



Australian Government
Department of Foreign Affairs and Trade



DFAT COUNTRY INFORMATION REPORT TURKEY

9 October 2018

MAP



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ACRONYMS

AKP	Justice and Development Party, the ruling conservative political party
AKS	Address Registration System
BTK	Information and Communication Technologies Authority
CAT	Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment
CEDAW	UN Convention on the Elimination of All Forms of Discrimination against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CHP	Republican People's Party, centre-left opposition political party
CMHC	Community Mental Health Centre
COA	Conscientious Objectors Association
CROC	Convention on the Rights of the Child
DBP	Democratic Regions Party, regional Kurdish-aligned political party
ECHR	European Court of Human Rights
FETO	Fethullah Gulen Terror Organisation, Turkish government nomenclature for the Gulen Movement
GDP	Gross Domestic Product
HDP	People's Democratic Party, left-wing Kurdish-aligned political party
HRA	Human Rights Association
HRC	parliamentary Human Rights Commission
HRW	Human Rights Watch
HSK	Supreme Board of Judges and Prosecutors
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IYI	Good Party (centre-right political party)
KPS	Identity Information Sharing System
LGBTI	Lesbian, gay, bisexual, transgender, intersex
MERNIS	Central Civil Registration System

MHP	Nationalist Movement Party, ultra-nationalist political party
MIT	National Intelligence Organisation
NGO	Non-government organisation
NHREI	National Human Rights and Equality Institution
NHRI	National human rights institution
OPCAT	Optional Protocol to the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment
OSCE	Organization for Security and Cooperation in Europe
OECD	Organisation for Economic Cooperation and Development
OHCHR	UN Office of the High Commissioner for Human Rights
PDY	Parallel State Organisation
PISA	Programme for International Student Assessment
PKK	Kurdistan Workers' Party
RTUK	Radio and Television Supreme Council
TAK	Kurdistan Freedom Falcons
TRY	Turkish lira (currency)
TRT	Turkish public broadcaster
TSK	Turkish Armed Forces
UPR	Universal Periodic Review
USD	US dollar
YPG	Syrian People's Protection Units

GLOSSARY

<i>Cemevi</i>	Alevi prayer hall
<i>Cemaat/ Hizmet</i>	'Community' or 'Service', alternative names for the Gulen movement
<i>Diyamet</i>	Directorate of Religious Affairs
<i>Imam hatip schools</i>	Vocational institutions devoted to the training of Muslim clergy
<i>Muhtar</i>	an elected village or neighbourhood representative
<i>Vakiflar</i>	General Directorate for Foundations

Terms used in this report

high risk	DFAT is aware of a strong pattern of incidents
moderate risk	DFAT is aware of sufficient incidents to suggest a pattern of behaviour
low risk	DFAT is aware of incidents but has insufficient evidence to conclude they form a pattern

official discrimination

1. legal or regulatory measures applying to a particular group that impede access to state protection or services that are available to other sections of the population (examples might include but are not limited to difficulties in obtaining personal registrations or identity papers, difficulties in having papers recognised, arbitrary arrest and detention)
2. behaviour by state employees towards a particular group that impedes access to state protection or services otherwise available, including by failure to implement legislative or administrative measures

societal discrimination

1. behaviour by members of society (including family members, employers or service providers) that impedes access by a particular group to goods or services normally available to other sections of society (examples could include but are not limited to refusal to rent property, refusal to sell goods or services, or employment discrimination)
2. ostracism or exclusion by members of society (including family, acquaintances, employers, colleagues or service providers)

1. PURPOSE AND SCOPE

1.1 The Department of Foreign Affairs and Trade (DFAT) has prepared this Country Information Report for protection status determination purposes only. It provides DFAT's best judgement and assessment at time of writing and is distinct from Australian government policy with respect to Turkey.

1.2 The report provides a general, rather than an exhaustive country overview. It has been prepared with regard to the current caseload for decision makers in Australia without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the Migration Act 1958 states that:

Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 This report draws upon on DFAT's on-the-ground knowledge and discussions with a range of sources in Turkey. It takes into account relevant open source reports from government and non-government sources, including (but not limited to) those produced by the United Nations and its agencies, the US State Department, the World Bank, Transparency International, Human Rights Watch, Amnesty International, Freedom House, Reporters Without Borders, the Committee to Protect Journalists, and local and international media. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

1.5 This updated Country Information Report replaces the previous DFAT report on Turkey published on 5 September 2016.

2. BACKGROUND INFORMATION

RECENT HISTORY

2.1 At the conclusion of the First World War, Allied forces occupied large sections of the defeated Ottoman Empire. A conflict ensued in Anatolia between these forces and their proxies and a Turkish nationalist movement led by Mustafa Kemal 'Ataturk' ('Father of the Turks'). The conflict concluded with the signing of the 1923 Treaty of Lausanne, which established the Republic of Turkey in its modern form.

2.2 Under Ataturk's leadership, Turkey adopted radical social, legal and political reforms aimed at modernising and secularising Turkey. These reforms included: abolishing the Ottoman Sultanate and the Caliphate, replacing the Arabic alphabet with its Latin equivalent, and introducing full political rights for women. After a period of one-party rule under Ataturk, an experiment with multi-party politics led to an opposition party victory and peaceful transfer of power in 1950. Turkish democracy has been punctuated by periods of instability and military *coups d'état* in 1960, 1971 and 1980, each of which eventually resulted in a return of formal political power to civilians. Military pressure also brought about a change of government in 1997, albeit without the use of force.

2.3 Ataturk's 'Kemalist' ideology envisaged Turkey as a country with a single shared ethnic identity. A range of policies sought to assimilate ethnic minorities into a majority Turkish nation through suppressing public expressions of minority identity. Resentment at these policies was particularly strong amongst the Kurdish population in south-eastern Turkey: Kurdish resistance to central rule in majority Kurdish areas has been a recurrent feature of modern Turkish history. An insurgency led by the Kurdistan Workers' Party (PKK) killed an estimated 40,000 people between 1984 and a ceasefire in 2013. The ceasefire collapsed in July 2015, leading to a resumption of security operations (see [Security Situation](#)).

2.4 Contemporary politics in Turkey has been dominated by Recep Tayyip Erdogan, who has been President since 2014 after serving as Prime Minister from 2003. Erdogan, who comes from an Islamist political background, is the co-founder of the conservative Justice and Development Party (AKP), which has been in government since 2002. Under Erdogan's early leadership, the AKP pursued liberal economic and socially conservative policies, and shifted foreign policy priorities away from Europe and towards the Middle East and Asia. More recently, a constitutional referendum held in April 2017 transferred most executive and legislative powers to the Presidency and significantly removed checks and balances (see [Political System](#)).

2.5 On 15 July 2016, elements of the Turkish military, likely aided by elements of the Gulen movement, attempted a *coup d'état* against the government, deploying tanks in the streets of Istanbul and Ankara, bombing parliament and opening fire on protestors. At least 251 citizens and security personnel died in the fighting, and around 2,000 people were injured. The coup failed as most of the military remained loyal to the government. In response to an extraordinary event in a democratic country, the government implemented exceptional measures after suppressing the attempted coup. These measures included a state of emergency that remained in place until July 2018 and which gave the government enhanced powers (see [State of Emergency](#)).

2.6 Elections in June 2018, the first held under new constitutional and legal arrangements (see [Political System](#)) resulted in a first-round victory to President Erdogan with 52.29 per cent of the vote, and a majority of parliamentary seats for the AKP, in an electoral alliance with the far right Nationalist Movement Party (MHP). In its preliminary report, the Organization for Security and Cooperation in Europe (OSCE) electoral monitoring mission strongly criticised the conduct and integrity of the elections on a number of grounds. Criticisms included the political environment in which the elections were held, the lack of campaigning opportunities given to opposition parties, and the misuse of administrative resources by the ruling party. OSCE observers also criticised last minute changes to electoral laws that removed important safeguards, and procedural weaknesses and irregularities at polling stations. The latter included group voting, overcrowding, inadequate layout, denial of access to election observers, and interference by police and security officers (see [Kurdish Political Activists](#)). The major opposition parties also strongly criticised the conduct and integrity of the elections but declined to challenge the results.

DEMOGRAPHY

2.7 Turkey has a population of approximately 80.8 million, growing at a rate of around 0.5 per cent annually. Its ethnically diverse population reflects the absorption of many different groups during the break-up of the Ottoman Empire. Since 1965, census surveys have not sought information about the ethnicity of Turkish citizens, and accurate numbers are difficult to obtain. However, international observers report that between 70 and 75 per cent of the population is ethnically Turkish and around 19 per cent Kurdish. The remainder of the population consists of small communities with a range of ethnicities. According to the United Nations, Turkey hosted over 3 million registered Syrian refugees as of December 2017, one of the world's largest refugee populations. The government provides the refugees with free education and health services, and they are permitted to work.

2.8 Turkey is heavily urbanised: almost three quarters of the population lives in cities. The most densely populated area is around the Bosphorus in the northwest, where the former Ottoman capital Istanbul hosts a multi-ethnic population of around 14.2 million people. Other major cities include the capital Ankara (five million), Izmir (three million), Bursa (1.9 million), Adana (1.8 million), and Gaziantep (1.5 million). Turkey has a young population: almost a quarter of Turkey's population is aged below 14, and 40 per cent of Turkish citizens are aged below 40.

2.9 Turkish is the official language, and the Constitution states that no other language can be the main language of instruction in educational institutions. Other languages, including Kurdish, may be taught as an elective in public schools, and are commonly used in daily life.

ECONOMIC OVERVIEW

2.10 Turkey's largely free market economy is driven by its industry and service sectors, although its traditional agriculture sector still accounts for about 25 per cent of employment. The automotive, petrochemical, and electronic industries have risen in importance, surpassing the traditional textiles and clothing sectors within Turkey's export mix. The World Bank classifies Turkey as an upper middle income country, while the most recent UN Human Development Index ranked Turkey 71st out of 188 countries. In 2017, Turkey's Gross Domestic Product (GDP) was USD 849.5 billion, with a growth rate of 7 per cent.

2.11 With the exception of the financial year immediately following the 2008 global financial crisis, Turkey's economy grew at an average of 7 per cent between 2002 and 2016. This growth, aided by global conditions, financial and fiscal reforms introduced in the early 2000s, and a USD 19 billion assistance package provided by the International Monetary Fund, has created jobs and brought new-found prosperity to millions

of Turks, especially those in the country's poorer and more marginalised segments. While high levels of growth have continued in recent years, domestic uncertainty and security concerns have generated financial market volatility and weighed on the country's economic outlook. Structural weaknesses in the economy have become increasingly apparent, including a rising current account deficit fuelled by high levels of overseas borrowing, and rising inflation, forecast to reach more than 20 per cent by the end of 2018.

2.12 Over the course of 2018, the Turkish economy has been plagued by high inflation, and the Turkish lira (TRY) has depreciated approximately 40 per cent against the US dollar (USD). This has been caused by mounting corporate debt and a lack of market confidence in the government's macroeconomic policies. As of the publication date, the long term overall effects of the TRY crisis on the Turkish economy were unclear.

Employment

2.13 Labour force participation in Turkey has increased from around 40 per cent of the working age (15 to 74 years) population in 2009 to over 48 per cent in 2016, but remains below the average of 61 per cent for members of the Organisation for Economic Cooperation and Development (OECD). This is partly due to a low rate of female employment (27.9 per cent) which, despite recent increases, remains well below the OECD average of 48.5 per cent. Unemployment in Turkey has been rising since 2012, peaking at nearly 11.7 per cent in February 2017, and the OECD forecasts that Turkey's unemployment rate is likely to remain above ten per cent through to the end of 2018. The employment gap between young men and other groups (including women, migrants, older workers, and disabled people) is the highest in the OECD.

Corruption

2.14 Turkey is a State Party to the UN Convention against Corruption, the OECD Anti-Bribery Convention, the Council of Europe Criminal Law Convention on Corruption, and the Council of Europe Civil Law Convention on Corruption. The anti-corruption legal framework is contained in several laws. The *Criminal Code* (2004) criminalises active and passive bribery, facilitation payments, attempted corruption, extortion, bribing a foreign official, money laundering, and abuse of office. Punishment for corruption-related offences can include imprisonment of up to 12 years.

2.15 Despite this strong legal framework, international and domestic observers report that corruption remains widespread in Turkey's public and private sectors. In February 2018, Transparency International ranked Turkey equal 81st out of 180 countries in its annual Corruption Perceptions Index for 2017. Public procurement and infrastructure projects are particularly vulnerable to corruption, and officials have reportedly demanded bribes. International observers report that there is no established pattern of, or mechanism for, investigating, indicting, and convicting individuals accused of corruption, and have questioned the impartiality of judges in the handling of corruption cases. Several law enforcement officers, judges, and prosecutors who have initiated corruption-related investigations against government officials have been accused by the government of acting at the behest of the Gulen Movement (see [The Gulen Movement](#)) and faced prosecution themselves.

2.16 In late 2017, the fraud and money laundering trial in New York of a prominent Turkish banker revealed serious corruption involving senior Turkish government officials. A gold trader testified that the officials had directly participated in schemes to avoid US sanctions on Iran, including through facilitating his dealings with Iran in exchange for large bribes. The government denounced the trial as an 'anti-Turkish conspiracy', seized the Turkish assets of the trader and launched criminal charges in Turkey against individual judges and prosecutors working on the case. In July 2018, authorities charged a Turkish translator who had live-Tweeted the trader's testimony with 'spreading the propaganda of a terrorist organisation', which

carries a maximum sentence of seven and a half years' imprisonment. DFAT is not aware of any investigations in Turkey relating to corruption allegations against the senior officials named by the trader.

Health

2.17 Article 56 of the Constitution declares that the state shall regulate central planning and functioning of the health services in both the public and private sectors. The Ministry of Health coordinates all health care and social welfare services, including the building and operation of state hospitals, supervision of private hospitals and all pharmacies, training of medical personnel, regulating of the price of medicines and drugs nationwide, and control of drug production. Turkey spent 5.4 per cent of its GDP on health in 2014 (most recent available figure). In 2017, Turkish citizens had a life expectancy at birth of 75 years (72.7 years for males and 77.5 years for females). Turkey's major health concern is non-communicable diseases, which account for 86 per cent of total deaths. Almost half of all deaths (47 per cent) result from cardiovascular diseases such as heart attacks and strokes, exacerbated by high salt intake, smoking, and obesity. The government launched an action plan in August 2017 with the aim of reducing overall mortality from non-communicable diseases by 25 per cent by 2025. Turkey has a well-developed and growing private health insurance system.

2.18 The government has undertaken major health care reforms during its time in office. The Health Transformation Programme, which began in 2003, broadened the provision of health insurance and increased the supply of primary care, particularly for maternal and child health. The reforms also made specific health services such as emergency services and cancer treatment free of charge for all citizens in both public and private hospitals. Public health care expenditure increased, although Turkey still spends less on health care as a proportion of GDP than any other OECD member. At the same time, the government actively supported an increased role for the private sector in health care provision, introducing user fees and supplementary private health insurance to top up public health insurance. While patients are no longer obliged to make contributory payments when visiting primary health care providers, they are obliged to make flat rate out-of-pocket payments when receiving medications and outpatient services in public hospitals. These payments inhibit access to health care by the poor. The changes have also increased workload for physicians: annual per capita hospital visits rose from 2 in 2002 to 5.1 in 2012, while doctor consultations per capita increased from 2.8 in 2000 to 8.3 in 2014. Increased patient expectations and dissatisfaction at perceived low levels of service have contributed to violence against health care workers: the health ministry reported 10,771 incidents of violence in 2016, and 11,919 such incidents in 2015.

2.19 Turkey has ratified the United Nations Convention on the Rights of Persons with Disabilities. The *Law on Persons with Disabilities* (2005) prohibits discrimination on the grounds of disability in all domains of social policy. The government implements positive discrimination measures concerning the employment of people with disabilities: four per cent of civil servants must be people with a disability, while three per cent of the workforce of any private company with more than 50 employees must be people with a disability. Disabled people are entitled to have certain costs reimbursed, and are entitled to allowances. The government supports children who need special education services. A number of non-government organisations (NGOs) advocate for the rights of people with a disability. Despite these protections, the employment rate of people with disabilities is comparatively low.

2.20 Turkey adopted a National Mental Health Policy in 2006, which shifted mental health services to a community-based system and integrated them into general health services. As of October 2015, 86 community mental health centres (CMHC) operated nationwide. Observers claim the CMHCs are inadequately funded, and that the number of psychiatrists and other mental health professionals per capita is well below European Union averages. Local groups report a lack of coordination between the government and NGOs working in the area, particularly in relation to reducing discrimination and stigma. Other

complaints include that CMHC staff are often poorly trained and paid, leading to high turnover and poor service, and that patients must pay directly for their treatment, leading to a two-tiered system. The Ministry of Health reported in November 2017 that the number of applications filed to health institutions over psychological complaints increased by 27.7 per cent between 2011 and 2016.

2.21 There is little data available on the prevalence of illicit drug use in Turkey. A general population survey conducted in 2011 found that the use of illicit substances among the general population appeared to be rare, with cannabis the most common drug used by adults aged 15 to 64 years. Nevertheless, widespread popular sentiment in Turkey, shared by law enforcement agencies, believes illicit drug use is reaching serious levels. Critics of the government's approach towards illicit drug use have noted that authorities have focused on drug seizures and prosecutions of small-scale drug peddlers and users rather than harm reduction, and that drug policies are not effective, comprehensive or integrated. Most drug-related treatment in Turkey takes place in outpatient settings. 79 drug rehabilitation centres are located in 49 of Turkey's 81 provinces. In June 2017, authorities announced plans to establish 12 'rehabilitation and social adaptation' villages in Istanbul, Izmir, Ankara, and Adana, to reintegrate recovering drug addicts into society.

2.22 In its February 2017 report on the human rights situation in south-east Turkey, the UN Office of the High Commissioner for Human Rights (OHCHR) expressed concern about reports that security forces had systematically hampered or prevented access for medical emergency teams during times of prohibited movement, resulting in a number of preventable deaths. The OHCHR report noted allegations of attacks on medical facilities and personnel, punishment of medical personnel for attacking patients, the use of medical facilities for military or security purposes, and failure by security forces to provide adequate protection to emergency transport vehicles.

Education

2.23 Article 42 of the Constitution states that no one shall be deprived of the right of learning and education, and that the scope of the right to education shall be defined and regulated by law. It also stipulates that no language other than Turkish can be taught as a mother tongue to Turkish citizens at any educational or training institutions. In practice, the Kurdish language is allowed as a primary language of instruction (but technically not mother tongue) in private schools (see also [Kurds](#)). The Constitution also states that training and education shall be conducted along the lines of the principles and reforms of Atatürk, on the basis of contemporary science and educational methods, under the control and supervision of the state. Education is currently the largest item on the government budget: the Turkish Statistical Agency reported that direct and indirect expenditure on education increased by 54 per cent between 2011 and 2014. As of 2015, the adult literacy rate (age 15 and over) was 95.6 per cent (98.6 per cent for males and 92.6 per cent for females).

2.24 The national government sets most education policies through the Ministry of National Education, which oversees the administration of all stages and types of pre-tertiary education. Schools and local authorities have little autonomy: even class timetables are set centrally. Education is free and compulsory for pupils of both sexes for twelve years from age five, and enrolment in primary schools is close to 100 per cent. Pupils complete four years of elementary education, four years of middle school, and four years of secondary education. Admission to secondary school is based on an examination at the end of middle school (Grade 8). Students can undertake secondary education at either a general, technical, or vocational high school. Vocational high schools cover a wide variety of specialisations, including religious instruction.

2.25 Since its election in 2002, the AKP government has re-oriented the Turkish education system towards a greater focus on religious instruction, achieved in particular through the expanded role of *imam*

hatip schools, which train Muslim clergy. In 2012, the government extended the *imam hatip* system to include middle schools, contributing to a five-fold rise in pupil numbers to 1.3 million by 2018. The 2018 budget provides for the building of 128 new *imam hatip* schools, which receive twice the funding allocation per pupil as mainstream schools. In recent years, large numbers of students, including some non-Muslims, have alleged that they have been involuntarily assigned to *imam hatip* schools. Human rights observers have expressed concern that a recently introduced comprehensive system could force secondary students to attend the school nearest their home address, even if that school is an *imam hatip* establishment.

2.26 Since mid-2017, the government has also removed the theory of evolution from the biology curriculum, introduced a ‘spirit of *jihad*’ class (compulsory for all students, including members of religious minorities), abolished high school entrance examinations, and given the *Diyamet* (Directorate of Religious Affairs) an increased role in school life. The *Diyamet* now teaches a youth studies course and delivers religious services in student dormitories and youth centres. It has the authority to inspect schools, and to select student representatives.

2.27 Article 24 of the Constitution establishes compulsory religious and moral instruction in public primary and secondary schools, with content determined by the *Diyamet*. The instruction is based entirely on Sunni Islam. Students with ‘Christian’ or ‘Jewish’ designations on their National Identity Cards (see [National Identity \(ID\) Cards](#)) can apply for exemption from these classes. No exemptions are allowed, however, for Turkey’s largest religious minority – the Alevis – or for atheists, agnostics, or those who have left the religious section on their National Identity Card blank. Minority communities have reported that the time spent on religious education in public schools has increased considerably since 2016 from a standard two hours per week to up to 15 hours per week in some cases. It is unclear whether this increase is uniform nationwide or has occurred only in isolated cases.

2.28 The Council of Higher Education has responsibility for the planning and coordination of public higher education institutions. It sets university budgets, institutional enrolment and admission caps, and core curriculum guidelines. It also appoints faculty heads. Private universities have been permitted to operate since the 1980s, on a non-profit basis and under governmental supervision. Admission to universities is based on students’ grade point averages from secondary school and their performance in a two-stage university entrance examination. University entrance is typically reserved for students graduating from general secondary schools. Total enrolments in the tertiary education sector have more than doubled in recent years, from 2.1 million students in 2005 to 5.5 million students in 2014. The number of students who sit the university admissions examinations has also grown considerably and exceeds the number of available places: in June 2018, more than 2.3 million students sat the examinations, an increase of almost 20 per cent from five years earlier.

2.29 Educational reforms in the early years of the AKP administration led to significant gains in both access to and the quality of education in Turkey. These reforms included increasing compulsory education from eight to twelve years, leading to a considerable reduction in the proportion of 15 to 29 year olds not in education, employment, or training; and the establishment of universities in every province, with enrolments at gender parity. Turkey’s results in the OECD’s Programme for International Student Assessment (PISA) improved in 2006, 2009, and 2012. However, the rate and pace of changes to the education system, coupled with inefficient implementation, has seen a recent decline in Turkey’s educational outcomes. The most recent PISA assessments in 2015 (reflecting some structural changes, but not the most recent curriculum alterations) saw a decline in student performance, with results well below the OECD average in science, mathematics, and reading. Vocational education has also seen a decline in quality, with employers increasingly critical of the low standard of graduates entering the workforce.

2.30 Human Rights Watch (HRW) reported in May 2018 that more than 5,800 academics had been dismissed from public universities under emergency decrees issued since the July 2016 attempted coup.

Many of those dismissed had signed a petition in January 2016 on behalf of the 'Academics for Peace' group, which strongly criticised the government's military campaign in the south-east against the PKK and called for an end to the violence. Those dismissed are unable to challenge their cases with their employers. The emergency decrees ordering the firing of academics include no evidence of alleged wrongdoing nor individualised justifications. The HRW report also said that government and university administrations had intervened to prevent academics from carrying out research or attending conferences on certain issues, contributing to an environment of self-censorship. The crackdown on academic freedoms in all disciplines has been reflected in a decline in the standards and reputation of Turkey's tertiary sector: whereas in 2015 Turkey had three universities in the Times Higher Education Top 300, it no longer has any.

POLITICAL SYSTEM

2.31 Article 1 of the Constitution establishes Turkey as a republic; Article 2 states that it is a democratic, secular and social state governed by the rule of law; and Article 3 states that it is an indivisible entity. Article 4 states that the provisions of the first three articles are irrevocable.

2.32 Turkey's current Head of State and Head of Government is Recep Tayyip Erdogan, who was first elected president in 2014. He was the first president directly elected by popular vote: prior to constitutional reforms introduced in 2007, members of parliament selected the president, whose role was largely ceremonial. Erdogan occupied the role of prime minister from 2003 to 2014. The AKP has been in government since 2002.

2.33 Turkey recently moved from a mixed parliamentary and presidential form of government to an executive presidential system, under constitutional changes narrowly passed in an April 2017 referendum. The changes abolished the office of prime minister and gave the presidency functions previously undertaken by the prime minister and cabinet. The president now has the power to enact decrees on a wide range of issues without parliamentary approval, to appoint vice presidents and cabinet ministers, to propose the budget, to annul parliament, to declare an election, and to declare a state of emergency. The amendments also transferred legislative powers previously held by the national assembly to the presidency, and limited its authority to supervise cabinet ministers.

2.34 Domestic and international observers criticised the timing, process and conduct of the April 2017 referendum. The OHCHR expressed concern that restrictive measures under the state of emergency (see [State of Emergency](#)) in place during the referendum did not provide an environment conducive to a free democratic process. The OSCE noted that the referendum treated the 18 proposed constitutional amendments as a single package, depriving voters of the opportunity to decide separately on each of the distinct issues featured in the amendments. Security authorities severely constrained opposition campaigning, and the government dominated media coverage. Local groups reported arrests and harassment of opposition activists, and claimed the government placed informal pressure on state employees to support the amendments. Late on polling day, the State Electoral Council decided to accept (contrary to law) the inclusion of 2.5 million unstamped ballots. The final margin in the referendum was 1.4 million votes.

2.35 On 18 April 2018, President Erdogan announced snap presidential and parliamentary elections for 24 June, 17 months before they were due (see [Recent History](#)). The elections, the country's fifth national vote in four years, were the first to be held under the amended constitution and under the *Law Governing the Conduct of Elections* (2018). The new law introduced several changes to election procedure, including allowing armed security forces into polling stations to 'supervise voting', and allowing the High Electoral Board to accept unstamped ballots as valid. The High Electoral Board can now also, on security grounds, close polling stations without notice and merge electoral districts without notice. The government stated the

security-related changes would stop voter intimidation by the PKK in the south-east, but did not provide public justification for allowing unstamped ballots. Opposition parties criticised the new law as making the vote counting process less transparent. The Republican People's Party (CHP) unsuccessfully challenged the law in the Constitutional Court.

2.36 The new law introduced changes to the amount of electoral support parties require in order to secure parliamentary representation. Since 1980, political parties have had to receive ten per cent of the national vote and to meet stringent criteria relating to the establishment of a nationwide party structure in order to be represented in parliament. This has had the result of limiting the number of political parties in Turkey's parliament. Minority parties criticised the ten per cent threshold for denying representation to a wide range of political views held by Turkish citizens. In 2002, the AKP won 67 per cent of parliamentary seats despite winning only 34 per cent of the vote, while 46 per cent of voters in that election were not represented in parliament. The new law allows parties in alliances to pool their votes and then apportion seats on the percentages each party contributes to the alliance. Opponents of the new law criticised the measure, alleging it favoured the AKP's alliance with the MHP.

2.37 The Grand National Assembly is Turkey's unicameral parliament. Members of parliament are elected from geographic electorates. The 2017 constitutional amendments increased the number of sitting members from 550 to 600, and changed parliamentary terms to five years from four. Parliamentary elections will coincide with presidential elections. The composition of the current parliament (following the June 2018 elections is): AKP 290 seats; CHP 144 seats; the left-wing Kurdish-aligned People's Democratic Party (HDP) 67 seats; MHP 50 seats; and the centre-right Good Party (IYI) 40 seats; with the remainder going to micro-parties.

2.38 Turkey has 81 provinces, each administered by a centrally appointed governor. Thirty provinces operate as metropolitan municipalities governed by elected mayors. Provincial governors and municipal mayors are responsible for delivering services provided by the central government, including security, education, health and infrastructure. In September 2016, the government adopted a decree that permitted it to appoint 'trustees' in lieu of elected mayors, deputy mayors, or members of municipal councils suspended on charges of terrorism. This decree has particularly affected south-eastern Turkey, where, as of December 2017, the Ministry of Interior had imprisoned 87 mayors, all of whom were of Kurdish origin. It is unclear whether the trustees appointed in their place are of Kurdish origin (see also [Kurdish Political Activists](#)). Separately, in late 2017, the AKP mayors of six major cities (Istanbul, Ankara, Balıkesir, Bursa, Düzce, and Niğde) resigned their positions in quick succession, reportedly following strong pressure to do so from the central government. Others have also subsequently resigned.

2.39 The provinces are divided into districts, each administered by an appointed vice-governor and sub-governors. Provinces and municipalities may contain villages administered by an elected village head and a council of elders. Local elections take place every five years.

HUMAN RIGHTS FRAMEWORK

2.40 The Constitution contains extensive guarantees of fundamental human rights, including freedom of expression, association, movement, opinion, assembly, and religion. Many constitutional rights are subject to exceptions on the grounds of public order and national security.

2.41 Turkey is a State Party to the following international human rights instruments: the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT) and its Optional Protocol (OPCAT), the International Covenant on Civil and Political Rights (ICCPR) and its Second Optional Protocol Aiming to the Abolition of the Death Penalty; the International Convention on the Elimination of All Forms of Racial Discrimination (CERD); the International Covenant on Economic, Social and Cultural Rights

(ICESCR); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of the Child (CROC) and its Optional Protocols on the Involvement of Children in Armed Conflict and the Sale of Children, Child Prostitution and Child Pornography; and the Convention on the Rights of Persons with Disabilities. Turkey has also acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Article 90 of the Constitution states that international agreements put into force carry the force of law, and cannot be appealed in the Constitutional Court.

2.42 Turkey has also ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and additional protocols to both conventions. These conventions give Turkish citizens the right to appeal to the European Court of Human Rights (ECHR). In the wake of the July 2016 attempted coup, the ECHR received a large number of applications from Turkish citizens who had been detained for perceived links to the Gulen movement (see [The Gulen Movement](#)). Turkish applications accounted for 31,054 of the ECHR's total 2017 caseload of 85,951 (36 per cent). The ECHR's requirement that applicants exhaust domestic remedies before bringing their application resulted in 30,063 (96.8 per cent) of the Turkish applications being declared inadmissible or struck out, either because they had not appealed to the Constitutional Court or because they had not first appealed to an *ad hoc* committee set up in January 2017. Critics of the ECHR's position argue the Turkish judiciary has become too politicised and dysfunctional to be an effective domestic remedy (see [Judiciary](#)). The ECHR issued 116 judgements on Turkish cases in 2017, ruling in favour of the applicant on 99 cases (85 per cent).

2.43 Turkey established the Ombudsman Institution in 2012 to act as an independent and efficient complaint mechanism regarding the delivery of public services. It has a mandate to investigate, research and make recommendations on the compliance of official acts with the law and with principles of fairness and the respect of human rights. It can receive individual applications. Dismissals under state of emergency decrees do not fall within its purview, as the decrees are considered law, and the Ombudsman can only review administrative decisions. Parliament elects the Chief Ombudsman, and the government appoints a further five ombudsmen. The former chief presidential advisor became Chief Ombudsman in November 2016. As of September 2016 (most recent figures available), the Ombudsman Institution had received 3,390 complaints alleging human rights violations relating to public personnel, government training, and labour and social security issues. The institution gave 41 recommendations and 23 partial recommendations, rejected 144 cases, and ruled 1,310 applications inadmissible. The Ombudsman Institution has not published an annual report since 2014. Other government bodies with a role in promoting human rights include the Ministry of Justice's Human Rights Department and the parliamentary Human Rights Commission (HRC).

2.44 Turkey participated in a second cycle of the UN Human Rights Council's Universal Periodic Review (UPR) in January 2015. The government accepted 215 of the 278 recommendations it received, including 12 it considered already implemented, and noted the remaining 63. Turkey's next UPR is scheduled for January 2020.

2.45 Turkey issued a standing invitation for country visits by representatives of the OHCHR and other UN bodies in March 2001. In recent years, several OHCHR Special Rapporteurs and Working Groups have visited Turkey and issued reports, including on Extrajudicial, Summary or Arbitrary Executions (report published May 2015), Enforced and Involuntary Disappearances (report published July 2016), Promotion and Protection of the Right to Freedom of Opinion and Expression (June 2017), and Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2017). In addition, CEDAW issued a report on Turkey in July 2016. OHCHR issued a report on the human rights situation in south-east Turkey (covering the period July 2015 to December 2016) in February 2017 and a report on the impact of the state of emergency on human rights in Turkey, including an update on the south-east (covering the period January to December 2017) in

March 2018. The government did not formally respond to OHCHR's request to deploy a team to south-eastern Turkey, and these reports were based on human rights monitoring conducted from Geneva.

National Human Rights Institution (NHRI)

2.46 The *Law on Human Rights and Equality Institution of Turkey* (2016) came into effect in April 2016, establishing the National Human Rights and Equality Institution (NHREI) as the country's national human rights institution (NHRI). The NHREI replaced the previous Human Rights Institution of Turkey, which had operated since June 2012. Its core functions are monitoring, publishing research, recommendations and opinions, complaints handling, legal assistance, advising government, parliament and other bodies, supporting the work of human rights defenders, cooperation with civil society organisations, and awareness raising activities. Neither the NHREI nor its predecessor applied for accreditation as an NHRI with OHCHR. NGOs and international observers have criticised the NHREI (and its predecessor) for lacking independence, noting it reports to and is funded by the government, and that eight of the eleven board members are appointed by cabinet and three by the president.

2.47 *Decree 685* (January 2017) established a Commission of Inquiry for State of Emergency Practices for a term of two years (see [State of Emergency](#)). The commission is tasked with reviewing and deciding on complaints relating to measures taken under the state of emergency and related decrees. It is mandated to 'carry out an assessment of, and render a decision on' state of emergency measures that fall into one or more of four listed categories: dismissal or discharge from public service, profession or organisation; dismissal from studentship; closure of associations, foundations, trade unions, media outlets, schools and higher education institutions and publishing houses; and annulment of ranks of retired personnel. The commission has seven members, of whom five were appointed directly by the government, and two by the High Council of Judges and Prosecutors. While there have been more than 100,000 appeals via the Commission of Inquiry for State of Emergency Practices (see [State of Emergency](#)), as of 11 June 2018 only 19,600 cases had been reviewed and only 1,010 people permitted to return to work.

2.48 The March 2018 OHCHR report criticised the commission for: the narrow scope of its mandate; its perceived lack of independence and impartiality given its members were appointed by the same authorities who adopted the emergency measures; a lack of transparency given it is not required to justify or publish its reasoning; and an unrealistic workload. OHCHR criticised a lack of fairness to applicants, who must submit complaints through the institution that dismissed them, and have no opportunity to testify or present witnesses. Complainants cannot be reinstated in the same institutions they served before being dismissed, and will not receive compensation regardless of the commission's decision.

SECURITY SITUATION

2.49 Turkey faces a range of internal and external security challenges. These include the resumed conflict between government security forces and the PKK in the south-east, external security threats related to Turkey's involvement in conflicts in Syria and Iraq, and threats of terrorist attack from internal and external actors.

2.50 The *Law on the Fight against Terrorism* (the Counter-Terrorism Law 1991, last amended 2010) and relevant articles of the Criminal Code are the main domestic legislation relating to terrorism and terrorist offences. Critics of the Counter-Terrorism Law note its definitions of 'terrorism' (Article 1) and 'terrorist offender' (Article 2) are broad and vague. Before the failed coup of July 2016, human rights groups raised concerns that the Counter-Terrorism Law could be used against political opponents, human rights defenders, and journalists, in particular for alleged 'membership of a terrorist organisation'. The December 2017 report

by the Special Rapporteur on torture, and other cruel, inhuman or degrading treatment or punishment expressed concern over a new counter-terrorism law (*Law No. 6722 of 2016*), introduced one week after the failed coup. Under that law, which applies retrospectively, executive authorities must grant permission to prosecute any soldiers or civilians taking part in counter-terrorism operations for any offences committed while carrying out their duties. According to the Special Rapporteur, the new law grants counter-terrorism forces effective immunity from prosecution, and renders investigations into allegations of torture or ill-treatment committed by them difficult, if not impossible.

2.51 Turkey has experienced a number of serious terrorist attacks in recent years that have claimed hundreds of lives, including bomb attacks and shootings in Istanbul, Ankara, and the south-east. Attacks have targeted tourist sites, locations associated with the security forces (including military barracks and police vehicles), government and judicial offices, political parties, businesses, places of worship, and tourist sites. Several groups have claimed responsibility for the attacks, including Kurdish rebel groups such as the PKK and the Kurdistan Freedom Falcons (TAK) and external organisations such as Islamic State. Security authorities frequently report that they have succeeded in preventing other attacks across the nation.

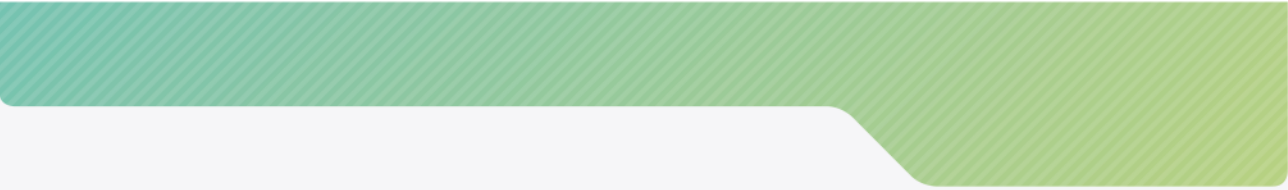
2.52 Since the collapse of a ceasefire between the government and PKK in July 2015, security forces have conducted operations in a number of provinces in south-eastern Turkey. These operations have involved thousands of troops in infantry, artillery, and armoured land divisions, as well as the air force. The International Crisis Group (ICG) reported that, as of the end of September 2018, conflict since the end of the ceasefire had caused over 4,114 deaths of PKK militants, state security force members and non-combatants. Clashes continued throughout late 2017 and early 2018 (see [Kurds](#) and [Extrajudicial Killings](#)).

2.53 In early 2018, Turkish forces and their Syrian rebel allies seized the predominantly Kurdish city of Afrin in Syria's Aleppo province in March, reportedly killing up to 300 civilians and displacing tens of thousands of others. Turkish forces had entered the province two months earlier to act against the Syrian People's Protection Units (YPG) Kurdish militia, whom Turkish authorities regard as a PKK-aligned terrorist organisation. Turkey had previously entered Syria in August 2016 to conduct border security operations against the YPG and other groups, including Islamic State. Turkish armed forces have conducted cross-border operations against PKK targets in northern Iraq, and maintain a base in Bashiqah.

State of Emergency

2.54 Following the attempted coup of 15 July 2016, the government declared a three-month nationwide state of emergency, which was endorsed by parliament on 20 July 2016. The stated purpose of the state of emergency was 'to take required measures in the most speedy and effective manner in the fight against the Fethullah Gulen Terror Organisation (FETO) and to return to normalcy as soon as possible'. The state of emergency concluded at midnight on 18 July 2018, after seven three-month extensions. Parliament has permanently adopted most of the 36 statutory decrees issued under the state of emergency. Under the new presidential system, the President retains the ability to issue decrees.

2.55 The state of emergency allowed the government to rule through decrees carrying the force of law, bypassing parliament. It afforded legal, administrative, criminal and financial immunity to administrative authorities acting within the framework of the decrees. In November 2016, the Supreme Court ruled that the decrees were not subject to judicial review. The government issued 36 statutory decrees under the state of emergency, and human rights observers have expressed concern that several decrees regulated matters unrelated to the state of emergency, ranging from the closure of civil society organisations and medical centres to the use of winter tyres on vehicles. The state of emergency also gave security forces extensive powers to crack down on alleged supporters of the Gulen movement from within state institutions (see [The Gulen Movement](#)). Authorities have launched legal proceedings against 441,195 people on a variety of



terrorism charges, including for being alleged Gulen supporters, members of the PKK, and other organisations.

3. REFUGEE CONVENTION CLAIMS

RACE/NATIONALITY

3.1 Article 10 of the Constitution states that all individuals are equal without discrimination irrespective of language or race (amongst other things). Article 66 states that everyone bound to the Turkish State through the bond of citizenship is a 'Turk', which could be construed to exclude other ethnic groups, notably Kurds. Article 42 states that no language other than Turkish shall be taught as a mother tongue to Turkish citizens at any institutions of training or education. Human rights observers have argued that this article and associated legislation amount to discrimination against ethnic minorities.

Kurds

3.2 Although official figures are not available, international observers estimate that around 15 million Turkish citizens identify as Kurdish. The Kurdish population is concentrated in south-eastern Anatolia, where they form the majority ethnic group, and north-eastern Anatolia, where they constitute a significant minority. Significant Kurdish populations also live in Istanbul and other major cities. In recent decades, approximately half of Turkey's Kurdish population has migrated to western Turkey both to escape conflict (see [Security Situation](#)) and in search of economic opportunities. Eastern and south eastern Turkey have historically been less developed than other parts of the country, with lower incomes, higher poverty rates, less industry, and less government investment. The Kurdish population is socio-economically diverse: while many are very poor, particularly in rural areas and the south-east, a Kurdish middle class is growing in urban centres, particularly in western Turkey.

3.3 Most Kurdish people speak Kurmanji (commonly referred to as Kurdish), while a smaller number speak Zaza or Sorani. Most Kurds are Sunni Muslim, but of the Shafi'i school rather than the Hanafi school to which most ethnic Turks adhere. Turkish religious authorities consider both schools equally valid, and followers of the Shafi'i school are not subject to discrimination on religious grounds. Substantial political divisions exist within the Kurdish population: analysts say that, while around half are sympathetic to the PKK's goals, the remainder are conservative-leaning and sceptical of the PKK's ideology and methods. Many religiously conservative Kurds, who opposed the secularism of past administrations, support the AKP, which has several Kurdish MPs. Some non-Kurdish Turkish citizens continue to associate all Kurds with the PKK.

3.4 The secular 'Kemalist' ideology that underpinned the founding of the Turkish Republic envisioned Turkey as a nation with a single shared ethnic identity. A range of policies sought to assimilate ethnic minorities into a majority Turkish nation by suppressing public expressions of minority identity (see [Recent History](#)). As the largest ethnic minority in Turkey, these policies particularly affected the Kurdish population. Policies included bans on public use of the Kurdish language, bans on Kurdish place names, and a prohibition on public support for Kurdish political parties, particularly those perceived to be separatist in nature. The policies were deeply resented, particularly in the south-eastern areas where Kurds were in the majority, and fuelled a long-running conflict in the south-east between the government and PKK. The AKP government gradually wound back restrictions on the expression of minority identity and most are now officially revoked,

particularly since the 2013 ceasefire between the government and the PKK. The Kurdish language is commonly used throughout Turkey. As with other non-Turkish languages, Kurdish cannot be used for mother-tongue education in public schools, but can be taught as an elective language in public schools and as a primary language – but not mother-tongue – in private schools. Amended laws have reinstated original Kurdish place names to villages and neighbourhoods. These changes have not been applied consistently, however, and in some cases have been applied in reverse, particularly since the government replaced elected mayors with appointed trustees (see [Political System](#)). The New York Times reported in June 2017, for example, that trustees had changed the names of streets previously named for prominent Kurdish figures, or removed statues of Kurdish heroes in towns across the south-east.

3.5 International and domestic observers have reported that the government’s response to both the resumption of conflict in the south-east between the government and the PKK, and to the July 2016 attempted coup, have significantly affected the rights and freedoms of Kurds. In particular, security operations since 2015 have resulted in significant hardship for local residents in the south-east. OHCHR reports in 2017 and 2018 detailed extensive human rights violations arising from the conflict, including killings, torture, violence against women, excessive use of force, destruction of housing and cultural heritage, prevention of access to emergency medical care, safe water and livelihoods, and severe restrictions on freedom of expression (see relevant sections). At the peak of the conflict in 2016, state security forces introduced strictly enforced curfews (including 24-hour curfews in some locations) and movement restrictions in 47 districts in 11 provinces, many of which remain in place. In February 2018, the government announced a new series of curfews in several villages and towns of Diyarbakir province. While technically temporary measures, they are frequently renewed.

3.6 The conflict has caused significant internal displacement: between July 2015 and July 2017, approximately 100,000 people lost their homes and up to 400,000 people reportedly moved to neighbouring suburbs, towns and villages, or to other regions within Turkey. In areas where 24-hour curfews were enforced, large numbers of people were forcibly displaced and prevented from returning to their homes until after the conflict had subsided. Many have still not been able to return to their homes. Owners of houses destroyed in the conflict have reported that financial compensation is conditional on them signing declarations that their property was destroyed by ‘terrorist activities’. Many report that the amount of financial compensation offered has been insufficient to find replacement housing. DFAT assesses that Kurdish civilians living in conflict-affected areas in the south-east face a high risk of violence and discrimination from both government forces and the PKK.

3.7 The government has used state of emergency powers to target a wide range of Kurdish individuals, journalists, politicians and political activists, and civil society organisations accused of supporting the PKK (see also relevant sections). One domestic human rights group reported in January 2018 that 31 per cent of all people arrested in government operations since October 2016 were allegedly associated with Kurdish or leftist groups. In June 2018, human rights defenders in Diyarbakir reported that there were now no private or municipal Kurdish-oriented organisations left in the south-east: authorities had closed theatres, kindergartens, and language schools.

3.8 Kurds in western Turkey do not face the same risk of conflict-related violence as those in the south-east. Many Kurds who are not politically active, and those who support the AKP, are integrated into Turkish society, identify with the Turkish nation, and live their lives in a normal fashion. Human rights observers report, however, that some Kurds in western Turkey are reluctant to disclose their Kurdish identity, including through speaking Kurdish in public, for fear of provoking a violent response.

3.9 No laws prevent Kurds (or other ethnic minorities) from obtaining public or private sector employment, from participating in public life, or from accessing government health and education services in the same fashion as other Turkish citizens. The ability of Kurdish citizens to do so in practice, however,

depends considerably on individual circumstance and geographic location: those in western Turkey will have far better access to government services than those residing in conflict-affected areas of the south-east. While Kurds participate in all aspects of Turkish public life, including government, the civil service and military, they have traditionally been under-represented in senior positions. Some Kurds employed in the public sector have reported a reluctance to reveal their Kurdish identity for fear of negatively affecting their prospects for promotion. DFAT assesses that Kurds are more likely to obtain public sector employment at the sub-national level, particularly in areas where they are in the majority.

3.10 Notwithstanding government efforts to wind back discriminatory restrictions on the public expression of minority identity, DFAT assesses that Kurds in Turkey face both official and societal discrimination based on their ethnicity. The extent and form of this discrimination depends on geographical location and personal circumstance. Those residing in the south-east, Kurdish women and those active (or perceived to be active) in Kurdish political or civil society organisations are at higher risk than men and those who are not politically active or who support the AKP.

RELIGION

3.11 Article 2 of the Constitution defines Turkey as a secular state. Article 10 states that all individuals are equal before the law regardless of their philosophical belief, religion, or sect; Article 15 states that no one may be compelled to reveal his or her religion; and Article 24 guarantees the right to freedom of conscience, religious belief and conviction. The state has traditionally interpreted secularism to require state control over religious communities, including their practices and houses of worship. The *Diyanet* manages the practice of Islam (see also [Education](#)), while the General Directorate for Foundations (*Vakıflar*) manages all other religions.

3.12 The government does not maintain population statistics based on religious identity. Observers concur, however, that the overwhelming majority of Turkish citizens are Muslim, with most (75-80 per cent) being Sunni. The Shi'a Ja'fari community reports that approximately three million Shi'a live in Turkey, predominantly in the eastern provinces. Up to 500,000 Alawites reportedly live in the southern regions neighbouring Syria, particularly Hatay province (this number does not include Syrian Alawite refugees who have fled to Turkey since 2011). Relations in Turkey between Muslim communities (Sunni and non-Sunni) have generally been harmonious, without the sectarian divides experienced in other countries. Some community leaders have expressed concern that tensions between the Turkish and Syrian governments over the Syrian civil war, combined with hostile rhetoric, may lead to increased tension between Sunnis and Alawites in particular. This concern has not been realised to date. President Erdogan publicly blamed the Alawite Syrian regime for a double car bombing in Hatay in May 2013 that killed at least 43 and wounded many more. DFAT is not aware of any recent cases in which tensions over Syria have led to significant incidents of sectarian violence between Sunni and non-Sunni Muslims. DFAT assesses that non-Sunni Muslims (excluding [Alevi](#)s) do not face significant official or societal discrimination on the grounds of religion.

3.13 Turkey's non-Muslim religious communities are small. There are fewer than 150,000 Christians across various denominations, the largest of which are Armenian and Greek Orthodox, Syriac Christians, Jehovah's Witnesses, and Protestants. The Jewish community numbers fewer than 20,000. Small Baha'i and Yazidi communities live in Turkey, although their numbers are unclear.

Recognised Religious Groups (The 'Lausanne Minorities')

3.14 The Treaty of Lausanne (1923), which formalised the break-up of the Ottoman Empire and laid the foundation for modern Turkey, guarantees the rights of 'non-Muslim minorities'. The government has

traditionally interpreted this phrase as referring solely to the three major religious minorities in Turkey at the time, which were the Armenian Apostolic Orthodox Christians, Jews, and Greek Orthodox Christians (the 'Lausanne minorities'). The Lausanne minorities, whose populations have all decreased significantly through emigration since 1923, reside primarily in Istanbul and other major urban centres in western Turkey. They enjoy certain rights, including the right to maintain existing religious foundations, build new houses of worship, and establish and run religious schools. The government has contributed funding to the upkeep or restoration of some minority properties, including the Greek Orthodox Sumela Monastery currently under renovation. The Lausanne minorities report that they are able to worship freely. The government does not, however, recognise the leadership or administrative structure of Lausanne minorities (such as the Christian patriarchates or chief rabbinate) as legal entities, which prevents them from buying or holding title to property, and from pressing claims in court. The Lausanne minorities (and other religious minority communities) rely on independent foundations with separate governing boards to hold and control individual religious properties. These foundations have reportedly been unable to renew the membership of their governing boards because the government has not promulgated new regulations since repealing previous rules in 2013.

3.15 DFAT is not aware of any recent significant incidents of violence against members of Lausanne minority communities or properties. Community representatives have expressed concern, however, about negative speech in the state media, which tends to peak at times of heightened tension between Turkey and Greece, Armenia, or Israel. Where Lausanne minorities have received threats, the government has provided security protection to their houses of worship, particularly synagogues.

3.16 The state expropriated a significant amount of property from Lausanne minority communities (and other religious minorities) in the early years of the Turkish Republic. Since 2001, and especially since a 2011 governmental decree, the government has returned more than 1,000 properties valued at more than USD 1 billion, and paid compensation. The process continues, and communities have complained about delays or denials: by some counts, only 20 to 25 per cent of expropriated properties have been returned or compensated to date. The communities have also expressed concern that the government has characterised return of the properties as a magnanimous gesture, rather than as a right of equal citizenship. The 2011 decree does not apply to other religious minorities, nor to properties seized before 1936.

3.17 No official restriction prevents members of Lausanne minorities (or other religious minorities) gaining public sector employment or promotion: Article 70 of the Constitution specifically states that every Turk has the right to enter public service, and no criteria other than the qualifications for the office concerned shall be taken into consideration for recruitment into public service. Notwithstanding, some non-Muslims claim to have been denied government employment for not including a religious identity or for listing an identity other than Muslim on employment applications. Community representatives have commented that it is rare to see religious minority members in senior government roles.

3.18 In August 2013, the government confirmed the existence of a secret categorisation system for Lausanne minorities that had been in existence since 1923. The system used information taken from Ottoman-era documents and was used by the Education Ministry to ensure that only members of Lausanne minorities could register their children at minority schools. Although opposition politicians criticised the system as being in breach of the Constitution, officials defended it as helping ensure the protection of the rights of the Lausanne minorities. It is unclear whether the categorisation system remains in use.

3.19 DFAT assesses that, although their rights are constitutionally guaranteed, members of the Lausanne minorities face a low risk of official discrimination. Notwithstanding a strict constitutional commitment to secularism, Turkish laws and long-standing practices work to the benefit of the majority population, including in relation to public sector employment opportunities. Members of Lausanne minorities face a low risk of societal discrimination, which may increase during periods when external factors come into play.

Alevi

3.20 In the absence of official figures, estimates of the size of the Alevi population vary considerably. Some Alevi leaders estimate that Alevi comprise between 25 to 31 per cent of the Turkish population (20 to 30 million); academic estimates suggest the number is closer to ten to 15 per cent (eight to 12 million). Many Alevi are also Kurds, although estimated numbers again vary considerably (between half a million and several million). DFAT understands that Kurdish Alevi are more likely to identify primarily as Alevi. While Alevi are widely distributed across Turkey, they are concentrated in central and inner-eastern Anatolia, Istanbul and other major cities. Tunceli is the centre of the Alevi faith, and its population is overwhelmingly (95 per cent) Alevi. Ordinary Alevi generally keep a low societal profile and do not highlight their religious identity, including though their everyday dress.

3.21 Alevism is a heterodox branch of Islam that emerged in the medieval period and incorporates Shi'a, Sufi, Sunni and local traditions. Practising Alevi read from the same Islamic texts as mainstream Muslims, but worship in a *cemevi* (prayer hall) rather than a mosque. Men and women pray alongside each other, worship in Turkish rather than Arabic, and are not expected to pray five times a day. While most Alevi regard their faith as a separate religion, some identify as Shi'a or Sunni or see their Alevi identity predominantly in cultural rather than religious terms. Alevi are mostly secular, supporting strict separation of religion and politics. Alevi report they are generally able to conduct their religious ceremonies and celebrate their religious festivals without official interference.

3.22 The Turkish state does not recognise Alevism as a separate religion and considers Alevi to be Muslims. *Cemevis* are not recognised as official places of worship and, unlike mosques, do not receive public funding to support their construction or maintenance. The ECHR ruled in April 2015 that the Turkish government was violating the European Convention by not recognising Alevi places of worship and religious leaders. In August 2017, the Supreme Court of Appeals ruled that *cemevis* should receive the same benefits as mosques, including exemption from utility bills. Other ECHR judgements from 2015 ruled that only Alevi leaders could determine the faith to which their community belonged, and that Alevi students should be exempt from compulsory religious education classes conducted by Sunni imams (see [Education](#)). Some Alevi claim the classes teach Alevi students incorrect information about their own faith, which parents have then had to correct at home. The government is yet to implement the 2015 court rulings, although some opposition-led municipalities have waived utility bills.

3.23 Alevi have played a prominent role in the political sphere, particularly with the CHP which has had strong Alevi representation. While most Alevi support the CHP, Alevi have also achieved parliamentary representation with other parties, including the AKP. No laws prevent Alevi (or other religious minorities) obtaining public sector employment or serving in the military, but no Alevi currently serve in senior government positions, including as governors or police chiefs. Some Alevi claim to have been denied promotion in the public sector due to their religious identity. DFAT does not have any specific information relating to the treatment of Alevi Kurds in the military.

3.24 Although the Alevi community suffered significant societal violence in the past, DFAT is not aware of any instances of significant societal violence against the community in recent years. Like other religious minorities, Alevi have occasionally been the subject of negative portrayal in state media, and to low-level societal threats of violence. In April 2017, vandals twice desecrated Alevi tombs and shrines in a Hatay cemetery, after which the government provided additional security and assistance in cleaning up. In September 2017, police arrested three of more than a dozen people involved in attacking the funeral of the mother of a Kurdish Alevi former HDP parliamentarian. Police stopped the attack, and the Minister of Interior personally intervened to facilitate the burial. It is unclear whether the protesters were motivated by religious, ethnic, or political grounds. In November 2017, unidentified individuals in Malatya painted red 'X' marks on the front doors of 13 Alevi family homes, which led to a police investigation.

3.25 DFAT assesses that Alevis face a low risk of official and societal discrimination. While they do not enjoy the benefits of official recognition as a separate religion, they are generally able to worship freely and participate in most areas of Turkish life (including politics).

Other Unrecognised Religious Groups

3.26 Members of unrecognised religious groups (including, but not limited to, Baha'i, Yazidis, and Christian groups such as the Jehovah's Witnesses) do not enjoy the same rights as the Lausanne minorities in relation to operating schools, officially registering their places of worship, or reclaiming properties expropriated by the state (see [Recognised Religious Groups \(The 'Lausanne Minorities'\)](#)). Unrecognised religious groups are generally able to conduct religious services without official interference. Their access to public sector employment and promotion is comparable to that of members of Lausanne minorities. DFAT is aware of occasional reports of vandalism against properties owned by unrecognised religious groups, and of threats against clergy via text messages, social media postings, and emails. Police have provided protection in response to such threats, although some communities argue that police responses are not always adequate.

3.27 DFAT assesses that members of unrecognised religious groups face a low risk of official and societal discrimination, comparable to that of the Lausanne minorities and Alevis.

Personal Status Laws

3.28 The *Civil Code* (1926) is the primary source of law in relation to personal status matters, including marriage, divorce, and the welfare of children. Its provisions apply to all Turkish citizens regardless of religion. The Civil Code and related regulations govern all marriages, and the law recognises only official (civil) marriages. Polygamy is a criminal offence punishable with up to two years' imprisonment. Turkey has no civil partnership for either heterosexual or homosexual couples. Article 132 of the Civil Code enforces a 300-day waiting period after the termination date of the previous marriage before formerly married women can re-marry. DFAT understands that this Article, which does not apply to men, is intended to ensure that women do not re-marry while pregnant from the previous marriage, thus protecting the new husband from having to raise a child who is not his own. The legal marriage age is 18 for both sexes, although a 17 year old may be granted permission to marry with parental or guardian consent, and a 16 year old with parental or guardian consent and a court decision. Underage marriage for girls is common: an estimated 232,000 marriages of 16 year olds have occurred over the past four years, and women's rights campaigners estimate that a third of all marriages in Turkey involve girls under the age of 18. NGOs report that early marriage is seen in conservative rural areas as a means to restore a girl's 'honour' after she has had sex, including from rape.

3.29 In November 2017, parliament passed a law allowing Muslim clerics to conduct civil marriages. Previously, only state officers in branches of the family affairs directorate had been empowered to do so. While supporters of the law argued the change simply made marriage more convenient for religiously observant citizens, opponents contended the change was part of a broader campaign to impose conservative Islamic values on a secular society.

3.30 Articles 161 to 166 of Law 4721 specify the grounds for divorce. General grounds for divorce include the breakdown of marriage, divorce based on separation, and consensual divorce. Special grounds for divorce are based on concrete facts and include mental illness, adultery, cruelty, desertion (for a period exceeding six months), criminal conviction, and addiction.

3.31 The custody rights of a parent begin with the birth of the child and continue until the child is 18 years old. If the parents are married, both parents have custody of the child. If the parents are not married, Article 337 of the Civil Code automatically gives the mother custody of the child from birth. In cases of divorce, the judge will grant custody to one of the parents, and will base the decision on the best interests of the child even if the parents have a notarial agreement. Turkish law does not permit joint custody. Courts typically grant the mother custody of an infant child. Judges determine child support according to the financial situations of the parents, and the child's age and needs. No standard formula applies. Child maintenance automatically ceases when the child turns 18.

3.32 The main laws concerning inheritance are the Civil Code, the *Law on Code of International Private and Procedure Law* (2007), and the *Code of Civil Procedure* (1927; frequently amended). The Court of Peace and Court of First Instance are the principal courts for inheritance issues. The length of time taken to complete proceedings is unpredictable and depends on the complexity of the case and the court's caseload. Turkish law imposes restrictions on the disposal of estates for the benefit of relatives. The reserved portion is a proportion of the statutory share to which each statutory heir is entitled by intestate succession.

Blasphemy/ Defamation of Religion

3.33 Article 216(3) of the Criminal Code states that any person who openly disrespects the religious belief of a group can be punished with imprisonment from six months to one year if such act causes potential risk for public peace. According to official statistics, Turkish courts convicted 13 people under Article 216(3) in 2014-15, although DFAT does not have any details of the offences. In April 2016, an Istanbul court sentenced two journalists to two years' imprisonment after they reprinted a cover from the French satirical magazine *Charlie Hebdo*, depicting a cartoon of the Prophet Mohammed. The journalists were convicted under Article 216(1), which criminalises openly encouraging hate and enmity among people via the press, but were acquitted on separate charges under Article 216(3). The conviction came after 1,280 people (including President Erdogan and his children) filed criminal complaints. DFAT is not aware of any evidence to suggest that blasphemy charges have increased in number since the July 2016 attempted coup, or that authorities are using such charges in a political manner.

POLITICAL OPINION (ACTUAL OR IMPUTED)

3.34 The Constitution contains numerous articles guaranteeing the freedoms of political opinion, assembly, and expression, although most of these articles contain clauses to allow restrictions of these rights by law on national security grounds. Turkey remains a democracy with a wide range of political views and ideologies reflected in its parliament and at other levels of government and society. Restrictions on the ability of Turkish citizens to express dissent to the government, individually or collectively, have increased, particularly under the state of emergency (see [State of Emergency](#)). In its 2018 Freedom in the World report, Freedom House ranked Turkey 'Not Free'.

The Gulen Movement

3.35 The Gulen movement began as a religious movement in Turkey in the 1960s, based on the sermons of Muslim cleric Fethullah Gulen, a onetime radical Islamist preacher, now in exile in the United States. The movement, also known as '*Cemaat*' ('community') or *Hizmet* ('service'), transformed over the decades into a civil society movement involving religious, educational and social organisations. Critics of the movement, however, have long expressed concerns about the movement's highly secretive and undemocratic nature.

3.36 The Gulen movement has no formal structure, central hierarchy nor visible evidence of membership. The movement reportedly has an inner circle of activists and an outer circle of those who support Gulen's teachings and the movement's ideals, often graduates of Gulen's education programs. The Gulen movement has a large international presence, with supporters in 140 countries worldwide, including Australia. It ran a newswire and had several publications and television channels with a wide audience. Within Turkey, the movement's activities have centred on autonomous branches, which have had their own dialogue associations and schools. The movement has never pushed for involvement in politics as an organisation, nor run candidates for parliament under its own banner. Prior to the July 2016 attempted coup, international observers estimated that Gulenists in Turkey numbered in the millions.

3.37 Gulen left Turkey in 1999 after the public circulation of a video in which he told supporters to 'move within the arteries of the system, without anyone noticing your existence, until you reach all the power centres'. Authorities charged Gulen with attempting to undermine the state, but dropped the charges once he left Turkey. Since the early 1970s, Gulenists used their networks to place supporters in key government positions, including in the police, judiciary, and intelligence services. Observers widely accept that Gulenists stole the answers to public service examinations and provided them to junior followers to achieve this aim. It is also widely accepted that Gulenist networks fabricated evidence in two high-profile trials in 2008 and 2010, in which members of the armed forces were falsely alleged to have sought to overthrow the AKP government. In 2011, an investigative journalist alleged that high-level Gulenist officials were using their positions to root out secularists within the bureaucracy.

3.38 Gulen and Erdogan were close political allies for decades. In December 2013, however, Erdogan accused Gulen of being behind corruption allegations against several senior ministers. Authorities began targeting institutions and individuals it believed to be affiliated with the Gulen movement, shutting numerous media outlets and firing thousands of police officers. The government issued an arrest warrant for Gulen in 2014, and officially designated the Gulenist movement a terrorist organisation in May 2016 under the assigned names 'Fethullah Gulen Terror Organisation' (FETO) and 'Parallel State Structure (PDY).

3.39 The government immediately blamed Gulen for orchestrating the July 2016 coup attempt, arguing credibly that the Gulen movement was running a parallel movement within the civilian and military bureaucracy. As discussed in [State of Emergency](#), authorities have used state of emergency powers to remove large numbers of suspected Gulen supporters (and other political opponents) from the civil service, military, police, judiciary, and academia. During the course of the two-year state of emergency, authorities dismissed some 135,144 civil servants from various branches of the bureaucracy, and removed 5,705 academics from their positions. A very small number of those dismissed or arrested have been accused of actually participating in the attempted coup: the decisions are instead based on alleged membership of the movement and, for public servants, inappropriately obtaining public office. As of September 2018, 5,370 people were on trial in cases specifically related to the coup, and 1,524 had received life sentences.

3.40 Human rights observers have expressed concerns the government has not published clear criteria to link individuals to the Gulen movement. In some cases, the only evidence of ties to the Gulen movement has been use of the Bylock messaging application (see [Media](#)). Authorities have based other arrests and dismissals on financial transactions with the Asya Bank (closed by the government for its alleged links with the Gulen movement), membership of a trade union or association linked to the movement, rapid promotion in the public service or military rank, having a child attend a school associated with the movement, police or secret service reports (not made public), analysis of social media contacts and internet browsing history, or information received from colleagues or neighbours. Many of those arrested have not had access to the evidence against them, nor the opportunity to defend themselves. While more than 100,000 appeals have been lodged with the Commission of Inquiry for State of Emergency Practices (see [State of Emergency](#)), by 11 June 2018 only 19,600 cases had been reviewed and only 1,010 people permitted to return to work.

3.41 Authorities have published lists of those dismissed, with the effect of significantly reducing their chances of finding alternative employment in either the public or private sectors, and of stigmatizing them socially. Those dismissed lose their income and social benefits, including access to medical insurance and retirement benefits, and many have had their passports (and those of family members) cancelled (see [Passports](#)). Various decrees specifically state that dismissed civil servants ‘shall be evicted from publicly-owned houses within 15 days’. Since July 2016, the government has seized or appointed administrators for approximately 1,000 businesses accused of having links to the Gulen movement. The businesses, which range from small shops to publicly traded companies, are worth an estimated USD 12 billion. In November 2016, the Ministry of Family and Social Policies announced that the government could remove children from their families if the state found that their guardians had supported the coup attempt. DFAT is aware of at least one case where this has happened: in November 2017, Turkish media reported that a court had returned the adopted daughter of a family in Gumushane Province to an orphanage due to her adoptive father’s alleged links to Gulen.

3.42 DFAT assesses that those accused of membership of the Gulen movement face a high risk of adverse official attention, including arrest and prosecution. In some cases this is justified: credible evidence may exist that they were involved in the July 2016 attempted coup, or inappropriately obtained or misused public office. In some instances, however, the burden of proof for membership in the Gulen movement does not meet credible evidentiary standards, and the accused have limited ability to defend themselves. Civil servants accused of membership are highly likely to face dismissal from employment without due process and face numerous official sanctions. Access to official recourse will be slow. Those accused of membership of the Gulen movement where no credible evidence exists face considerable societal stigma and restrictions, particularly through the publication of their names.

Kurdish Political Activists

3.43 Political parties representing Kurdish interests have traditionally faced strong opposition from the Turkish state, and the government has declared many pro-Kurdish parties illegal on the grounds they have provided support for the PKK. The leading pro-Kurdish parties at present are the HDP and its regional sister party, the Democratic Regions Party (DBP). The HDP competed in the June 2018 presidential and parliamentary elections, with the HDP winning 67 seats (see [Political System](#)). Since the breakdown of the government-PKK ceasefire in July 2015 and subsequent resumption of conflict in the south-east, however, authorities have further restricted the ability of the two parties to conduct political activities.

3.44 The HDP’s parliamentary representatives have been particularly affected by the crackdown (the DBP is not currently represented in parliament). In July 2017, parliament amended its by-laws to prohibit the use of the word ‘Kurdistan’ or other sensitive terms by members of parliament on the floor of parliament, providing for the possible issuance of fines to violators. In December 2017, parliament suspended the HDP’s parliamentary spokesperson for two General Assembly sessions after he referred to himself as a ‘representative of Kurdistan’ during a parliamentary discussion. In May 2016, parliament approved a law allowing for the lifting of parliamentary immunity: eleven HDP parliamentarians had their seats revoked, and one current and nine former HDP parliamentarians have subsequently been imprisoned on various charges.

- The party’s co-chair and June 2018 presidential candidate, Selahattin Demirtas, was sentenced to four years and eight months’ imprisonment in September 2018 for making and spreading terrorist propaganda for the PKK. Demirtas remained in pre-trial detention throughout the 2018 election campaign and was unable to campaign freely. He still faces dozens of charges which could result in up to 142 years’ imprisonment if found guilty.

- One former parliamentarian was sentenced to ten years' imprisonment in April 2018 for being a member of an armed terrorist group and for spreading terrorist propaganda.
- Another former parliamentarian was sentenced to nearly 18 months' imprisonment in April 2018 for verbally assaulting a police officer.
- A third was sentenced to a year and three months' imprisonment in July 2017 for making propaganda for a terrorist organisation over his social media posts and for attending the funerals of PKK members.
- A fourth was sentenced to one year and two months' imprisonment in June 2017 for insulting the president in a speech following the April 2017 constitutional referendum.

3.45 While several opposition parties suffered attacks on party premises during the 2018 election campaign, including attacks on campaign offices, vehicles and stands, and obstructions of rallies, these mainly affected the HDP. Following the election, the Human Rights Association (HRA) released a report saying that, during the campaign (28 April to 21 June), it had counted 93 attacks against the HDP, including 28 by security forces: in one case in Ceylanpinar on 5 June, police dispersed a previously-approved campaign rally by using pepper spray. After President Erdogan claimed victory late on 24 June, a number of AKP and MHP supporters surrounded HDP district offices in Ankara and Istanbul and assaulted party members. In Istanbul, approximately 1,000 people demanded the HDP remove its election flags while chanting ultranationalist slogans. The OSCE reported that police in Ankara, Manisa, Istanbul, and Bursa had confirmed to them incidences of political violence and vandalism against the HDP, and that in some cases authorities had launched investigations into the incidences. The HDP, however, told the OSCE that its criminal complaints concerning attacks on its campaign activities were not effectively handled by law enforcement, and that it had subsequently lodged a complaint with the prosecutor's office on negligence of police officers' duties.

3.46 In addition to incidences of physical attacks, the HDP reported that security forces routinely monitored their campaign activities in an intimidating manner, and that high-level campaign rhetoric from the AKP contributed to an atmosphere of fear among HDP candidates and supporters. On 14 June, President Erdogan instructed AKP members to identify HDP voters in their respective neighbourhoods and 'keep a close watch on them', while on several occasions during campaign rallies in various locations he referred to Demirtas as a terrorist. The HDP reported that authorities detained 375 of its party activists during the election period.

3.47 Authorities have continued to target pro-Kurdish activists in the post-election period in the context of anti-terrorist raids against the PKK. The state-run Anadolu Agency reported on 11 September 2018 that 180 people, including HDP and DBP activists, had been remanded in custody across Turkey since the election. On 15 July, special operations forces violently raided the HDP office in the Sancaktepe district of Istanbul, detained 16 people (including the co-chair of the office), and reportedly left behind racist graffiti on the office walls. According to human rights defenders, pro-Kurdish activists who made comments on social media that authorities found offensive were now likely to be identified as PKK supporters and faced much harsher punishments than in the past: instead of one to two months in prison, activists now faced years' long charges on broad terror offences, and family members were also likely to come under official scrutiny.

3.48 DFAT assesses that pro-Kurdish political activists face a high risk of official discrimination in the form of arrest, monitoring, harassment, and prosecution, which may be enhanced during election periods. They also face a moderate risk of physical violence from both security authorities and ultra-nationalist supporters. The level of risk is the same for both high-level politicians and low-level activists, and applies nationwide.

Critics of the Government: Protesters

3.49 Article 34 of the Constitution guarantees the right to hold unarmed and peaceful meetings and demonstration marches without prior permission, but provides for this right to be restricted by law on the grounds of national security and public order. Under the state of emergency, this freedom became severely restricted, particularly when exercised by groups protesting against the government. According to Articles 9 and 11 of the *State of Emergency Law* (2016), measures could be taken during the state of emergency to prohibit, postpone or impose permission obligation for assemblies and demonstrations in closed and open areas, as well as to determine, publicise, supervise, and disperse areas of assemblies and demonstrations. Even before the state of emergency, protestors faced legislative restrictions: the *Law on Demonstrations and Meetings* (1983) requires all members of a protest organising committee to submit a signed declaration to the district governor's office 48 hours prior to the event; the *Law Amending the Law on Powers and Duties of the Police, Other Laws and Decrees* (2015) allows police to detain any protestor without consulting the prosecutor's office, and imposes a five year prison sentence on protestors who cover their faces fully or partially during a demonstration.

3.50 In the past, protests were a regular occurrence in Istanbul, Ankara and other major cities. The Gezi Park demonstrations of 2013 marked a change in official response to public protest. These demonstrations initially began as a small-scale protest against the felling of trees in Istanbul's Gezi Park for development purposes, but grew in early to mid-2013 to incorporate groups protesting other issues, including human rights violations, increasing authoritarianism, and social injustices. At their peak, hundreds of thousands participated in the protests, which occurred nationwide. The protests were generally peaceful, although there were some incidences in which demonstrators used violence against security forces. Security forces responded to the protests forcefully, dispersing demonstrators with teargas and rubber bullets. The Turkish Medical Association reported eight people were killed during the protests, of whom at least four died as a result of police violence. Over 8,000 were injured, including hundreds of security personnel. In January 2014, the government introduced legislative amendments which could be used to criminally punish the provision of emergency medical treatment during protests: a number of doctors were disciplined and two were criminally prosecuted for providing first aid in makeshift medical clinics. In April 2015, a court acquitted 26 defendants for their involvement in the protests. An official investigation into the excessive use of force by police resulted in the sentencing of two police officers to ten-year prison terms in relation to the death of a protestor.

3.51 Protests have continued to occur in Turkey since the Gezi Park demonstrations, but none has approached the same scale. The government has regarded many anti-government demonstrations as security threats to the state, and deployed large numbers of riot police to control crowds. Authorities have also detained organisers ahead of the event, notably where the event has related to a sensitive subject, such as the conflict in the south-east (see [Kurds](#)) or issues relating to sexual orientation or gender identity (see [LGBTI \(Lesbian, Gay, Bisexual, Transgender, Intersex\)](#)). Authorities have regularly declined permission for demonstrations or rallies by groups perceived to be against the government, including ahead of the April 2017 constitutional referendum. Where they have granted permission, they have limited access to some sites. Security forces have at times responded to protests with force causing large numbers of injuries. The HRA reported that, in the first 11 months of 2017, it received 1,855 complaints from individuals injured in clashes with authorities during demonstrations. The HRA also reported in December 2017 that police had intervened in nearly 350 demonstrations and gatherings in the first 11 months of 2017, detaining nearly 2,000 people. While the CHP was able to hold large-scale political rallies ahead of the June 2018 elections without official interference, the HDP was prevented from doing so in its south-east heartland.

3.52 DFAT assesses that the ability of critics to protest government policies through political demonstrations has been significantly reduced by measures introduced during the state of emergency which

remain in place. Those seeking to protest on sensitive issues are likely to be denied official permission, and to face a security response involving force if they proceed.

Critics of the Government: Defamation

3.53 Several articles of the Criminal Code prohibit defamation (defined as ‘insult’) against the Turkish state, its symbols, and its representatives. Article 299(1) applies a penalty of six months to three years’ imprisonment for insults against the Turkish nation, state, Grand National Assembly, and Article 299(2) applies the same penalty to those who publicly degrade the government, judicial bodies, the military or security organisations. Article 300(1) applies a penalty of one to three years’ imprisonment to those who publicly degrade the Turkish flag by tearing or burning, while Article 300(2) applies six months to two years’ imprisonment for publicly degrading the national anthem. Article 300(3) states that where a Turkish citizen commits the offence in a foreign country, the penalty shall be increased by one-third. Article 125(3) applies a penalty of between three months and two years’ imprisonment (punishable under Article 125(1) for insulting a public official due to the performance of his public duty. Under Article 125(5), where an insult is directed against public officials working as a committee, the offence shall be deemed to have been committed against all of the officials and shall be penalised as such. Article 299(1) applies a penalty of one to four years’ imprisonment for insulting the president, increased by one-sixth if the offence is committed publicly. Article 130(1) applies a judicial fine or three months to two years’ imprisonment for insulting the memory of a dead person, with the penalty increased by one-sixth if the offence is committed publicly. Article 130(2) applies a penalty of three months to two years’ imprisonment for making insulting statements about the body or bones of a dead person.

3.54 In recent years, authorities have indicted hundreds of individuals on defamation charges for insulting state institutions, including journalists and minors. President Erdogan has filed significantly more cases under Article 297 than his predecessors. Media reported that Erdogan had filed 1,845 cases under Article 297 between August 2014 and March 2016. Most cases have applied to journalists, but cases have also been filed against writers, politicians, athletes, students, academics and schoolchildren.

- In March 2016, a doctor lost his job for creating an online meme that comparing Erdogan to Gollum from Lord of the Rings;
- In May 2016, a court handed a former Miss Turkey a 14-month suspended sentence over a satirical poem she shared on Instagram;
- In March 2016, a newspaper editor received a 31-month prison sentence for insulting the president on Twitter.

3.55 Most cases prosecuted under Article 299 have not resulted in prison sentences, although some defendants have received suspended sentences and many have spent time in pre-trial detention. Human rights observers claim that the use of Article 299 has created an environment of intimidation and considerably limited freedom of expression by encouraging self-censorship. Following the failed coup attempt in July 2016, Erdogan announced the withdrawal of all charges brought under Article 299 as a one-off gesture to signal a ‘new beginning’ in Turkey. The filing of new charges under Article 299 recommenced shortly afterwards, and in June 2017 the Ministry of Justice announced that in 2016 it had tried 3,658 persons on charges related to insulting the president. While more up to date figures are unavailable, DFAT understands that authorities are continuing to apply the Article 299 charges in a wide and generally indiscriminate manner. In one prominent case in July 2018, Kemal Kilicdaroglu, the CHP leader, was found guilty of defaming Erdogan and his family after claiming they had transferred money abroad, and was ordered to pay a record fine of TRY359,000 (then AUD100,000).

3.56 DFAT assesses that the government's active use of defamation laws has limited the ability of critics to protest government policies. In particular, those perceived to have criticised the president personally face a high risk of prosecution and conviction, which may lead to a prison sentence.

GROUPS OF INTEREST

Human Rights Defenders

3.57 Article 33 of the Constitution guarantees the right to form associations, but allows for restrictions of this right by law on national security grounds. Several organisations in Turkey advocate for human rights and conduct other civil society activities. These groups have public profiles including websites, and publish reports in Turkish and English that are often highly critical of the government. Measures taken under the state of emergency, however, have significantly limited their ability to function. Many human rights defenders have either ceased their activities altogether or significantly wound them back, including by self-censoring their reports. International human rights observers have expressed strong concerns that a reduction in human rights monitoring, combined with the granting of extensive additional powers to security forces (see [State of Emergency](#)) increases the likelihood of human rights violations.

3.58 According to OHCHR, as of March 2018, the government had permanently closed 1,719 organisations through emergency decree, including human rights and humanitarian groups, lawyers' associations, foundations, and other NGOs. The government has prosecuted many human rights defenders for alleged membership in terrorist organisations, including the Gulen movement and the PKK. In July 2017, police raided a human rights training workshop and detained 11 prominent human rights defenders, including the honorary chair of Amnesty International, Taner Kilic, and two foreign trainers (Kilic was released in August 2018, although the charges against him and the others remain). International and domestic observers have criticised the prosecutions as being politically motivated.

3.59 The government has targeted groups advocating for the rights of Kurds: a November 2016 government decree closed down hundreds of Kurdish civil society organisations on national security grounds. Security forces also closely monitor activities of groups defending the rights of religious and cultural minorities, the lesbian, gay, bisexual, transgender and intersex (LGBTI) community, women, and unionists. Aside from criminal prosecutions, many human rights defenders report official harassment, surveillance, intimidation, threats, prolonged detention without charge, and travel bans. Lawyers who provide legal assistance to human rights defenders and other civil society activists face similar treatment.

3.60 DFAT assesses that human rights defenders face a high risk of official discrimination in the form of arrest, monitoring, harassment, prosecution, and being prevented from travelling abroad. This risk is particularly high for those working on the rights of cultural, religious and sexual minorities, and labourers.

Media

3.61 Several constitutional articles guarantee the freedom of expression and of the media. Article 26 states that citizens have the right to express and disseminate their thoughts and opinions by speech, in writing or in pictures or through other media. This right includes the freedom to receive and impart information and ideas without interference from official authorities. Article 28 states that the press is free and shall not be censored, and that the state shall take the necessary measures to ensure freedom of the press and freedom of information. Clauses in both articles, however, provide for the restrictions of these rights by law on national security grounds, the maintenance of public order, and territorial integrity.

Exemptions in the Criminal Code, criminal defamation laws, and anti-terrorism legislation significantly limit the ability of journalists to express views critical of the government, or covering sensitive subjects.

3.62 Human rights observers say media freedom in Turkey has deteriorated considerably in recent years, and particularly since the July 2016 attempted coup. In its March 2018 report, OHCHR stated that authorities had reportedly closed down more than 160 media outlets as of the end of 2016 on suspicion of having links to the Gulen movement or PKK. Media reports suggest this number has since grown to more than 180. Authorities have also arrested large numbers of journalists, many of whom face terrorism-related charges. Estimates of the number of imprisoned journalists vary: the Committee to Protect Journalists reported that at least 81 journalists were in prison for their work in December 2017; the Turkish Platform for Independent Journalism reported that 153 journalists, editors, or media managers were in prison in November 2017. The majority of media workers in detention are there for alleged ties to the PKK or the Gulen movement. International journalist advocacy organisations say the number of journalists in prison in Turkey is among the highest in the world.

3.63 In March 2018, the ECHR ruled that the provisional detention of two prominent journalists following the attempted coup was neither necessary nor proportionate. Turkish authorities did not comply with the ruling, and continued judicial proceedings against the two. One of the journalists, Mehmet Altan, had received a life sentence in February for alleged involvement in the coup, despite the Constitutional Court earlier ordering his release. In June 2018, Altan was released from prison on appeal. His brother and four others convicted in the same case remain in prison. The other journalist was convicted in the *Zaman* case (see below).

3.64 The government has particularly targeted journalists working with Kurdish-language outlets: emergency decrees have closed nearly all private Kurdish-language newspapers, television channels, and radio stations on national security grounds. Authorities have prosecuted or detained several journalists currently or formerly affiliated with Kurdish outlets for alleged links with the PKK or for 'spreading terrorist propaganda'. Many Kurdish journalists, including those working in the south-east, have reported threats, physical violence, and criminal investigations from state authorities. Journalists in the south-east who have spoken out against the PKK or in support of the government have faced intimidation and threats from the PKK.

3.65 Authorities have filed terrorism-related charges against journalists working on sensitive issues, particularly the conflict in the south-east and investigations into the Gulen movement. Courts reportedly heard 301 cases against journalists between July 2016 and July 2017: in 142 cases, prosecutors requested aggravated life sentences, while in five cases they requested life sentences. Courts have convicted many journalists, and several have received long prison sentences.

- In July 2018, a court convicted six former columnists for the now-closed Gulen-linked *Zaman* newspaper of membership of a terrorist organisation, handing down prison sentences of up to ten and a half years. Five other defendants were acquitted.
- In April 2018, a court convicted 14 journalists and administrators of the centre-left opposition *Cumhuriyet* newspaper of 'assisting a terrorist organisation' and 'terrorist propaganda', handing down sentences of up to eight years and six weeks' imprisonment.
- In March 2018, a court convicted 25 journalists and acquitted one of membership in a terrorist organisation, handing down prison sentences of up to seven years' imprisonment.

3.66 Opposition journalists have also reported intimidation and other pressure in relation to their work, including threats, raids, and occasionally physical attack. Senior government figures, including President Erdogan, have verbally attacked journalists by name in response to critical reporting. Some journalists have reported losing their jobs or being asked to censor their reporting if it appeared critical of the government. Some journalists reported being pressured by their editors to avoid or stop working with foreign

correspondents. Human rights observers claim such pressures contribute to an atmosphere of self-censorship. According to the Turkish Publishers Association, publishers often practise self-censorship by avoiding works that might draw legal action, including criticism of the government, erotic content, or pro-Kurdish content. Some writers and publishers have faced prosecution for defamation, denigration, obscenity, separatism, terrorism, subversion, fundamentalism, and insulting religious values.

3.67 Human rights observers report that the government has occasionally resorted to directly censoring the news media. In January 2017, the government issued an emergency decree authorising officials to interfere with or stop broadcasts in the event of a terror incident. The government declared media blackouts on several occasions in 2017, although not all were strictly enforced.

3.68 Human rights observers have expressed concerns about increasing purchases of independent media outlets by pro-government entities. In March 2018, a major independent media company, Dogan Holdings, announced it would sell its media assets to a government-linked business group. Dogan Holdings' assets included two top-selling newspapers, *Hurriyet* and *Posta*, and two television news channels, Kanal D and CNN Turk, which had regularly provided a platform for critical and independent voices. President Erdogan had repeatedly accused the group of anti-government bias. Since the sale, pro-government business groups own nine of the ten most watched television channels and nine of the ten most read newspapers.

3.69 In February 2017, the government issued an emergency decree removing the Supreme Board of Election's authority to fine or halt private radio and television broadcast outlets that violated the principle of equality, which required that broadcasters give equal access to the country's major political parties. This decree, combined with the country's increasing lack of media diversity, was reflected in the overwhelmingly pro-government coverage of the various political parties' campaigns for the June 2018 presidential and parliamentary elections. According to Reporters Without Borders, in May 2018, the public broadcaster TRT's news channels dedicated 68 hours to the AKP, seven to the CHP, 12 minutes to the Good Party, and no coverage at all to the HDP. While 12 state and privately-owned television channels covered the AKP's presentation of its election manifesto, none covered similar events for other parties.

3.70 Internet penetration has continued to increase in recent years: the share of Turkish households with internet access was 76 per cent at the end of 2016, while the percentage of internet usage for individuals aged 16 to 74 was 93.7 per cent over the same period. The basic laws of the telecommunications sector separate policymaking and regulation functions: the Ministry of Transportation, Maritime Affairs, and Communications is responsible for policymaking, while the Information and Communication Technologies Authority (BTK), whose board members are government appointees, is in charge of regulation. The *Internet Act* (2007) allows authorities to restrict access to internet content and telecommunications networks, and authorities regularly monitor individuals' online activities.

3.71 The government has considerably tightened restrictions over internet access, content, and usage in recent years. Amendments passed in March 2015 expanded the government's power to block websites on vaguely defined grounds and without prior court approval. Emergency decrees issued since the July 2016 attempted coup further increased the government's powers to expand surveillance and restrict internet access, and reduced parliamentary and judicial oversight. In March 2018, parliament passed a bill requiring broadcasters wishing to stream content online to be licensed by the radio and television watchdog authority (RTUK), subjecting them to the same criteria as radio and television broadcasters. The RTUK will be able to report unlicensed shows to a criminal court. The bill closes a loophole under which some Turkish broadcasters have sought to avoid censorship and strict content regulations by moving online.

3.72 Freedom House's 2017 'Freedom on the Net' report ranked Turkey 'Not Free' in relation to internet freedom. According to an internet freedom NGO, authorities blocked 16,089 websites between January and October 2017, of which only 722 were subject to a court order. The government has regularly suspended access to prominent social media sites such as Facebook, Twitter, YouTube, and WhatsApp on national

security grounds, and permanently blocked Wikipedia in April 2017 due to articles related to Turkey's role in the Syrian civil war. Authorities have regularly shut down access to internet and mobile services at times of tension, particularly in the south-east.

3.73 In the immediate aftermath of the July 2016 coup, several thousand people were arrested or detained due to their use of the encrypted Bylock messaging application. The government alleged that the application was used only by members of the Gulen movement (see [The Gulen Movement](#)). In numerous cases, use of Bylock was the only evidence cited of alleged support for or membership in the movement. In December 2017, the Ankara prosecutor's office found that nearly 11,500 people had been wrongly accused of using the Bylock application due to their mobile phones being directed to the Bylock servers without their knowledge after they downloaded a separate application written by a Gulenist. The finding paved the way for the release of nearly 1,000 detainees who had been arrested for alleged terrorism links.

Women

3.74 Article 10 of the Constitution states that all individuals are equal without any discrimination before the law, regardless of sex. A May 2004 amendment to Article 10 added a provision stating that women and men have equal rights, and that the state has the obligation to ensure that this equality exists in practice. Women enjoy considerable legal protection in many areas, including on personal safety, participation in the workforce, and mandatory schooling for girls. Marriage, divorce, inheritance, and child custody are regulated by a civil law code that respects gender equality (see [Personal Status Laws](#)). Twelve per cent of CEOs in Turkey are female, compared to the OECD average of five per cent. Successive Turkish governments have repealed and reformed provisions of the criminal and civil law codes that discriminated against women to bring them into line with European standards. The AKP government's removal of headscarf bans in universities and for members of the bureaucracy and the police force has removed an obstacle that previously prevented women and girls from conservative families from gaining access to higher education and participating in public life. The proliferation of internet and social media use has raised the profile and general awareness of issues surrounding gender equality.

3.75 While women participate in all areas of Turkish society, including government, business and civil society, societal, cultural and religious barriers continue to limit that participation. In its July 2016 response to the seventh periodic review of Turkey, CEDAW expressed concern about the persistence of deep-rooted discriminatory stereotypes concerning the roles and responsibilities of women and men in the family and in society. These roles emphasise the traditional role of women as mothers and wives, thereby undermining women's social status, autonomy, educational opportunities, and professional careers, as well as constituting an underlying cause of gender-based violence against women. CEDAW noted with concern that patriarchal attitudes were on the rise within state authorities and society, and that discussion focusing on vaguely defined concepts of 'gender equity' or 'gender justice' openly and increasingly undermined gender equality. Of particular concern was several discriminatory and demeaning statements by senior government figures about women who do not adhere to traditional roles. In June 2016 President Erdogan told a women's association that a woman who rejected motherhood and abandoned housework was incomplete, however successful her working life. In July 2014, the then-deputy prime minister said in a speech that women should not laugh loudly in public.

3.76 The June 2018 parliamentary elections saw voters elect 103 women to the 600-seat parliament. While this represented a record number of women in a Turkish parliament, it accounted for only 17.1 per cent of seats overall, far below parity, the global average of 22 per cent, and the 33 per cent of seats that women's rights advocates had called for. Thirty-three of Turkey's 81 provinces did not elect any female representatives. Two women currently serve in the 16-strong cabinet. The World Economic Forum's

2016 Global Gender Gap index rated Turkey 130th out of 141 countries. Turkey's 2017 female labour force participation of 32.3 per cent is the lowest of any European country.

3.77 Article 41 of the Constitution states that the family is the foundation of Turkish society, and is based on equality between the spouses. The state shall take the necessary measures and establish the necessary organisation to ensure the peace and welfare of the family, especially where the protection of the mother and children is involved. Women's rights advocates have expressed concern that the government has promoted policies and institutional arrangements that promote perceived 'family interests' at the expense of women's rights: the government replaced the Ministry of Women and Families with a newly established Ministry of Family and Social Policy in 2011. This Ministry was itself merged after the June 2018 election, and is now the Ministry of Labour, Social Services, and Family. In May 2016, a parliamentary commission called 'Protecting the Integrity of the Family' released a draft report with several recommendations aimed at reducing Turkey's growing divorce rate. Women's rights advocates criticised many of the recommendations, including one to limit the time period for alimony: the advocates argued that this would potentially put women leaving their abusive husbands at risk of severe economic hardship. Advocates also criticised a proposal to allow a man who had had sex with a girl aged between 15 and 18 to avoid criminal charges if he married the girl and the marriage lasted five years without physical violence (see [Personal Status Laws](#)). The government withdrew a draft bill on the latter proposal in November 2016, following widespread public protests.

3.78 While welcoming the government's efforts to promote gender equality through legislative reform, CEDAW expressed concern that certain discriminatory legislation remained in place. CEDAW highlighted in particular Article 287 of the Criminal Code on genital examinations, which allows a judge or prosecutor to authorise virginity testing, even if the subject does not consent to it. CEDAW also expressed concern over Article 13 of the *Regulation for the Implementation of Uterine Evacuation and Sterilization Services* based on the *Law on Population Planning* (1983), according to which a married woman can terminate her pregnancy only with spousal authorisation.

3.79 Gender-based and family violence is widespread in Turkey in both urban and rural areas. According to research undertaken by the Ministry of Family and Social Policies, 86 per cent of women surveyed stated they had experienced physical or psychological violence from their partners or family, and 70 per cent of women reported having been physically assaulted by partners, family members or neighbours. While severe cases of violence against women attract media interest and public condemnation, most people in Turkey accept lower level violence, such as a man slapping his wife in public, as a private affair. The *Law on the Prevention of Violence against Women and the Protection of the Family* (2012) does not specifically criminalise domestic violence. Women's rights advocates report that protection orders are insufficiently monitored and rarely enforced. Courts often hand down lenient judgements to perpetrators of sexual violence, including those convicted of raping minor girls, and sentences are often reduced if the defendant demonstrates 'good behaviour' during trials. In April 2016, the Minister for Justice defined domestic violence as an internal family matter, and questioned whether the state had a role in interfering in disagreements between husbands and wives.

3.80 Legal provisions for the establishment of violence prevention and monitoring centres call for a state-funded women's shelter for every 100,000 persons to offer economic, psychological, legal and social assistance to women seeking to escape violent relationships. As of December 2015, however, the Ministry of Families and Social Policies reported only 133 women's shelters located nationwide, 101 run by the central government and 32 by local administrations. The number of domestic violence shelters is insufficient to meet demand, and they are not well located. Ankara's five million people have only three shelters, while many cities with populations over 100,000 have no shelters. CEDAW notes that shelters often seek to reconcile women with their husbands or compel them to part with their children, and that their rules and

procedures limit their accessibility and utility to survivors of violence. The government operates a nationwide domestic violence hotline, but NGOs claim the quality of service is inadequate for victims of domestic abuse.

3.81 The July 2016 CEDAW report expressed concern about the situation of Kurdish women, particularly those affected by the resurgence of violence between the security forces and the PKK in the south-east since in 2015 (see [Security Situation](#)). CEDAW noted that women displaced from their homes face particular difficulties, including access to housing, education, and health services, and an increased risk of sexual and other violence. CEDAW documented allegations of harassment, sexual violence, and threats against Kurdish women. Security forces have reportedly shared naked pictures of raped or killed civilian and militant women on social media as a means of intimidation. Community representatives in south-eastern Turkey claim that trustees appointed to replace elected representatives (see [Political System](#)) have closed women's centres, particularly in municipalities most affected by security operations in early 2016. Many centres had assisted women and children suffering domestic violence, and had promoted women's engagement in social and political life. According to NGOs, the closure of the centres has reduced the likelihood that Kurdish women will seek assistance in domestic violence situations. They claim that Kurdish women, fearing police abuse and public shaming, are reluctant to discuss domestic violence outside their community. They also reportedly fear that police involvement will further increase the incarceration of Kurdish men without resolving the underlying cultural, social, and economic causes of violence. NGOs claim police confiscated confidential personal information from closed centres and stored it at an undisclosed location, potentially endangering the privacy and safety of thousands of centre users and their families.

3.82 No reliable statistics exist on the prevalence of 'honour killings' in Turkey. Honour killings are defined as a murder committed or ordered to punish a family member who is believed to have damaged the family's reputation. Actions considered damaging can include extramarital sex, refusal of an arranged marriage, choosing one's own spouse without family approval, becoming a victim of rape, homosexual acts (see [LGBTI \(Lesbian, Gay, Bisexual, Transgender, Intersex\)](#)), or liberal behaviour and dress. Women's advocacy groups report that honour killings are particularly common among conservative families in the south-east or among families of migrants from the south-east living in large cities. The July 2016 CEDAW report expressed concern that government efforts to change public perceptions of the concept of 'honour' had been insufficient. Individuals convicted of honour killings can be sentenced to life imprisonment, but in practice courts often reduce sentences due to mitigating factors, including anger and passion caused by the victim's 'misbehaviour'. Human rights observers report a degree of societal acceptance that an 'honour' violation could justify relatives killing women. Family members sometimes pressure girls to commit suicide to protect the family's honour.

3.83 DFAT assesses that most Turkish women face a risk of societal discrimination that will range from low to moderate dependant on geographic location and socio-economic level. Turkish women face a moderate risk of gender-based violence. Kurdish women residing in conflict-affected areas in the south-east face an additional high risk of conflict-related violence. Most women in Turkey face a low risk of official discrimination in the form of legislation that acts to restrict their participation in the workforce and community.

LGBTI (Lesbian, Gay, Bisexual, Transgender, Intersex)

3.84 No legislation in Turkey prohibits homosexuality or homosexual acts: the Ottoman Empire decriminalised sodomy in 1858. The legal age of consent for homosexuals is the same as for heterosexuals. Transgender individuals can legally change gender, although a court must grant permission based on a medical report. Legal gender reassignment is conditional upon the individual remaining unmarried and undergoing surgery and sterilisation. Legislation does not, however, explicitly prohibit discrimination on the basis of sexual orientation or gender identity in social institutions, government offices, or corporations. The

law does not guarantee LGBTI citizens certain rights enjoyed by others, including but not limited to marriage and associated partnership benefits such as retirement, inheritance, insurance, social security, and access to the corpse in case of death.

3.85 Human rights groups report that police have used legal provisions relating to ‘offences against public morality’, ‘protection of the family’, and ‘unnatural sexual behaviour’ to justify harassment of LGBTI individuals. Police harassment against transgender sex workers is reportedly common, often to extract bribes. No legislation prohibits hate crimes against LGBTI individuals. Human rights groups claim this leaves LGBTI individuals vulnerable to street crime and general violence, noting at least 41 reported murders of self-identified LGBTI individuals between 2010 and 2014. Article 29 of the Criminal Code allows for the mitigation of sentences, including assault or murder, if the defendant has been provoked by an ‘unjust act’. Human rights groups claim judges have routinely used Article 29 to mitigate sentences in cases of murder of LGBTI individuals. In February 2014, NGOs claim a court reduced a life sentence to 18 years for the murder of a transgender woman on the grounds of ‘unjust provocation’, where the provocation was the victim’s gender identity.

3.86 A strong societal taboo exists against LGBTI issues and individuals. A 2013 survey by the Pew Research Center found 78 per cent of Turkish citizens felt society should not accept homosexuality, and a 2011 World Values Survey found 84 per cent of Turkish citizens did not want to live with LGBTI neighbours. A 2012 Konda survey found only 11.2 per cent thought homosexuality should not be a criminal act. DFAT assesses that these societal attitudes are unlikely to have improved in more recent years. Pro-government media and high-level officials, including President Erdogan, frequently make derogatory comments and statements about homosexuality: in November 2017, the president accused the CHP of having a ‘gay quota’ for candidates standing for municipal elections.

3.87 Human rights observers report that LGBTI individuals often feel the need to hide their sexual orientation or gender identity at work, and those who do not (or cannot) may face negative repercussions. High unemployment rates in the economy as a whole make LGBTI individuals reluctant to complain about discrimination, for fear of losing their livelihoods. Turkish employment law allows the dismissal of a government employee who is found ‘to act in a shameful and embarrassing way unfit for the position of a civil servant’, while other statutes criminalise the undefined practice of ‘unchastity’. Human rights observers report that employers have used these provisions to discriminate against LGBTI individuals. Since medical benefits are conditional on employment status, LGBTI persons who are unemployed due to discriminatory hiring practices may have difficulty obtaining medical treatment, including for HIV/AIDS. Social stigma against HIV/AIDS leads many LGBTI individuals to avoid testing, for fear the results tests may be used against them.

3.88 The societal situation for LGBTI individuals varies considerably according to location and socio-economic level. Many LGBTI individuals live openly and safely in wealthier neighbourhoods in major cities, particularly Istanbul. However, those at lower socio-economic levels residing in poorer and rural areas, particularly in Anatolia, are less likely to be able to do so because of the more conservative values that prevail in these areas. Both gay men and lesbians face considerable social pressure to enter into a heterosexual marriage and produce children.

3.89 Human rights observers reported in 2016 that approximately 50 organisations actively worked to promote the rights and interests of LGBTI individuals in Turkey, including official groups in Istanbul, Ankara, Izmir, Adana, and other major cities, and unofficial groups in smaller cities and university campuses. A support group for LGBTI families and relatives was established in late 2016 or early 2017. LGBTI groups are able to register formally and operate openly. Many, however, report difficulty finding office space due to discrimination from landlords, official harassment in the form of frequent and onerous audits under threat of large fines; and the refusal of university authorities to permit groups to organise on campus. Like other civil society organisations, LGBTI groups faced increased operating restrictions under the state of emergency, and

scaled back their advocacy activities as a result. In November 2017, the governor of Ankara announced a ban on public LGBTI events, including cinema, theatre performances, panels, interviews, and exhibitions, citing security concerns. Authorities have banned the Istanbul Pride march on public order and security grounds since 2015. The march had previously run for more than a decade and, with tens of thousands of participants, was one of the largest LGBTI events in the Muslim world. Police have forcibly prevented or dispersed recent attempts by LGBTI community members to gather in Istanbul's Taksim Square, a location where demonstrations have been banned since 2013. They have also arrested members of anti-LGBTI groups who have gathered to counter-protest.

3.90 LGBTI prisoners and detainees are vulnerable to physical violence and harassment from both prisoners and guards (see [Conditions in Detention](#)). LGBTI prisoners often seek medical clearance to move to isolated containment cells on grounds of mental or physical illness. In 2012, the ECHR found Turkey's policy of isolating LGBTI prisoners to be discriminatory. In response, the Minister for Justice announced plans in April 2015, to construct LGBTI-only prisons, with construction subsequently commencing on a site in Izmir. While the Ministry claimed this was a safety measure designed to protect LGBTI prisoners from abuse, LGBTI NGOs and activists criticised the move as a means of ostracising the LGBTI community. It is unclear when the new facility will be completed and ready to receive LGBTI prisoners.

3.91 DFAT assesses that LGBTI individuals (and those perceived to be LGBTI) face a moderate risk of societal discrimination, which may include violence. This risk may vary according to geographic location, socio-economic level and personal and family circumstance. Traditional views about sexuality and gender that continue to prevail throughout Turkey may restrict their participation in the workforce and broader community.

Military Objectors

3.92 Article 72 of the Constitution states that national service is the right and duty of every Turk. Males are required to register at age 20 for service that commences once they turn 21. University students can defer their service until they have completed their studies. Males aged 20 to 41 are eligible for conscription and must undertake military service of six months for university graduates and 12 months for non-graduates.

3.93 Although military service is viewed as a rite of passage for young men, exemption or deferment from military service is possible. University students can delay their service until they have completed their studies, and potential conscripts can be exempted for being medically unfit, for residing outside the country, or for 'proving' their homosexuality. Local sources report that a potential conscript can also be exempted if his brother died while undertaking military service. Tests to prove an individual is medically unfit for duty are rigorous. Homosexuality is regarded a psycho-social illness and must be proven in two ways: an invasive medical examination by a military approved doctor and provision of photographic evidence. If a physical disability is claimed, the individual must undergo checks every two years during their period of eligibility to confirm their disability still exists.

3.94 The government has periodically provided the option of paying a fee to reduce or waive the period of required military service. In July 2018, parliament ratified a law that will enable Turkish men born on or before 1 January 1994 to complete their military service in 21 days if they are university graduates and pay TRY15,000 (then AUD3385). The option of paying for exemption was last offered in 2014, with the fee set at TRY18,000 (then AUD9,000), reduced from an earlier rate of TRY35,000 (then AUD18,000). The 2014 exemption was widely criticised for discriminating against the poor: TRY35,000 was close to the median annual income at the time. In January 2016, the government passed a law allowing Turkish citizens over the age of 38 who had lived or worked outside Turkey for at least three consecutive years to obtain exemption from military service for TRY5680 (then AUD1580).

3.95 Military authorities issue documents for exemption of service that indicate the person has no outstanding liability or obligation in terms of military service. Such documents do not include information on reasons for being unfit. People who are unfit for military service can obtain public or private sector employment without difficulty. Authorities maintain a sophisticated national database of military service, making evasion for an extended period almost impossible (see [Central Civil Registration System \(MERNIS\)](#)). Any interaction with authorities, such as being stopped for a traffic infringement, can lead to a cross-check of an individual's military service record. In addition, the bar code in biometric passports (see [Passports](#)) is linked to the national database, meaning authorities can identify and detain draft evaders on their return to Turkey (see [Passports](#)).

3.96 The government does not recognise the right to conscientious objection to military service. Those who oppose mandatory military service on religious grounds may face charges in military and civilian courts, with potential prison sentences of between two months and two years. The first known case of conscientious objection was lodged in 1989. The number of cases has steadily risen, however: a media report in August 2016 estimated the total number to be in the thousands. Activists formed a Conscientious Objection Association (COA) in 2014, with the support of leftists, religious Muslims, Kurdish militants, pacifists, and feminist allies. As with other human rights defenders, the ability of COA to conduct activities has been restricted under the state of emergency. Prosecutions against conscientious objectors have continued: international human rights observers reported that, in August 2017, 68 Jehovah's Witnesses faced prosecution for objecting to military service.

3.97 Authorities treat draft evasion and desertion seriously: those who attempt to evade military service face prison time. Article 63 of the *Law on Absentee Conscripts, Draft Evaders, Persons Unregistered [for Military Service] and Deserters* (1930) provides for penalties for those evading military service in peacetime ranging from one month imprisonment for those who report to the authorities within seven days, to up to thirty-six months' imprisonment for those who are arrested after three months. Article 63 can be applied multiple times, with a separate case for each time the evader or deserter refuses to carry out military service; and evaders and deserters may also be charged under Articles 87 or 88 of the same law, for refusal to take the military oath, to wear a uniform, or to obey orders.

3.98 DFAT assesses that most, but by no means all, Turkish men will undergo military service. Exemption from military service is possible, but depends heavily on individual and socio-economic circumstances. Conscientious objectors and draft evaders are likely to face prosecution, imprisonment, and restricted access to a wide range of social benefits and civil rights, which may include the ability to leave the country.

4. COMPLEMENTARY PROTECTION CLAIMS

ARBITRARY DEPRIVATION OF LIFE

Extrajudicial Killings

4.1 The overwhelming majority of cases involving unlawful or extrajudicial killings in Turkey are connected to the conflict between government security forces and the PKK in the south-east (see [Security Situation](#)). Human rights observers report that both the government and PKK have taken insufficient measures to protect civilian lives. The ICG reported that, between 20 July 2015 and the end of September 2018, clashes between security forces and the PKK had killed 461 civilians (identified and confirmed by ICG as non-combatants), and 223 'Youth of Unknown Affiliation'. This last descriptor refers to individuals aged 16 to 35, who were killed in areas of clashes and cannot be positively identified as civilians or members of plainclothes PKK youth militias due to the blurred line between civilian and militant in an urban conflict setting. The February 2017 OHCHR report on the human rights situation in Turkey reported that authorities had not conducted any investigations into the alleged unlawful killing of hundreds of people in south-east Turkey between late July 2015 and the end of August 2016. According to family members and lawyers representing the victims, local prosecutors have refused to open investigations into the reported killings, despite their constitutional and international human rights obligations to do so.

4.2 In his May 2015 report, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions noted that only a handful of trials had proceeded in relation to thousands of unresolved killings, deaths in custody, and enforced disappearances that both state officials and PKK members are suspected to have committed in south-east Turkey during the 1990s. The Special Rapporteur expressed concern over the discovery of mass graves believed to contain the remains of victims of enforced disappearances and members of illegal militant organisations dating back to the 1980s. He further noted the lack of a comprehensive approach to the right of remedy and reparation for victims of human rights abuses during that period.

Enforced or Involuntary Disappearances

4.3 In September 2017, the UN Working Group on Enforced and Involuntary Disappearances was investigating 94 outstanding cases of enforced disappearance in Turkey. Most of these cases relate to disappearances between 1992 and 1996 in south-eastern Turkey in the context of clashes between the PKK (see [Kurds](#)) and government security forces. The UN Working Group expressed concern over the resurgence of clashes in south-east Turkey since July 2015, describing the situation there as similar to that described in its 1998 report, which detailed human rights violations. In its February 2017 report on the human rights situation in south-east Turkey, OHCHR noted claims of the enforced disappearances of three men from south-eastern Turkey in separate incidents in August 2016 in Istanbul, Sanliurfa and Lice. OHCHR also

reported the disappearance in Ankara in November 2016 of a member of the pro-Kurdish Democratic Regions Party from Diyarbakir.

4.4 The UN Working Group conducted an official visit to Turkey in March 2016. Following the visit, the UN Working Group reported difficulties in assessing the dimension of the problem of enforced or involuntary disappearances in Turkey or to obtain accurate figures as the government had done very little to address the issue. The UN Working Group noted the absence in Turkish law of a separate criminal offence of causing enforced disappearance: authorities investigate and prosecute cases as murder, torture or arbitrary deprivation of liberty. Consequently, even when enforced disappearance has obviously occurred, if the 'parent' crime cannot be established, the case either terminates or ends in acquittal. This legislative lacuna contributes to public distrust in the criminal justice system, and to a perception of impunity for the perpetrators of enforced disappearances. The UN Working Group's report noted that only two cases of enforced disappearance had resulted in the sentencing of perpetrators.

4.5 International and domestic human rights groups have expressed concern about an increase in enforced disappearances following the July 2016 attempted coup, including in foreign countries. In August 2017, HRW wrote to the Minister for Justice to request an urgent investigation into the abduction and possible enforced disappearance of at least four men in Ankara since March 2017. One of the men, a former teacher, was found in police custody 42 days later. The location of the other three, who disappeared in similar circumstances, remains unclear. In April 2018, state media published photographs of six detained men alleged to be high-ranking members of the Gulen movement. The media report claimed a joint operation between Turkish and Kosovar security forces had arrested them in Kosovo and subsequently returned them to Turkey. It later emerged through media reporting that Turkish authorities had returned the men to Turkey without the knowledge or permission of Kosovar authorities.

4.6 International human rights observers claim the PKK abducted 20 officials and civilians in 2017.

Deaths in Custody

4.7 Human rights groups documented several suspicious deaths of detainees in official custody in 2017, although overall numbers varied. The Human Rights Foundation of Turkey reported at least ten deaths in prison, including three children; the HRA reported 17 deaths. In response to written questions from an opposition parliamentarian, the Ministry of Justice reported that 66 prisoners committed suicide in 2016, 40 of them after the July 2016 failed coup. In August 2016, a 59-year old trade unionist died in police custody after being detained along with 90 others, reportedly in relation to the failed coup. After 12 days in detention, the man sustained injuries before his court appearance, and he died in hospital after nine days in a coma. A hospital autopsy confirmed the cause of death was a brain haemorrhage. Police claimed the man injured his head by falling down the courthouse steps; critics argue the death was suspicious as the man had a two-person police escort when he sustained his injuries. In his December 2017 report, the UN Special Rapporteur on torture, and other cruel, inhuman or degrading treatment or punishment noted that while, autopsies were routine in cases of deaths in custody, it was not possible to assess whether they were conducted in accordance with international minimum standards.

DEATH PENALTY

4.8 Turkey abolished the death penalty for peacetime offences in 2002 and in all circumstances in 2004. The last execution in Turkey took place in 1984. President Erdogan has repeatedly said publicly that he is open to reintroducing capital punishment if parliament votes for it. Following the passage of the April 2017 constitutional referendum (see [Political System](#)), for example, Erdogan told supporters that he would

approve any parliamentary bill to reinstate the death penalty and suggested another referendum to gauge popular levels of support for the move. To date, however, the government has not taken any action to reintroduce the death penalty, including holding the suggested referendum.

TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

4.9 Turkey is a party to ICCPR, CAT and OPCAT (see [Human Rights Framework](#)). As a member of the Council of Europe, Turkey is party to the Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights) and its Protocols Nos. 1-12, and to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its Protocol No. 2. Article 17 of the Constitution enshrines the right to be free from torture and other ill-treatment and the right not to be subjected to penalties or treatment incompatible with human dignity. The Criminal Code criminalises torture, and defines it as a serious crime punishable with life imprisonment in aggravated cases. Article 147 of the *Code of Criminal Procedure* (2004) sets legal standards for interviewing suspects, to prevent torture and ill-treatment. Requirements include notification of charges, the right to legal counsel, the right to remain silent, notification of the arrest to next of kin, and the obligation to record every interview in writing, or to make an audio and video recording in the case of individuals suspected of acts of terrorism. Article 148 of the Criminal Procedure provides that confessions obtained through any bodily or mental intervention that impairs the free will, including torture, shall not be used in evidence and shall not serve as a basis for evidence in any proceedings.

4.10 Despite these legal protections, human rights observers report that torture and other ill-treatment of detainees is common in Turkish detention facilities, particularly as a means of extracting confessions or forcing detainees to denounce other individuals. The UN Special Rapporteur on torture, and other cruel, inhuman or degrading treatment or punishment visited Turkey in November 2016, and reported allegations of widespread torture and other forms of ill-treatment both in relation to the July 2016 failed coup and to the conflict in the south-east. Most allegations of torture and ill-treatment relate to the time of arrest and subsequent detention in police or gendarmerie lock-ups, or in improvised unofficial detention locations such as sports centres, stables and the corridors of courthouses. Alleged mistreatment included severe beatings, kickings, punches, verbal assaults, sexual penetration with objects and other sexual violence or threats thereof, prolonged stress positions and handcuffing, prolonged periods of solitary confinement, and deprivation of access to water, food, medical treatment, and sleep. Physical mistreatment generally ceased once authorities transferred detainees to regular detention facilities. According to human rights observers, reports of torture and ill-treatment are now significantly lower in number and severity than in the weeks following the July 2016 failed coup. In the south-east, however, occasional allegations of abuse and degrading treatment continue, including verbal assaults and threats, slaps, and invasive body searches, as well as male guards sexually threatening or harassing female detainees during transfers and denying them privacy during medical examinations.

4.11 In principle, prosecutors can and must investigate all allegations of torture and ill-treatment *ex officio*, regardless of an individual complaint, and the Public Prosecutor must follow up all complaints received. Complaints may be brought by victims themselves, by their family or lawyer, by civil society organisations, or by a monitoring mechanism such as the Ombudsman Institution (see [National Human Rights Institution \(NHRI\)](#)). According to the General Directorate of Prisons and Detention Houses, officials regularly screen open source material, such as reports by NGOs and media pieces, for allegations of ill-treatment, which they then treat as an individual complaint. Authorities have also established a hotline to enable families to lodge complaints. Human rights groups claim most victims of torture or other ill-treatment do not file complaints with authorities for fear of retaliation against them or their families, and due to low

levels of trust in the independence of the prosecution and the judiciary, and their willingness or ability to investigate and adjudicate claims. The Special Rapporteur reported that formal investigations and prosecutions were extremely rare, indicating insufficient determination on the part of responsible authorities to take cases forward, and thus creating a strong perception of *de facto* impunity.

4.12 Since 2012, the Constitutional Court has been able to receive direct complaints from individuals about violations of their rights under the Constitution and the ECHR and its Protocols, provided no effective remedy has been given by lower courts. Individuals can lodge complaints of torture directly with the Constitutional Court if the prosecutor fails to initiate an investigation into torture allegations. Between 2012 and the end of 2017, the Constitutional Court received approximately 121,000 complaints in relation to torture. Prior to the July 2016 failed coup, the Constitutional Court received approximately 20,000 torture-related complaints per year. Post-coup, the number of complaints increased significantly: the Constitutional Court received 69,752 individual petitions in 2016 alone. By the end of 2016, the Constitutional Court had issued 38 judgements finding a violation of the prohibition of torture (3 in 2014, 10 in 2015, and 25 in 2016).

4.13 DFAT assesses that reports of torture in Turkish police stations and detention facilities, particularly in the south-east, and in the period immediately following the 2016 attempted coup are likely credible. People who have undergone torture at the hands of officials are highly unlikely to receive redress through official channels.

Arbitrary Arrest and Detention

4.14 Article 19 of the Constitution prohibits arbitrary arrest and detention, and provides for the right of any person to challenge the lawfulness of arrest or detention in court. Legislation requires warrants issued by a prosecutor for arrests, unless the suspect is detained while committing a crime. Under ordinary circumstances, individuals may be detained for up to 24 hours, after which a prosecutor may authorise extending the period to 48 hours (excluding transportation time), before arraigning them with a prosecutor's warrants before a judge. A chief prosecutor may apply to extend this period of custody for up to four days before arraignment under certain circumstances, including cases with multiple suspects and charges. Formal arrest is a later step, separate from detention, and means a suspect is detained in jail until and unless released by a subsequent court order. Authorities must notify suspects of the charges against them within 24 hours. International and domestic human rights observers claim that law enforcement officials do not always follow these requirements.

4.15 Following the failed coup of July 2016, the government issued several decrees relating to the conditions under which authorities may hold detainees. The *Decree Law on Measures to be taken under the State of Emergency* (2016) extended the maximum duration of detention without charge or judicial review to 30 days, and severely curtailed access to lawyers for detainees suspected of posing a risk to public security, or of exchanging information with a terrorist organisation. It allowed officials to be present and to make audio and video recordings of meetings between detainees and their lawyers, and to seize any documents exchanged or kept during those meetings. It gave the public prosecutor the power to limit interviews and meetings between counsel and client, and to remove from legal counsel duties legal professionals who were themselves suspected of having supported the attempted coup. A subsequent Decree Law (No. KHK/668 (2016)) extended the period of custody without access to a lawyer to up to five days, and gave the prosecutor the power to restrict the defence counsel's access to examine the case file, if access would compromise the investigation. The December 2017 report by the Special Rapporteur on torture, and other cruel, inhuman or degrading treatment or punishment noted that while the Decree Law stipulated that no statement was to be taken from a suspect while detained without access to counsel, this provision exposes suspects *de facto* to incommunicado detention, making them particularly vulnerable to torture and other ill-treatment.

4.16 A number of emergency decrees have been formalised through their addition to regular legislation: Decree Law No. 676 (2017) added to the Code of Criminal Procedure both the possibility of being detained without access to a lawyer for up to 24 hours, and limits on confidential contacts between detainees and their counsel. Under a new anti-terror law passed in July 2018, authorities can hold suspects without charge for up to 48 hours or up to four days for multiple offences.

Corporal Punishment

4.17 Neither the Criminal Code nor the Criminal Procedure Code allows judicial corporal punishment. While corporal punishment is considered unlawful as a disciplinary measure in penal institutions, it is not specifically prohibited in law. The *Law on Enforcement of Punishment and Security Policies* (2004) provides for the rights of children in detention but does not explicitly prohibit corporal punishment. No legislation explicitly prohibits corporal punishment in schools, but several laws provide for punitive measures against teachers who use physical or psychological violence against children, and it has long been considered unlawful. Corporal punishment is lawful in the home and in alternative care settings. While the Civil Code was amended in 2002 to remove parents' 'right of correction', Article 232 of the Criminal Code still recognises the concept of parental 'disciplinary power'. Courts have not recognised provisions against violence and abuse in the Criminal Code, the *Law to Protect the Family and Prevent Violence against Women* (2012) and the *Juvenile Protection Law* (2005) as prohibiting corporal punishment in childrearing. Observers report a near universal social and cultural acceptance of the use of corporal punishment in childrearing in Turkey.

4.18 Turkey expressed its commitment to prohibiting all corporal punishment, including of children, through accepting recommendations to do so during its 2010 and 2015 UPRs (see [Human Rights Framework](#)). Turkey is a signatory to the Council of Europe's campaign against corporal punishment of children. However, the government has taken no recent moves towards legal prohibition.

5. OTHER CONSIDERATIONS

STATE PROTECTION

5.1 The Ministry of Interior is responsible for ensuring law and order throughout Turkey. It operates through a number of separate security and intelligence agencies. Turkey has a wide range of state protection mechanisms. Its security forces and judicial institutions are well established, civilian-run, and benefit from a long tradition of public service. The government's strong response to the failed coup of July 2016, particularly towards those accused of links with the Gulen movement, has weakened the capacity of the security and criminal justice system to deliver state protection. While official avenues exist to lodge complaints of human rights abuses and improper treatment by police and other security authorities, DFAT assesses it unlikely that a complaint from a high-risk group, such as an ethnic minority or political activist, alleging abuse by a member of the security forces would result in prosecution.

Military

5.2 The Turkish Armed Forces (TSK), comprising an army, navy and air force, are responsible for territorial defence, including having overall responsibility for border security. The president is Commander-in-Chief, while the Chief of General Staff is Commander of the Armed Forces with responsibility for the day-to-day running of the military. With a total strength of approximately 350,000 active personnel, 360,500 reserves, and 1.375 million Turkish citizens reaching military age annually, the TSK is one of the world's largest militaries. Global Firepower ranked Turkey 9th out of 136 countries in its annual review of military strength for 2018.

5.3 The TSK played a central role in the establishment of the Republic of Turkey, and has long played a prominent role in Turkish politics and society. The overwhelming majority of Turkish men undergo national service (see [Military Objectors](#)). The TSK has traditionally seen itself as the guarantor of secularist values, and has intervened in domestic politics on several occasions (see [Recent History](#)). Since 2002, the AKP government has greatly strengthened civilian oversight over the military. Decree 694 of August 2017 amended a number of laws that relate to the organisation and operations of the TSK.

5.4 Like other branches of the Turkish civil service, the dismissals of alleged Gulenists under the state of emergency have affected the military. The government dismissed around 25,000 military personnel in the immediate aftermath of the attempted coup, including 150 generals. On 8 July 2018, authorities announced the dismissal of a further 6,801 military personnel as part of a broader wave of dismissals, while also demoting several senior military personnel.

5.5 The February 2017 OHCHR report detailed numerous allegations of human rights violations committed by both security forces and the PKK in connection with the security operations in the south-east. Allegations included: excessive use of force; extra-judicial killings; enforced disappearances; torture; destruction of housing and cultural heritage; incitement to hatred; prevention of access to emergency medical care, food, water, livelihood, and humanitarian assistance; violence against women; and severe curtailment of the rights to freedom of expression and opinion and political participation (see relevant

sections). The most serious human rights violations reportedly occurred during periods of curfew, when entire residential areas were cut off and movement restricted around the clock for several days at a time (see [Kurds](#)). In March 2018, OHCHR noted continuing reports of incidents between security forces and members of armed groups, and of associated human rights violations all over south-east Turkey.

Police

5.6 The Turkish National Police ('the police') is the civilian police force responsible for law enforcement in Turkey. While ultimately responsible to the Ministry of Interior, the police carry out their duties under the command and control of civil authorities including governors and heads of district administrations. In accordance with the *Law on Duties and Powers of the Police* (2004), the main duties of the police are to prevent crime, provide public peace and order, provide security to people and property, and to detect, arrest, and transfer offenders and case evidence to the appropriate judicial bodies.

5.7 Like other branches of the Turkish civil service, the dismissals of alleged Gulenists under the state of emergency have affected the police. On 8 July 2018, authorities announced the dismissal of a further 8,998 police personnel as part of a broader wave of dismissals. The total number of police dismissed is unclear but is at least 20,000.

5.8 International and domestic human rights groups have expressed concerns that the government has taken only limited steps to investigate, prosecute, and punish members of the police and other security forces accused of corruption and human rights abuses (including historical allegations), leading to perceptions of impunity. Human rights observers have also expressed concerns over allegations that police and other security forces mistreated and tortured detainees in the aftermath of the July 2016 attempted coup (see [Torture and other Cruel, Inhuman or Degrading Treatment or Punishment](#) and [Arbitrary Arrest and Detention](#)). In its March 2018 report, OHCHR noted reports that police officers who refused to participate in arbitrary arrests, torture, and other repressive acts under the state of emergency had been dismissed or themselves arrested on charges of supporting terrorism.

Other Security Forces

5.9 Although the TSK has overall responsibility for border control and external security, the Jandarma, a paramilitary force, is responsible for rural areas and specific border sectors where smuggling is common. The Jandarma supervises the 'security guards' (formerly known as 'village guards'), a Kurdish civilian militia that provides additional local security in the south-east, largely against the PKK (see [Security Situation](#)). International observers have alleged security guards' involvement in historical human rights abuses. DFAT is unable to provide any additional information in relation to this claim.

National Intelligence Organisation (MIT)

5.10 The National Intelligence Organisation (MIT) reports directly to the presidency and is responsible for collecting intelligence on existing and potential threats. MIT has the legal power to collect data from any entity without a warrant or other judicial process. Criminal penalties apply to interfering with MIT activities, including data collection or obtaining or publishing information concerning the agency. MIT members have had legal immunity from prosecution since 2014. In August 2014, the government issued an emergency decree requiring the permission of the president before the head of MIT could come under investigation or testify before parliament.

Judiciary

5.11 Article 9 of the Constitution states that judicial power shall be exercised by independent courts on behalf of the Turkish nation while Chapter 3 (Articles 138-160) details the roles, responsibilities and structure of the judiciary. Article 138 guarantees the independence of the courts, prohibits any authority, office or individual from giving orders or instructions to courts or judges, and compels legislative and executive organs and the administration to comply with court decisions without delay or alteration. The judicial system comprises several different courts. General courts of first instance are located throughout the country and hear the majority of civil, administrative, and criminal cases. A single judge will normally hear minor civil and criminal cases; a presiding judge and two members with a public prosecutor will hear criminal cases involving penalties of more than five years' imprisonment. Military courts exercise jurisdiction over all military personnel. The constitutional changes approved in the April 2017 referendum abolished the use of military courts for civilian cases, reserving military justice for disciplinary cases only.

5.12 The Board of Judges and Prosecutors (HSK) controls the careers of judges and prosecutors through appointments, transfers, promotions, expulsions and reprimands. The April 2017 constitutional amendments (see [Political System](#)) changed the HSK's configuration with immediate effect. The number of board members has reduced from 22 to 13, of whom six will be appointed by the president. The Minister for Justice (a separate presidential appointee) will chair the board, and the Deputy Minister of Justice will be a permanent member. Parliament will elect the seven remaining board members. The judiciary itself will not have the power to select any board members.

5.13 Since the July 2016 attempted coup, the government has suspended, detained or dismissed several judicial staff accused of affiliation with the Gulen movement. Decree 667, issued in October 2016, gave the Constitutional Court, the Court of Cassation, and the Supreme Administrative Court the power to dismiss members for links to the Gulen movement. According to OHCHR, as of March 2018 the HSK had dismissed 4,240 judges and prosecutors through executive orders, while the Constitutional Court had dismissed two of its judges. OHCHR reported the collective dismissals and suspensions of judges from lower instances courts through lists issued by the HSK did not follow appropriate procedures, including presumption of innocence, the provision of specific evidence, individual reasoning in each case, and the ability to present a defence. In addition, the arrests of judicial staff breached the *Law on Judges and Public Prosecutors* (1983), which states that members of the judiciary can be arrested only when caught in the act of committing an aggravated felony. Local sources note the departure of senior judges and effective government control of the HSK has affected public perceptions of judicial independence, as less experienced judges are less likely to rule against the government.

5.14 Human rights observers have expressed concern over the role played by Peace Judgeship Courts following the attempted coup. The *Law on Amendments to Turkish Criminal Code and Certain Laws* (2014) established the courts to respond to government claims that corruption investigations against high-level public officials and businessmen represented an attempted coup by the judiciary. Amendments to the *Law on Criminal Procedure* (2004) extended the courts existing powers, including through giving them the right to issue search and seizure warrants (including interception of communications). Under the state of emergency, the Peace Judgeship Courts have used emergency decrees to issue detention orders, including against journalists and human rights defenders, to impose media bans, to appoint trustees to take over media companies, or to block the internet. Appeals against peace judgeship court decisions must be made to another peace judgeship. According to the European Commission for Democracy through Law (better known as the Venice Commission), the courts' heavy workload leaves them insufficient time to provide individualised reasoning, notably in cases of detention and when shutting down internet sites. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

considered the system of horizontal appeal to fall short of international standards, thus depriving individuals of due process and fair trial guarantees.

Conditions in Detention

5.15 The Ministry of Justice's General Directorate of Prisons and Detention Houses administers Turkey's prison system. At the end of December 2017, Turkey had a prison population of 232,179, an occupancy level of 110.8 per cent based on the official capacity of the prison system. Of this population, 43.1 per cent were pre-trial detainees, 4.2 per cent were female prisoners, and 1.2 per cent juveniles. In addition to 381 formal prisons, Turkey also holds detainees in 1,264 police stations nationwide (with 1,197 lock-ups), 2,012 custodial areas in the internal security units of the gendarmerie, and 303 lock-ups under 81 provincial public security branch offices, with a total of 52,000 guards.

5.16 According to international observers, detention conditions in Turkey have worsened considerably since the July 2016 attempted coup. Although conditions previously varied to some degree between facilities and between categories of prisoner, the overwhelming majority of detainees received prompt and adequate medical treatment, had access to work, training, recreational and cultural activities, and visits and phone calls with family members and lawyers. The mass arrests that followed the July 2016 attempted coup, however, led to a large influx of detainees into the detention system. A HRW report estimated that between October 2016 and October 2017, more than 150,000 people passed through police custody accused of terrorist offences, membership of armed groups, or involvement in the attempted coup. The Ministry of Interior reported that, as of the end of December 2017, authorities had taken 159,506 prisoners into custody, of whom 55,000 were subsequently charged and remanded in custody. In order to accommodate the new arrivals, an August 2016 emergency decree ordered the release of approximately 44,000 ordinary inmates. DFAT understands those released under the decree were those with less than two years of their sentence remaining. Nevertheless, the scale of the influx has led to overcrowding in many detention facilities. International observers have expressed concern that this has negatively affected conditions of detention. At least 50 new prisons are reportedly under construction, including one specifically intended to hold LGBTI prisoners (see [LGBTI \(Lesbian, Gay, Bisexual, Transgender, Intersex\)](#)). It is unclear when these new facilities will become operational.

5.17 The December 2017 report by the Special Rapporteur on torture, and other cruel, inhuman or degrading treatment or punishment expressed serious concern about the conditions of detention in police holding cells. Although intended to hold detainees for only short time periods, police holding cells have housed groups of up to 30 people in shared rooms of inadequate size for up to 30 days. Detainees in police holding cells do not have access to a yard, sunlight, and fresh air, which the Special Rapporteur described as unacceptable for periods exceeding 48 hours.

5.18 Authorities at detention facilities conduct invasive body searches on the inmates themselves and on visitors. Security officials perform body searches on inmates upon arrival in the prison, before and after transfers or temporary departures (such as for medical treatment), and sometimes inside the detention centre or cells, without prior warning or justification. The frequency of such searches has reportedly increased significantly since the July 2016 failed coup. The Special Rapporteur noted that while male, female, and juvenile inmates were separated in detention facilities, pre-trial detainees and convicts often occupied the same cells and blocks. Detainees were separated on the basis of the offence: those charged with, or convicted of, terrorist offences were held separately from others. International observers have reported a strict separation between those detained for having Gulenist connections and members of other organisations, such as the PKK.

5.19 Inmates charged with or convicted of terrorism offences have less access to visits by family and lawyers and to phone calls than ordinary prisoners: the former are entitled to two one-hour visits and two telephone calls per month, the latter four visits and more extensive telephone rights. Human rights observers have reported that access to detention facilities and detainees by family and lawyers is at the discretion of the individual duty officer, who may deny permission for a visit without providing any reason. Lawyers have reported that in some cases police have continued to bar access beyond the allowable period, forcing them to apply to the Prosecutor's Office to negotiate access. They have reported that police officers are often present during their meetings with detainees, preventing them from consulting with their clients in confidence, and that police have pressured some lawyers who challenged official accounts of police interviews with their clients, at which the lawyers were present.

5.20 The March 2018 OHCHR report expressed concern over an emerging pattern of authorities detaining women just before, during, or immediately after giving birth. According to OHCHR, in December 2017, authorities were holding approximately 600 women with young children in detention, including about 100 women who were pregnant or had just given birth. OHCHR noted with particular concern reports of medical personnel fighting to prevent police from handcuffing women in hospitals during or immediately after giving birth. OHCHR also noted a report that police shackled a woman by her legs immediately after a miscarriage, a report that police arrested a woman hours after a caesarean section, risking her and her baby's health, and reports of women and babies held in conditions that may constitute mistreatment. In almost all cases, authorities arrested the women as associates of their husbands, who were the government's primary suspects for connection to terrorist organisations, without separate evidence against the women.

5.21 Several international and national bodies have permission or have a specific mandate to inspect detention facilities. In addition to the Special Rapporteur, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its subcommittee have the right to conduct monitoring visits, and last did so in September 2016. Article 2 of the Code of Criminal Procedure states that police stations and holding cells are subject to inspection by governors, mayors and civil inspectors; the parliamentary HRC may visit penal institutions within the scope of parliamentary audit; and the Monitoring Boards for Prisons and Detention Centres may also conduct visits. Public prosecutors, the Ombudsman Institution, and the NHREI can inspect detention centres, the latter two without advance permission. The Special Rapporteur expressed concern, however, that the numerous national bodies formally mandated to monitor detention locations did not appear to be functioning properly in practice. He noted that the government had not appointed any commissioners to the newly established NHREI (see [National Human Rights Institution \(NHRI\)](#)) more than six months after its establishment, leaving it unable to carry out regular, independent, and objective inspections of all places of detention. He noted that a post-coup decree had dismantled the prison monitoring boards, which had not been reconstituted at the time of his visit (November-December 2016), and that authorities reportedly refused permission for civil society organisations to visit detention facilities. Human rights organisations say the parliamentary HRC has not visited any detention facilities since the state of emergency was first declared in July 2016.

INTERNAL RELOCATION

5.22 Article 23 of the Constitution guarantees the right to freedom of residence and movement. It allows the right to be restricted by law, however, for the purpose of promoting social and economic development, ensuring sound and orderly urban growth, protecting public property, investigating and prosecuting offences, and preventing offences. Turkish citizens, including members of ethnic and religious minorities, can and do relocate for a variety of reasons: large numbers of Kurds and Alevis have migrated from the south-east to western Turkey in search of employment and to escape conflict (see relevant sections). Turkish

citizens who relocate are formally required to have their electoral registration transferred and to receive a certificate of residence issued by the local *muhtar* (an elected village or neighbourhood representative).

5.23 Internal relocation is generally easier for men and family groups. Single women, particularly those fleeing family violence, are less likely to have access to sufficient support services (see [Women](#)) and are likely to face societal discrimination, particularly in rural and more conservative areas.

5.24 DFAT assesses that the registration requirement and the nationwide reach of security services mean that an individual facing adverse official attention is unlikely to be able to escape this through internal relocation. Those facing adverse attention from non-state actors may be able to escape through internal relocation, depending on individual circumstance.

TREATMENT OF RETURNEES

Exit and Entry Procedures

5.25 A large Turkish diaspora lives throughout the world, particularly in Europe and the United States, and millions of Turkish citizens regularly travel into and out of Turkey without difficulty. Turkey has a large number of official air, land, and sea entry and exit points. Conflict and instability in neighbouring Iraq and Syria has led to Turkey regularly closing its land border crossing points with these countries. Local sources advise that, while the Syria border in particular was very porous in the early years of the Syrian civil war, it is now largely under control from the Turkish side.

5.26 Turkish authorities maintain a range of databases that provide information to immigration and law enforcement officers. The General Information Gathering System, which provides information on arrest warrants, previous arrests, travel restrictions, military service record (see [Military Objectors](#)) and taxation status, is available at most air and seaports across the country. A separate border control information system used by the police collates information on past arrivals and departures. The Judicial Records Directorate maintains records of past sentences served. The Central Civil Registration System (MERNIS) maintains information on civil status information (see [Central Civil Registration System \(MERNIS\)](#)).

5.27 Although Article 23 of the Constitution states that a citizen's freedom to leave the country may be restricted on account of civic obligations, or criminal investigation or prosecution, Turkey does not generally require its citizens to obtain an exit permit to leave the country. Under the state of emergency, authorities have cancelled the passports of large numbers of people alleged to be associated with the Gulen movement, and their family members (see [The Gulen Movement](#)). DFAT assesses that the range of information databases and sophisticated identity systems would make it very difficult to leave the country via an airport without legal documentation. Local sources report, however, that it is possible for Turks to leave the country for Europe either overland or via boat without coming to official attention.

Conditions for Returnees

5.28 DFAT understands it is not a crime for Turkish citizens to seek asylum elsewhere. There is limited information available on conditions for failed asylum seekers who have returned to Turkey. DFAT understands, however, no significant stigma has traditionally attached to this group. Turkey's sophisticated information databases mean that failed asylum seekers are likely to come to the attention of the government if they have a criminal record or are a member of a group of particular interest, including the Gulen movement, Kurdish or opposition political activist, a human rights activist, or a draft evader or

deserter. Turkey does not have a double jeopardy law. It is unclear whether double jeopardy occurs in practice.

DOCUMENTATION

Central Civil Registration System (MERNIS)

5.29 The *Civil Registration Services Law* (2006) is the main legislation covering all aspects of civil registration. Turkey has maintained an online Central Civil Registration System (MERNIS) since 2000. MERNIS is a centrally administered system that contains in electronic form information previously kept in civil registries nationwide, including information used to determine the rights and obligations of persons, their identity, family relations, nationality, and civil status. MERNIS records any change in civil status electronically in real time following amendments made by any of the 966 civil registration offices located throughout the country. MERNIS shares the information kept in the central database with public sector institutions and agencies to enable easy, fast and secure delivery of public services to users.

5.30 The Identity Information Sharing System (KPS) commenced operation in 2005 as an extension of MERNIS. Public institutions and agencies can access information stored in the MERNIS database via the KPS under strictly specified conditions. KPS works over a Virtual Private Network, and every user has a unique user name and password. The system keeps logs of every user and enquiries conducted.

5.31 The Address Registration System (AKS) is a national address database integrated with MERNIS. It holds up to date domicile and other address information of Turkish nationals and foreigners domiciled in Turkey. The declaration of a new domicile address by the resident is sufficient to enter a new address into the AKS, with the previous address archived. In cases of a suspicious declaration, the Civil Registration Services Law gives civil registration officials the power to instigate an enquiry and file a criminal complaint with the judicial authorities if necessary.

5.32 Since 2000, MERNIS has allocated every Turkish citizen a unique 11-digit individual identity number (the TR identity number), intended to resolve problems arising from identical names. The number facilitates registration of all civil status events from the moment of birth, and is intended to provide fast and efficient public services by enabling the exchange of identity information between public institutions and agencies.

National Identity (ID) Cards

5.33 Civil registration offices issue national identity (ID) cards, which are compulsory for all citizens from birth and must be carried at all times. The cards are required for a wide range of everyday activities, including work, access to health and social services, registration to vote, access to courts, obtaining a passport or driver's licence, registration for school or university, registration of property or vehicle ownership, and obtaining telephone, internet, and home utilities. Biometric identity cards went into effect in January 2010. The biometric cards contain tight security standards to hinder duplication, falsification, and forgery. They have a ten-year validity and contain a smart card capable of holding up to 1GB of information, including the user's finger and palm prints.

5.34 The front page of the biometric national ID cards contains the following information: holder's photograph, full name, sex (E for male and K for female), date of birth, and TR identity number, in addition to the ID card serial number, and card expiry date. The back page contains the holder's parents' names, place of birth, blood type, marital status, religion (although this can be left blank, see [Education](#)), and ID card serial

number. Authorities retain access through MERNIS to other family registry related information formerly recorded on the paper version of the cards.

5.35 The *Law on the Protection of Personal Data* (2016) stipulates that personal data may not be processed or transferred abroad without the individual's explicit consent. Personal data is defined as information on race, ethnicity, political thought, philosophical beliefs, religious affiliation, appearance, membership in organisations, health, sexual life, and criminal record, as well as security-related information and biometric and genetic data. Personal data may only be transferred to a foreign country if there is adequate protection in the receiving country, a written assurance of that protection, and permission from the newly created government data protection authority. Some legal experts have asserted that the law fails to protect personal data adequately, as it introduces a series of exceptions that give the state flexibility in collecting and using private data. The European Commission's 2016 progress report on Turkey noted that the Law on the Protection of Personal Data did not align with European Union standards.

Passports

5.36 The *Passport Act* (1950) governs the issuing of passports to Turkish citizens and citizens of the Turkish Republic of Northern Cyprus. The Interior Ministry approves and issues passports. Several hundred passport application centres are located within police stations across the country. Passport applicants must apply in person at the passport office, and must provide two passport photographs, their national identity card, proof of payment, and an original copy of their previous passport (if applicable). Applicants are also required to provide their fingerprints, which are stored in a centralised computer database along with the applicant's photograph. Once the application has been centrally approved, the passport is delivered to the applicant's address. Procedures and requirements to obtain a passport from abroad are the same as within Turkey. Applicants must apply in person at a Turkish diplomatic mission and make payment in local currency.

5.37 Turkey introduced biometric 'e-passports' in 2010. Non-biometric passports ceased to be valid in November 2015. The e-passports contain information about the holder's facial features, as well as the information contained on the personal details page of the passport. The e-passports have a maximum validity of ten years (five years for applicants aged under 18 years). Passport validity varies from six months to ten years and depends on the fee the applicant is willing to pay. Turkey issues four different kinds of e-passports: individual (ordinary) passports have red covers; special passports (issued to civil servants and their families, mayors, former parliamentarians) have green covers; service passports (issued to civil servants undertaking official travel, their spouses and single children aged under 25 and residing with their parents) have grey covers; and diplomatic passports (issued to diplomats, MPs, and a wide range of senior government officials) have black or navy blue covers.

5.38 Emergency decrees introduced in the wake of the July 2016 attempted coup authorised the confiscation of passports of all individuals under investigation or prosecution (Decree 667), as well as those of their spouses (Decree 673). According to OHCHR, authorities cancelled up to 50,000 passports in July 2016 alone. The actual number is likely to be much higher. DFAT understands that the majority of cancelled passports were special (green) passports. Local sources report that some family members of individuals under investigation or prosecution have been able to obtain individual (ordinary) passports, but there is no set rule in this regard. International observers have reported some cases where the government has cancelled or refused to issue passports to the minor children of individuals outside the country who are accused of ties to the Gulen movement. DFAT does not have any information as to whether applicants abroad need to provide proof of completed military service to obtain a new passport or renew an old one.

Prevalence of Fraud

5.39 International sources report that the introduction of biometric e-passports in 2010 and ID cards in 2016 and the expanded use of computerised database systems has greatly increased the security of these forms of identification. Examples of fraud are rare. International observers have reported an increase in attempted document fraud in the form of faked letters of invitation from potential employers and falsified employment records. Concerns over fraud in such cases relate to the possibility of fraudulent supporting documents being used to obtain genuine ID documents rather than the ID documents themselves being fraudulent.