representation of the Alevi in the Presidency of Religious Affairs (Diyanet İşleri Başkanlığı, hereafter DİB), the compulsory Religious Culture and Knowledge of Ethics courses, and the legal obstacles before opening schools where they can train their religious leaders and teachers. Resolving these issues will require fundamental change in Turkey's state-religion relationship.

Cemevis are currently not recognized as places of worship. The dominant view is that the main obstacle is the question whether or not *cemevis* constitute places of worship in a theological sense. Although there is no consensus on this theological question, this view has been the basis for the lack of recognition of the *cemevis* as places of worship in processes involving local, provincial, and judicial authorities. Yet diverse actors in ever-increasing numbers complain that the failure to officially grant *cemevis* the status of place of worship means that Turkey is not fulfilling its obligations on human rights.

Various non-governmental organisations, intergovernmental organizations, and international human rights organizations, and in particular the Alevi community itself, all agree on the need for *cemevis* to be legally recognized as places of worship. The issue is regarded as an important indicator of Turkey's performance on human rights, both within Turkey and abroad. The European Union's Progress Reports on Turkish membership continue to note the refusal to recognize *cemevis*' status as a place of worship.¹

It is important to note that Turkey's failure to protect the right to establish places of worship fully affects, not only the Alevi community, but other religious or belief communities as well. Restrictive legislation and practice continues to result in the inability of non-Muslim communities to acquire place of worship status for the premises they use for worship.

As far as mosques are concerned, the fact that DİB, exclusively are in charge of their administration remains an important restriction. If a resolution was reached with regard to the *cemevis*, this will contribute to the protection of the right to freedom of religion or belief of all.

An overview of the problems experienced by all belief communities can be found in our [Monitoring Report on the Right to Freedom of Religion or Belief in Turkey June-September 2013](#).

Background

Urbanization in Turkey has meant that an important segment of the Alevi community use *cemevis* for worship. Though there are no definitive statistics on the number of *cemevis*, a statement by the Ministry of the Interior puts the number at 937.² *Cemevis*, having no official status, are generally established with the legal personality of an association or

foundation. This means, however, that they are unable to take advantage of the tax benefits and public funding offered to legally recognized places of worship.

There are two basic justifications given for not recognizing *cemevis* as places of worship: first, the view that Muslims' place of worship is the mosque, and second, the view that "Law No. 677 on the closure of Dervish Lodges and *Zaviyes*" prevents official recognition of *cemevis* as places of worship.

DİB, for its part, has stated its view that the only place of worship in Islam is a mosque.³ Likewise, an appeal made to the Turkish Grand National Assembly with the intent of opening a *cemevi* was rejected on the basis of DİB's view that Muslims worship in mosques.⁴ A recent decision by a high court found that "in light of Law No. 633 and its amendments, it is not possible to accept any place other than a mosque or a *masjid* as a house of worship for Muslims."⁵

The law cited in the decision, however, governs the duties and powers of the DİB and cannot be interpreted to mean that there are no places of worship other than mosques or *masjids*. Instead, it restricts the activity area the DİB to the latter places of worship.

Meanwhile, contrary to what is argued, Law No. 677, which closed down dervish lodges and *zaviyes*, does not constitute a barrier to the recognition of *cemevis* as places of worship. If *cemevis* were within the scope of that law, after all, it would be impossible for them to exist even independently. They would have to be shut down.



Inside of a *cemevi* during *cem* (worship).

International Law

According to the human rights conventions to which Turkey is a party, the right to freedom of religion and belief includes the right to establish places of worship.⁶ The act of worship cannot be tied to receiving permission or acquiring some official status. Here it is important to observe the distinction between the fact that *cemevis*, as places where worship is practiced, are already *de facto* places of worship, and the question of whether or not they possess the *status* of a place of worship.

Cemevis do not need to be recognized as official places of worship for believers to worship there. Yet since the status of place of worship provides various rights and benefits in the Turkish legal system (for example, various tax exemptions or public financing of all or part of the electric and water utility costs), the recognition of this status is necessary in order for the state to abide by its human rights obligations.

The states' role in relation to exercise of the right to manifest religion or belief and therefore the right to establish places of worship is as a facilitator. The state's obligation to observe the principle of neutrality toward religion also stands out. According to the European Court of Human Rights (ECtHR), "in principle the right to freedom of religion ... excludes assessment by the State of the legitimacy of religious beliefs or the ways in which those beliefs are expressed."⁷

The state, therefore, cannot make any assessment as to whether *cemevis* constitute a place of worship.

National Legislation

Although Article 24 of the Constitution does not explicitly protect the right to establish places of worship, the general protection afforded to the right to worship extends to the right to establish and maintain places of worship.

The Zoning Law (No. 3194) refers to designation of places of worship taking into account the conditions of the planned districts and regions and their future needs in a neutral manner, not listing any particular place of worship.⁸ On the other hand, the recognition of place of worship status requires the permission of the highest civilian authority and compatibility with the zoning plans.⁹

Practice shows that what seems possible in law is made impossible in practice. In the case of non-Muslims regulations pertaining to places of worship have been utilized to block applications made for place of worship status; while in the case of Alevi permission of the highest civil authority could not be obtained.¹⁰

Thus, the 2003 legislative change in the Zoning Law from reference to solely *mosque* to the neutral and all-encompassing term *place of worship*, has so far not led to the accommodation of the religious or belief diversity of the Turkish society.

Policy Options

There are at least three possible policy options available to Turkey.

A *continuation of the current system* would mean that *cemevis* would not enjoy any particular status. Considering Turkey's human rights obligations as well as societal demands, this situation is not sustainable. Furthermore, if a Turkish citizen were to appeal the rejection of *cemevis*' status as a place of worship to the ECtHR, the possibility of the court finding Turkey guilty of violating Article 9 of the European Convention on Human Rights is very high.

Another possibility under consideration is the creation of a new status of *belief or cultural centre*. This would be a status distinct from that of *place of worship*. However, human rights law requires an objective justification for treating something with similar qualities in a different way. Thus, should the government consider giving *cemevis* a legal status distinct from other places of worship, this different treatment would have to be explained using objective criteria. Otherwise, the different treatment would amount to discrimination.

No objective justification has as yet been given to grant *cemevis* a status distinct from that of mosques, *masjids*, churches, and synagogues (all counted as places of worship). Adopting the opinion of the DİB on this matter is unacceptable; rather than being objective, it is a subjective justification based on a particular theological view. Moreover, societal support for "justice for those who have been wronged" (65.1%) and "equality for Turks, Kurds, Sunnis, Alevis, and various other citizens" (50.4%)¹¹ shows that such a policy option would also fail to receive the support of society.

The official recognition of *cemevis* as a place of worship would also be a step in line with human rights conventions, to which Turkey is a party. Once given the official status of place of worship, *cemevis*' administration, as is currently the case, ought to be left to the members of the confessional group itself. The benefits and exemptions granted to other officially recognized places of worship ought to be extended to *cemevis*. The Alevi community's demand for public financing of *cemevis*' basic expenses should be met with comprehensive policies prepared with the participation of all stakeholders.

At the same time, questions about the exact way in which *cemevis* will be administered or publicly funded should not serve as a barrier to their recognition as places of worship. The official recognition of *cemevis* as places of worship alongside mosques would serve as an example for Muslim-majority societies by taking the religious diversity of Turkish society into consideration. This can only be made possible if the state observes its obligation to impartiality.

Conclusion

To summarize these findings, the official recognition of *cemevis* as places of worship presents an important opportunity for Turkey to achieve its goals and fulfil its obligations to protect the right to freedom of religion or belief. Considering both its obligations under international law as well as the democratic demands being expressed within Turkish society, the Turkish government, by taking measures in line with such obligations and demands, would also observe the principles of neutrality and pluralism.

In light of these considerations, the Norwegian Helsinki Committee's Freedom of Belief Initiative recommends that:

- *Cemevis* should be added to the list of places of worship (current list includes, mosque, *masjid*, church, *chavurah*, and synagogue) currently included under section 2(f) of Act No. 2002/4100 of the Council of Ministers (12 April 2002), which allows for some places of worship to obtain a reduced rate for utilities. Article 3 of this act stipulates that the budget allotted to DİB will compensate these places of worship for their electricity costs incurred during the previous year. The same article ensures the application of an "average price" for water utilities used by these places of worship;
- In accordance with Supplementary Article 2 of the Zoning Law (No. 3194) civil administrators, in evaluating *cemevis*' requests for the status of place of worship, should make their decisions on the basis of Article 24 of the Turkish constitution and Article 9 of the European Convention on Human Rights. If necessary, the prime minister should issue a memorandum in this regard;
- In making zoning decisions for places of worship, municipalities should consider not only mosques, but also all other places of worship. The view of believers should be taken as the primary reference in such decisions.

For more information and comments, contact Mine Yıldırım, project manager of the Norwegian Helsinki Committee's Freedom of Belief Initiative at yildirim@nhc.no.

The Norwegian Helsinki Committee (NHC) is an Oslo based non-governmental organization working since 1977 to ensure that human rights are respected in practice. It strives to achieve this goal through monitoring, reporting, teaching and democracy support. NHC bases its work on international human rights instruments adopted by the United Nations, the Council of Europe, and the Organization of Security and Cooperation in Europe (OSCE). It has projects in a variety of countries, including in Eastern Europe, Western Balkans, and Central Asia.

The Freedom of Belief Initiative was launched in September 2011 with the aim of monitoring issues related to freedom of thought, religion, of belief in Turkey, and to make legal standards and monitoring reports related to such topics accessible to all stakeholders. In this regard, it has presented reports on the protection of the freedom of thought, religion, and belief in Turkey under the framework of the Universal Periodic Review and the Human Rights Council, both mechanisms of the United Nations. Since March 2013, it has continued its activities with the support of the Norwegian Helsinki Committee with the Right to the Freedom of Belief Monitoring Project, which encompasses both monitoring and reporting activities.

¹ European Commission, 2012. *Turkey Progress Report*, October 2013.

² T24, "CHP'li Aygün, Bilgi Edinme Yasası kapsamında Türkiye'deki cemevlerinin sayısal profilini ortaya çıkardı" [CHP's T24, "CHP'li Aygün, Bilgi Edinme Yasası kapsamında Türkiye'deki cemevlerinin sayısal profilini ortaya çıkardı" [CHP's Aygün used Freedom of Information Law to Find Out *Cemevis'* Quantitative Profile in Turkey], 15 March 2013.

³ Memorandum sent by the Directorate of Religious Affairs to the Interior Ministry, No. 1773, dated 17 December 2004.

⁴ "Meclis'te Cemevi Talebine Ret" [Parliament Rejects Demand for *Cemevi*], NTV-MSNBC, 9 July 2012.

⁵ "Yargıtay: Cemevi İbadethane Değildir" [Yargıtay: *Cemevi* Not a Place of Worship], *Sabah*, 26 July 2012.

⁶ UN Commission on Human rights, *CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)*, UN Doc. CCPR/C/21/Rev.1/Add.4; ECHR, *Vergos v. Greece*, 24 June 2004, Appl. No. 65501/01, para. 32.

⁷ ECHR, *Metropolitan Church of Bessarabia and Others v. Moldova*, Appl. No. 45701/99, 27 March 2002, para. 117.

⁸ Article 2 of the Supplementary of the İmar Kanunu [Zoning Law] No. 3194, 03 Mayıs 1985.

⁹ *Ibid.*

¹⁰ NHC:İÖG, "Monitoring Report on the Right to Freedom of Religion or Belief in Turkey- January-June 2013", İstanbul, September 2013.

¹¹ TESEV, *Anayasa'ya Dair Tanım ve Beklentiler Saha Araştırması* [Field Survey on Definitions and Expectations for the Constitution], September 2012, p. 23.