



Australian Government

Department of Foreign Affairs and Trade



DFAT COUNTRY INFORMATION REPORT TURKEY

10 September 2020

MAP



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CONTENTS

ACRONYMS	4
GLOSSARY	6
1. PURPOSE AND SCOPE	7
2. BACKGROUND INFORMATION	8
Recent History	8
Demography	9
Economic Overview	9
Political System	14
Human Rights Framework	16
Security Situation	18
3. REFUGEE CONVENTION CLAIMS	20
Race/Nationality	20
Religion	22
Political Opinion (Actual or imputed)	27
Groups of Interest	31
4. COMPLEMENTARY PROTECTION CLAIMS	40
Arbitrary Deprivation of Life	40
Death Penalty	41
Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	41
5. OTHER CONSIDERATIONS	45
State Protection	45
Internal Relocation	49
Treatment of Returnees	49
Documentation	50

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	Convention on the Elimination of All Forms of Discrimination Against Women
CHP	Republican People's Party (centre-left opposition political party)
CMHC	Community Mental Health Centre
COA	Conscientious Objectors Association
CRC	Convention on the Rights of the Child
DBP	Democratic Regions Party (regional Kurdish-aligned political party)
DGMM	Directorate General of Migration Management
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
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
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 and/or 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
OECD	Organisation for Economic Co-operation and Development
OHCHR	UN Office of the High Commissioner for Human Rights
OP-CAT	Optional Protocol to the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment
OSCE	Organization for Security and Co-operation in Europe
PDY	Parallel State Organisation (Turkish government nomenclature for the Gulen Movement)
PISA	Programme for International Student Assessment
PKK	Kurdistan Workers' Party
RTUK	Radio and Television Supreme Council
TAK	Kurdistan Freedom Falcons
TRT	Turkish public broadcaster
TRY	Turkish lira (currency)
TSK	Turkish Armed Forces
TTB	Turkish Medical Association
UPR	Universal Periodic Review
USD	US dollar
YPG	Syrian People's Protection Units

GLOSSARY

<i>Cemaat/ Hizmet</i>	‘Community’ or ‘Service’, alternative names for the Gulen movement
<i>Cemevi</i>	Alevi prayer hall
<i>Diyanet</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 84 of 24 June 2019, issued 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 purposes, 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, including (but not limited to) those produced by the United Nations and its agencies, the US Department of State, 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 9 October 2018.

2. BACKGROUND INFORMATION

RECENT HISTORY

2.1 Following the conclusion of the First World War, the Turkish War of Independence was fought between the Turkish National Movement and Greek, Armenian and French forces, as well as those still loyal to the Ottoman Sultanate. Mustafa Kemal 'Ataturk' ('Father of the Turks') led the nationalist movement, including the creation of the 'Grand National Assembly', a new Parliament in Ankara. Victory for the nationalists led to 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 among the Kurdish population in southeastern 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 – over 5,000 have been killed since (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, following a now stalled application for membership of the European Union, 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 with the involvement 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. Rattled by this challenge to the existing order, the government implemented exceptional measures after suppressing the attempted coup. These measures included a [State of Emergency](#), which gave

the government enhanced powers, many of which it has retained beyond the state of emergency's termination.

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 Co-operation in Europe (OSCE) electoral monitoring mission strongly criticised 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.

2.7 Nationwide municipal elections in 2019 saw main opposition party CHP secure victory in an additional seven provinces, including the major centres of Ankara, Istanbul and Antalya, followed by a peaceful transfer of power in those jurisdictions. In Istanbul, the CHP's initial victory was annulled due to electoral irregularities but was confirmed in a subsequent re-run.

DEMOGRAPHY

2.8 Turkey has a population of approximately 83 million, growing in 2019 at a rate of 1.39 per cent. 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 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 hosts close to 4.1 million refugees, including 3.7 million Syrians and nearly 400,000 asylum-seekers and refugees of other nationalities, the largest refugee population in one country in the world. Drawing on EU funding, the government provides refugees with free education and health services, and they are permitted to work.

2.9 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 15.6 million people. Other major cities include the capital Ankara (5 million), Izmir (4 million), Bursa (2 million), Adana (2 million), and Gaziantep (2 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 24.

2.10 Turkish is the official language, and the Constitution states no other language can be the main language of instruction in educational institutions. Other languages, including Kurdish, are commonly used in daily life and since 2012 have been allowed as an elective in public schools, although access to such courses may be limited.

ECONOMIC OVERVIEW

2.11 Turkey has the 18th largest economy in the world, and from 2000-2019, per capita GDP more than doubled from USD4,200 to USD9,140. This growth was aided by financial and fiscal reforms introduced in the early 2000s, and a USD19 billion assistance package provided by the International Monetary Fund. Sustained growth has created jobs and brought new-found prosperity to millions of Turks, especially those in the country's poorer and more marginalised segments of society. While high levels of growth have continued in recent years, domestic security concerns and regional political tensions have generated financial market

volatility and weighed on the country's economic outlook. The World Bank classifies Turkey as an upper-middle income country, and its largely free market economy is driven by the textile, food, automotive and tourism sectors.

2.12 In 2018, Turkey suffered a significant currency and debt crisis, which saw the value of the Turkish Lira (TRY) collapse and inflation soar. The crisis was precipitated by President Erdogan's unorthodox approach to monetary policy and insistence on low interest rates, while encouraging large expenditures financed by cheap credit denominated in foreign currencies. The adjustment period following the peak of this crisis saw Turkey enter a recession for three consecutive quarters in 2019. Declining external debts and a current account surplus led to a stabilisation of the situation. However, the International Monetary Fund assesses COVID-19 will have a severely negative impact on Turkey, and has revised growth to -0.5 per cent for 2020. Exports, especially tourism are predicted to collapse, and other challenges related to access to finance, currency stability and inflation will likely persist.

Employment

2.13 Labour force participation in Turkey has increased from around 52 per cent of the working age (15 to 64 years) population in 2009 to over 58 per cent in 2018, but remains well below the average of 72 per cent for members of the Organisation for Economic Co-operation and Development (OECD). This is partly due to a low rate of female employment (33 per cent, 2019) which, despite recent increases, remains well below the OECD average of 51 per cent. Unemployment in Turkey has been rising since 2012, peaking at 14.7 per cent in February 2019. The employment gap between young men and other groups (including women, migrants, older workers, and people with disabilities) is the highest in the OECD. The OECD forecasts Turkey's unemployment rate is likely to spike significantly following COVID-19. Tourism has been particularly affected (the number of foreign visitors in the January to July 2020 period was down 78 per cent on the previous year) as the hospitality sector employs 8 per cent of all Turkish workers.

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, articles 247 and 252) 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 from five to 12 years.

2.15 Despite this strong legal framework, international and domestic observers report corruption remains widespread in Turkey's public and private sectors. Transparency International ranked Turkey equal 91st out of 198 countries in its annual Corruption Perceptions Index for 2019. Public procurement and infrastructure projects are particularly vulnerable to corruption, and officials have reportedly demanded bribes. International observers report 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. During 2019 several law enforcement officers, judges, and prosecutors who initiated corruption-related investigations were themselves prosecuted, as were journalists who published corruption related stories. Official oversight bodies such as the Court of Accounts and Ombudsman often release reports late, and rarely cover corruption allegations.

Health

2.16 For the general population, healthcare in Turkey is accessible and high quality. Empowered by Article 56 of the Constitution, 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.

2.17 All residents registered with Turkey's Social Security Institution (SGK) have a premium automatically deducted from their wages, and are able to access a range of essential treatment from SGK-registered hospitals across the country. Some out-of-pocket expenditures are required for medications and outpatient services. Unemployed, self-employed and non-registered workers can pay premiums directly on a means-tested basis; the government pays the premiums for those on low incomes. Children of unregistered adults are automatically covered by the system.

2.18 Turkey also has a large private hospital system, offering higher-quality services and shorter waiting periods. According to a 2017 academic report, the private system undertook 53 per cent of the most complex surgeries in the country, and was responsible for 21 per cent of total health expenditure. There is also a substantial medical tourism sector in Turkey – some 700,000 medical tourists visited the country in 2018. Analysts suggest the growth in medical tourism has boosted both quality and capacity of the overall system in Turkey in recent years.

2.19 The first official cases of COVID-19 were reported in Turkey in March 2020 and spread quickly. While Turkey's health system has a relatively low average number of physicians and hospital beds per capita, it has a strong intensive care infrastructure and is generally well-prepared for public health emergencies. There has been a range of reports suggesting the hospital system, particularly ICU bed availability, has been under pressure, particularly in the southeastern provinces. There were claims hospitals in Ankara were near capacity in July-August 2020. In April 2020, the Turkish Medical Association alleged the Government was not accurately reporting COVID-19 figures, impacting on awareness of the true extent of the pandemic in Turkey.

2.20 In 2018, Turkish citizens had a life expectancy at birth of 77 years. 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.

2.21 Violence against health care workers has been a topic of debate in Turkey for some years. In December 2019, main opposition party CHP released a report stating there had been at least 91,355 instances of violence against healthcare workers between May 2012 and August 2019, based on call volumes to a Ministry of Health hotline. On 15 April 2020, Turkey's parliament passed new laws that increased the penalties for those found guilty of acts of violence against health care workers.

2.22 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: 4 per cent of civil servants must be people with a disability, while 3 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. Turkish NGO The Social Rights and Research Society has criticised the Turkish government for not publishing data on disability statistics; the most recent data is from 2011. The

NGO claims some 58 per cent of public buildings and 60 per cent of shopping centres are not disability friendly in Turkey.

2.23 Turkey adopted a National Mental Health Policy in 2006, followed by a National Mental Health Action Plan in 2011, to cover the period through to 2023. These arrangements shifted mental health services to a community-based system and integrated them into general health services. As of October 2015 (most recent available figures), 86 community mental health centres (CMHC) operated nationwide. Observers claim the CMHCs are inadequately funded, and 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 patients must pay directly for their treatment, leading to a two-tiered system.

2.24 In 2019 broad draft mental health legislation addressing education, information and service access was put before parliament but never voted on. There is tension between mental health professionals and officers of the Moral Support Service Unit operated by the Directorate of Religious Affairs (*Diyanet*) who work across the health system. In February 2019, the Mental Health Professionals Platform released a statement saying the *Diyanet* staff operating in mental health settings lacked the appropriate scientific background, had caused harm and had gone beyond professional boundaries.

2.25 There is little available data on the use of illicit drugs in Turkey. One study conducted in 2017 reported usage of illicit substances in Turkey was low, with 1.8 per cent of young adults (aged 15 to 34 years) reporting cannabis use and 0.2 per cent reporting MDMA use in the previous 12 months. Turkey serves as a critical transit country between the Middle East and key demand markets in Europe, and authorities have been proactive in combatting smuggling, particularly as the drug trade has been a key source of revenue for the PKK.

2.26 The Turkish Medical Association (TTB), the trade union for doctors in Turkey with coverage of 80 per cent of the workforce, has encountered political controversy in recent years. In May 2019, 11 senior TTB members were sentenced to prison after criticising on public health grounds Turkish military operations in Afrin, Syria, in 2018. Human rights observers report several medical chamber officials (affiliated with the TTB) have been investigated since March 2020 for their public statements on COVID-19, which authorities allege 'create[d] fear and panic among the public'. The TTB has also aligned itself with opposition causes, including publicly criticising a proposal in 2018 to chemically castrate child sex offenders.

Education

2.27 Article 42 of the Constitution states that no one shall be deprived of the right to 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.

2.28 In 2020, the Ministry of National Education budget dropped from 16.8 per cent of the national budget to 16.1 per cent. As of March 2020, the adult literacy rate (age 15 and over) was 95.5 per cent (98.7 per cent for males and 92.5 per cent for females).

2.29 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 12 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 a general, technical or vocational high school. Vocational high schools cover a wide variety of specialisations, including religious instruction.

2.30 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. From 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. From 2012, the total number of *imam hatip* schools increased from 1,636 to 4,891. Guidelines introduced in 2018 that students should attend the school nearest their home address, even if that school is an *imam hatip* establishment, has meant non-Muslims and others have been forced to attend the institutions.

2.31 In mid-2017, the government removed the theory of evolution from the biology curriculum, introduced a 'spirit of *jihad*' class (compulsory for all students, including members of religious minorities), and gave the *Diyanet* (Directorate of Religious Affairs) an increased role in school life. The *Diyanet* now teaches a youth studies course and delivers religious services in student dormitories and youth centres. It has the authority to select student representatives.

2.32 Article 24 of the Constitution establishes compulsory religious and moral instruction in public primary and secondary schools, with content determined by the *Diyanet*. 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 Alevi – 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. Despite this, polling shows those aged 15-29 who describe themselves as 'religiously conservative' fell to 7 per cent in 2019, down from 32 per cent in 2008.

2.33 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 tripled in recent years, from 2.1 million students in 2005 to 7.74 million students in 2019. The number of students who sit the university admissions examinations has also grown considerably and exceeds the number of available places. In June 2019, more than 2.5 million students sat the examinations.

2.34 Educational reforms in the early years of the AKP administration led to significant gains in both access to and 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, before dipping in 2015 – widely attributed at the time to the pace of

changes to the education system, coupled with inefficient implementation. However, the 2018 results showed a significant improvement and a return to the previous positive trend, including improvements on 2012 in mathematics and science.

2.35 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. Approximately 2,000 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 southeast against the PKK and called for an end to the violence. In July 2019, the Constitutional Court ruled the 'Academics for Peace' prosecution constituted a violation of their right to freedom of expression. However, following the decision most have not been reinstated to their previous positions. Those dismissed on other grounds have limited opportunities to challenge their cases. The emergency decrees ordering the firing of academics include no evidence of alleged wrongdoing nor individualised justifications. The HRW report also said 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

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

2.37 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 passed 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.

2.38 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.

2.39 Domestic and international observers criticised the timing, process and conduct of the April 2017 referendum. The UN Office of the High Commissioner for Human Rights (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 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.

2.40 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 southeast, 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.

2.41 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 10 per cent of the national vote and 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 have criticised the 10 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 votes in that election went to parties that did not receive seats 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. Some have criticised the government's motives for the law, saying it was designed to counter a slide in the AKP's popularity and maintain its control of the parliament.

2.42 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 now coincide with presidential elections. The composition of the current parliament (following the June 2018 elections) is: AKP 291 seats; CHP 138 seats; the left-wing Kurdish-aligned People's Democratic Party (HDP) 58 seats; MHP 49 seats; and the centre-right Good Party (İYİ) 39 seats; with the remainder going to micro-parties or unfilled due to deaths, member resignations for other state appointments, or prosecutions. In June 2020, the Grand National Assembly voted to strip the immunity of three MPs (2 HDP, 1 CHP), paving the way for their arrest the following day on terrorism and espionage convictions.

2.43 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 was used liberally in southeastern Turkey before and after the 2019 municipal elections. Of the 65 Kurdish HDP-controlled municipalities following elections in March 2019, 47 had been replaced by government-appointed trustees as at July 2020, with a number of elected officials detained in prison. The 2019 municipal elections saw main opposition CHP win a number of significant municipalities, including Ankara and Istanbul, after long periods of AKP control.

2.44 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

2.45 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.

2.46 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 (OP-CAT); 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 (ICERD); 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 (CRC) 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 international agreements put into force carry the force of law and cannot be appealed in the Constitutional Court.

2.47 Turkey has 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.

2.48 In order to stop the court being overwhelmed, Turkey and European authorities agreed in January 2017 that Turkey would establish an Inquiry Commission on the State of Emergency in order to provide a level of judicial review to those dismissed by decree during the state of emergency period. 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. As at 3 July 2020, 126,300 applications had been made to the Commission, and decisions had been issued in 108,200 cases. Of those, 96,000 were rejected – meaning the original decree decision was upheld – and in 12,200 cases the application for appeal was accepted. Those rejected now have the opportunity to proceed through the court system to the constitutional court, after which they could theoretically apply to the ECHR.

2.49 Critics of the ECHR's position argue the Turkish judiciary has become too politicised and dysfunctional to be an effective domestic remedy (see [Judiciary](#)), and further cite the high percentage of cases rejected by the Commission as proof. 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 in

which they served before being dismissed, and will not receive compensation regardless of the commission's decision.

2.50 The ECHR still deals with a range of other Turkey cases, and in 2019 received 5,091 applications, declared 4,879 inadmissible, and delivered 113 judgements of which 97 found a violation of the European Convention on Human Rights.

2.51 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.

2.52 Parliament elects the Chief Ombudsman, and the government appoints a further five ombudsmen. The former chief presidential advisor became Chief Ombudsman in November 2016. In 2019, the Ombudsman received 20,968 complaints, a 19 per cent increase on 2018. Including the 4,032 cases carried over from previous years, during 2019 the office resolved a total of 21,170 cases. The largest categories for complaints were about the public service (5,170; 25 per cent) and justice, national defences and security (3,250; 16 per cent), with human rights accounting for only 234 complaints, or around 1 per cent. 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), as well as the [National Human Rights and Equality Institution](#).

2.53 Turkey participated in a third cycle of the UN Human Rights Council's Universal Periodic Review (UPR) in January 2020. The government agreed to examine 302 recommendations and is scheduled to provide its response before the 45th session of the UN Human Rights Council. It rejected outright a further 19 recommendations, primarily from the Syrian Arab Republic, Armenia and Cyprus.

2.54 Turkey issued a standing invitation for country visits by representatives of the OHCHR and other UN bodies in March 2001, and between 1998-2017 actively participated in the process. Since 2018, Turkey has deferred or ignored requests from the OHCHR for visits. The most recent published reports are: 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 southeast 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 southeast (covering the period January to December 2017) in March 2018.

National Human Rights Institution (NHRI)

2.55 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 a NHRI with OHCHR. NGOs and international observers have criticised the NHREI (and its predecessor) for lacking independence,

noting the frequency with which it rejects applications; that it reports to and is funded by the government; and that eight of the 11 board members are appointed by cabinet and three by the president.

SECURITY SITUATION

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

2.57 The *Law on the Fight against Terrorism* (the Counter-Terrorism Law 1991, last amended 2019) 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*). Under that law, which applies retrospectively, executive authorities' permission is required 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 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.

2.58 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 southeast. 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) – possibly a PKK front group – and external organisations such as Da'esh (also known as ISIL, ISIS or IS). Security authorities frequently report they have succeeded in preventing other attacks across the nation. The last major Da'esh attack occurred in a nightclub in the early hours of New Year's Day, January 2017, killing 39 and injuring 69.

2.59 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 southeastern Turkey. These operations have involved thousands of troops in infantry, artillery and armoured land divisions, as well as the air force. According to International Crisis Group (ICG) Turkey, as of 10 August 2020, at least 5,023 people had been killed in clashes or terror attacks since 20 July 2015. This includes civilians, state security force members, individuals of unknown affiliation and PKK militants. Clashes continued throughout late 2019 and 2020, although at a lower tempo than in previous years (see [Kurds](#) and [Extrajudicial Killings](#)).

2.60 Turkey conducted its first military intervention in Syria in 2016 to capture the town of Jarablus from Da'esh in order to stop a future offensive on the town by the Syrian Democratic Forces and the People's Protection Units (YPG). Turkey was concerned if those forces had taken Jarablus, they would have held a contiguous area along its border, strengthening the capability of the PKK and others to launch attacks. Subsequently, Turkey has intervened in Syria on four occasions: to push Da'esh out of the area between Jarablus and Al Bab in Operation Euphrates Shield in 2016; to capture YPG-controlled Afrin with Operation Olive Branch in 2018; to take over Kurdish-controlled territory between Tel Abyad and Ras al-Ain with Operation Peace Spring in 2019; and to thwart a Syrian military offensive in Idlib in 2020, in order to prevent

further refugee waves across its borders. Turkish armed forces have conducted cross-border operations against PKK targets in northern Iraq, and have increased their numbers of small bases in the area.

State of Emergency

2.61 Following the attempted coup of 15 July 2016, the government declared a three-month nationwide state of emergency, 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 presidential system, the President retains the ability to issue decrees.

2.62 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 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 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, or members of the PKK or other organisations.

3. REFUGEE CONVENTION CLAIMS

RACE/NATIONALITY

3.1 Article 10 of the Constitution states all individuals are equal without discrimination irrespective of language or race (among other things). In practice, this means there is a single nationality designation for all citizens, except for three non-Muslim minorities (see [Lausanne Minorities](#)). Article 66 states everyone bound to the Turkish State through the bond of citizenship is a 'Turk'. Article 42 states 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 these citizenship and language provisions amount to discrimination against ethnic minorities.

Kurds

3.2 Although official figures are not available, international observers estimate around 15 million Turkish citizens identify as Kurdish. The Kurdish population has traditionally been concentrated in southeastern Anatolia, where they form the majority ethnic group, and northeastern 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 southeastern 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 southeast, 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 different discrimination on religious grounds. There are a range of political views and divisions within the Kurdish community. Some support the PKK's ideology and methods while many are opposed. The AKP has at times attracted significant support from conservative Kurds (the party has Kurdish MPs, and at times Kurdish cabinet ministers), and the HDP – a left-wing social democratic platform infused with Kurdish nationalism – has significant support. 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 southeastern areas where Kurds were in the majority, and

fuelled a long-running conflict in the southeast 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. Kurdish can be taught as an elective language in public schools and as a primary language of instruction – but not mother-tongue – in private schools, though this is limited in practice. Amended laws have reinstated original Kurdish place names to villages and neighbourhoods; however, in some instances where government appointed trustees have replaced democratically elected Kurdish HDP mayors, these have again been removed.

3.5 International and domestic observers have reported the government's response to both the resumption of conflict in the southeast between the government and the PKK, and the July 2016 attempted coup, have significantly affected the rights and freedoms of some Kurds. In particular, security operations since 2015 have resulted in significant hardship for local residents in the southeast. OHCHR reported in 2017 and 2018 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). These violations eased significantly through 2019 as the tempo of urban operations reduced, although rural anti-PKK operations and movement restrictions continued to affect Kurdish communities in the southeast disproportionately. In 2019, curfews were implemented less frequently and for shorter durations, and applied to a smaller number of villages than in previous years.

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 reportedly not been able to return to their homes. DFAT assesses Kurdish civilians living in conflict-affected areas in the southeast during the peak of the conflict from 2015-2018 faced a high risk of violence and discrimination from both government forces and the PKK. In 2020, while such civilians may continue to face housing and other related problems, DFAT assesses the risk of violence and harassment is low.

3.7 The government used state of emergency powers and subsequent carryover legislation following the 2016 attempted coup to target a wide range of Kurdish journalists, politicians and political activists, and civil society organisations accused of supporting the PKK (see also relevant sections). This has disproportionately impacted those in the southeast, and Kurds and Kurdish organisations in western Turkey do not face the same risk of conflict-related violence as those in the southeast. Many Kurds who are not politically active, as well as those who support the AKP, do not emphasise their Kurdish identity over their Turkish citizenship. Human rights observers report 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.

3.8 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 southeast. 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 Kurds are more likely to obtain public sector employment at the sub-national level, particularly in areas where they are in the majority.

3.9 Notwithstanding government efforts to wind back discriminatory restrictions on the public expression of minority identity, DFAT assesses Kurds in Turkey face official discrimination and some sporadic societal discrimination based on their ethnicity. The extent and form of this discrimination depends on geographical location and personal circumstance. Those residing in the southeast, and those active (or perceived to be active) in Kurdish political or civil society organisations are at higher risk than those who are not politically active, or those who support the AKP. DFAT assesses ongoing military operations in Syria and Iraq do not exacerbate the situation for Kurds inside Turkey.

Yazidis

3.10 The population of Turkish citizen Yazidis is very small. According to the Yazidi Cultural Foundation, in 2017 the population numbered 377. The US government estimated the number in 2019 as ‘fewer than 1000’. Given the size of the population, it is difficult to draw firm conclusions about the risk of official or societal discrimination against Yazidis. The most recent significant reporting on the community occurred in March 2020, when a 300 year-old Yazidi cemetery was vandalised in the southeastern province of Mardin. The HDP member of parliament for the neighbouring province Batman said Yazidis did not feel safe in their own lands and lived in great anxiety. Otherwise, the experiences of the Turkish Yazidi community have largely been subsumed by the arrival of the much larger groups of Yazidis fleeing conflict in Iraq. Most of these individuals have been resettled as refugees in third countries, including Australia. The Yazidi community at the time claimed the Turkish government never wanted Yazidis to come to Turkey from Iraq, and put up obstacles and closed camps housing Yazidis, which was allegedly reflective of the views towards the community in Turkey. DFAT is unable to verify these claims. However DFAT assesses, as a result of the small size of the community, their location in southeast Turkey, and their association with refugee communities, Turkish Yazidis are likely to face a moderate level of societal and official discrimination. In June 2020, Turkey targeted areas in Iraq where the Yazidi community reside, and where the PKK had reportedly established bases, as part of its counter-PKK military operations.

RELIGION

3.11 Article 2 of the Constitution defines Turkey as a secular state. Article 10 states all individuals are equal before the law regardless of their philosophical belief, religion, or sect; Article 15 states 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. There are 10-25 million people who identify as Alevi in Turkey, which the Turkish Government largely refuses to differentiate from Sunni Muslims. There is also a Shi’a Ja’fari community that claims membership of up to 4 per cent of the population, or around 3 million people, although numbers are difficult to verify. They live 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. 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 non-Sunni Muslims (excluding Alevis) 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. The Lausanne minorities report 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 aware of only isolated incidents of violence against members of Lausanne minority communities or properties. In May 2019, an 86-year-old Greek Orthodox man was murdered in his home, and, in November 2019, a South Korean Christian missionary was stabbed to death – both incidents attributed to their religious activities. In Istanbul in the same year, an Armenian woman was stabbed at her front door after receiving months of threats associated with her religious beliefs, and in Izmir a Molotov cocktail was thrown at the Beth Israel Synagogue. Community representatives have also expressed concern about negative speech in the state media and from senior members of the government – particularly anti-Semitism – which tends to peak at times of heightened tension between Turkey and Greece, Armenia or Israel. In some instances where Lausanne minorities have received threats, the government has provided security protection to their houses of worship, particularly synagogues. In June 2020, authorities jailed an individual for five years for breaking the cross off the fence of an Armenian church in Istanbul.

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 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. Nonetheless, 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 it is rare to see religious minority members in senior government roles. DFAT is aware of a significant number of prominent Jewish and Armenian individuals in the private sector who enjoy good relations with the state.

3.18 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.

Alevis

3.19 In the absence of official figures, estimates of the size of the Alevi population vary considerably, although most credible estimates are between 10-25 million. Many Alevis are also Kurds, although estimated numbers again vary considerably (between half a million and several million). DFAT understands Kurdish Alevis are more likely to identify primarily as Alevi. While Alevis 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 Alevis generally keep a low societal profile and do not highlight their religious identity, including through their everyday dress. Indeed, when asked by pollster Pew Research Centre, only five per cent of respondents volunteered they were Alevis.

3.20 Alevism is a heterodox branch of Islam that emerged in the medieval period and incorporates Shi'a, Sufi, Sunni and local traditions. Practising Alevis 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 Alevis 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. Alevis are mostly secular, supporting strict separation of religion and politics. Alevis report they are generally able to conduct their religious ceremonies and celebrate their religious festivals without official interference.

3.21 The Turkish state does not recognise Alevism as a separate religion and considers Alevis to be Muslims. *Cemevis* are not recognised as official places of worship at the national level 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 November 2018, the Supreme Court of Appeals ruled *cemevis* should receive the same benefits as mosques, including exemption from utility bills. Some municipalities have voted to recognise the status of *cemevis*, particularly those under CHP leadership, and agreed to pay for utility bills. Other ECHR judgements from 2015 ruled only Alevi leaders could determine the faith to which their community belonged, and Alevi students should be exempt from compulsory religious education classes conducted by Sunni imams (see [Education](#)). Some Alevis claim the classes teach Alevi students incorrect information about their own faith, which parents have then had to correct at home. Alevi community representatives have told DFAT the ECHR decisions have not been implemented.

3.22 Alevis have played a prominent role in the political sphere, particularly with the CHP, which has had strong Alevi representation. While most Alevis support the CHP, Alevis have also achieved parliamentary

representation in other parties, including the AKP. No laws prevent Alevis (or other religious minorities) obtaining public sector employment or serving in the military. Some Alevis 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.

3.23 Although the Alevi community suffered significant societal violence in the past, DFAT is not aware of any instances of significant societal violence against individuals in the community in recent years. In 2019, several *cemevs* and Alevi tombs and shrines were vandalised and covered with graffiti with derogatory statements and painted red 'X' marks. Like other religious minorities, Alevis have occasionally been the subject of negative portrayal in state media, and subjected to low-level societal threats of violence.

3.24 DFAT assesses 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. Kurdish Alevis do not face any additional religious-based discrimination beyond those who only identify as Alevi.

Other Unrecognised Religious Groups

3.25 Members of unrecognised religious groups (including, but not limited to, Baha'i, Yazidis, and Christian groups such as Protestants and 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, however are rarely able to register new places of worship. Throughout 2019 and 2020, a large number of Protestant foreigners living in Turkey had their residency permits cancelled on spurious national security grounds, which local church representatives claim had the effect of restricting their ability to practise their faith. Their access to public sector employment and promotion is comparable to that of members of the 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 police responses are not always adequate.

3.26 DFAT assesses 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

3.27 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 by up to two years' imprisonment. Turkey has no civil partnership for either heterosexual or same-sex 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 this Article, which does not apply to men, is intended to ensure 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. According to UNICEF data, one per cent of girls are married by age 15, and 15 per cent are married by age 18. In 2016 and then in 2020 the

Turkish Government proposed legislation to allow men who sexually abused children the opportunity to have convictions quashed if they married their victims. Despite passing the bill on the first reading, the legislation was pulled from Parliament after mass public outrage. In 2018 the *Diyanet* suggested girls could marry under Islamic law from age 9 or when they reached puberty, although they have not progressed this position by attempting to have it legislated. NGOs report early marriage is seen in conservative rural areas as a means to restore a girl's 'honour' after she has had sex, including through rape.

3.28 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.

3.29 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.

3.30 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, and only take into consideration the wishes of the child from age eight. 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.

3.31 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 Civil 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, and it is difficult to ban someone from receiving an inheritance. Turkey has a modest inheritance tax of between one and 30 per cent depending on the asset type and total size of the estate.

Blasphemy/ Defamation of Religion

3.32 Article 216(3) of the Criminal Code states 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. After a spate of prosecutions between 2014-16 – including journalists who reprinted French *Charlie Hebdo* cartoons of the Prophet Mohammad in 2016 – recent years have seen a significant reduction in the number of complaints, prosecutions and convictions. In 2020, authorities attempted to prosecute a CHP party official under Article 216(3) for sharing a social media post about the *Ciao Bella* affair where hackers tapped into mosque speaker systems in Izmir and played Italian protest music. Prosecutors later changed the basis of their allegation to a broader 'provoking public hatred' charge. Media speculated this was because Article 216(3) carried a comparatively light penalty and did not allow for the official to be remanded in custody. Beyond the isolated *Ciao Bella* case, DFAT is not aware of any evidence to suggest authorities are using blasphemy charges in a political manner.

POLITICAL OPINION (ACTUAL OR IMPUTED)

3.33 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 society with a wide range of political views and ideologies reflected and expressed in its parliament, at other levels of government and in the community. Restrictions on the ability of Turkish citizens to express dissent to the government, individually or collectively, have increased significantly, particularly under the state of emergency (see [State of Emergency](#)), and subsequent formalisation of many of its provisions. In its latest *Freedom in the World* report, published in 2020, Freedom House ranked Turkey 'Not Free'.

The Gulen Movement

3.34 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 cult-like, highly secretive and undemocratic nature.

3.35 The Gulen movement has no visible, public formal structure, central hierarchy nor clear evidence of membership. The movement reportedly has an inner circle of activists and advisers to Fethullah Gulen and an outer circle of those who support Gulen's teachings and the movement's ideals, often graduates of Gulen's education programs. Even further from the core is a cohort who have used products and services affiliated with the movement – sometimes without their knowledge – and otherwise have no ideological or political connection with the group. 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 Gulenists in Turkey numbered in the millions.

3.36 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 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 high-level Gulenist officials were using their positions to root out secularists within the bureaucracy.

3.37 Gulen and Erdogan had a political alignment for decades. In December 2013, however, Erdogan accused Gulen of being behind corruption allegations against several of his senior ministers. Authorities began targeting institutions and individuals 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).

(Erdogan and the AKP argued credibly that the Gulen movement was running a parallel movement within the civilian and military bureaucracy.)

3.38 Following the July 2016 attempted coup, the government immediately blamed Gulen for orchestrating the attempted overthrow. As discussed in [State of Emergency](#), authorities 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, as well as expropriate private assets from suspected supporters. 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. So far, with as many as 80,000 people arrested or detained, approximately 5,370 people have been tried in cases specifically related to the coup, and 1,524 have received life sentences. Throughout 2019 and 2020, dismissals from the public service continued as authorities found new 'clusters' of alleged Gulen supporters, particularly in the military and Ministry of Foreign Affairs. In 2019, there were credible reports of disappearances and torture while in police custody of Gulen suspects who were former employees of the Ministry of Foreign Affairs. The Turkish National Police deny the claims.

3.39 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. The Commission of Inquiry for State of Emergency Practices (see [Human Rights Framework](#)) was established to review the dismissals, but has mostly upheld the original dismissal decisions.

3.40 Authorities have published lists of those dismissed and put markers against them in the registration system of the state social insurance system (SGK), significantly reducing their chances of finding alternative employment in either the public or private sectors, and stigmatising them socially. Those dismissed lose their income and social benefits, including access to medical insurance and retirement benefits, and many have had their passports cancelled (see [Passports](#)). Various decrees specifically state 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 USD12 billion. The experiences of those purged has not been universal – some purged officials have subsequently been re-appointed to senior positions, others have thrived in the private sector. Family members of alleged Gulenists have also been impacted, including through travel bans and/or passport confiscation.

3.41 DFAT assesses 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 of 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 is slow. Those accused of membership of the

Gülen movement where no credible evidence exists face considerable societal stigma and restrictions, particularly through the publication of their names.

Kurdish Political Activists

3.42 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 affiliate party, the Democratic Regions Party (DBP). The HDP competed in the June 2018 presidential and parliamentary elections, with the HDP winning 67 seats despite significant efforts by the state to suppress their vote, and in the 2019 municipal elections, winning 65 municipalities, of which only 18 currently remain in the party's control (see [Political System](#)). Since the breakdown of the government-PKK ceasefire in July 2015 and subsequent resumption of conflict in the southeast, however, authorities have further restricted the ability of the two parties to conduct political activities.

3.43 In the previous parliamentary term, the parliament amended its by-laws to prohibit the use of the word Kurdistan, and lifted immunity for MPs leading to 11 HDP MPs having their seats revoked and nine subsequently being imprisoned. Many remain in prison on a range of charges from production of terrorism propaganda to verbally assaulting a police officer. Former HDP leader Selahattin Demirtas has been in prison since November 2016, despite a directive from the ECHR to release him from pre-trial detention, and was unable to campaign freely during the 2018 presidential election. He faces dozens of charges which could result in 142 years' imprisonment.

3.44 At the 2019 municipal elections the Supreme Election Council replaced victorious HDP candidates with second-placed governing-party candidates after disqualifying them on terrorism-related grounds, despite previously approving them during the nomination process. In 2019, RTÜK, the Radio and Television Supreme Council, sanctioned a television station for broadcasting a speech in parliament by HDP's co-chair, and the BTK added HDP Twitter accounts to lists of blocked websites. The HDP estimate between July 2016 and the end of 2019, some 4,920 MPs, party officials and members were imprisoned on a range of charges related to terrorism and political speech.

3.45 DFAT assesses 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 high-level politicians and low-level activists, and applies nationwide.

Critics of the Government: Protesters

3.46 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, and the subsequent legislative normalisation, 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.

3.47 Throughout 2019 and 2020, the government pre-emptively prohibited many demonstrations on national security grounds, and often detained persons likely to be involved before scheduled protests commenced. Turkey's Human Rights Association claimed in 2019 police intervened in 962 demonstrations, and 2,800 individuals were beaten or subject to unnecessary force while police were breaking up protests. Security forces also pre-emptively close off prominent gathering locations on symbolic dates throughout the year to prevent protests.

3.48 In 2019 and 2020, police used tear gas to break up an 8 March International Women's Day march of thousands of people in Istanbul – despite this event proceeding peacefully in previous years. In contrast, 2019 May Day protests, which are usually disruptive, were conducted peacefully across the country, but again prohibited in 2020. Police also used significant force on students at Ankara's Middle East Technical University in 2019 who were attempting to protest environmental issues. During elections, the AKP and main opposition CHP are generally permitted to hold large public gatherings, but the Kurdish HDP and minor parties are usually prohibited from holding rallies.

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

3.50 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 or 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 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.

3.51 In recent years, authorities have indicted hundreds of individuals, including journalists and minors, on defamation charges for insulting state institutions. President Erdogan has filed significantly more cases under Article 297 than his predecessors. Media reported Erdogan had filed 1,845 cases under Article 297 between August 2014 and March 2016. According to the Human Rights Association, during 2019, 36,664 people were investigated under Articles 299 and 301, of which 6,131 progressed to criminal cases, and 11,337 did not proceed past initial investigation. Media reporting alleged there was a 13-fold increase in convictions between 2016 and 2019 for insulting the president.

3.52 Most cases have applied to journalists, but cases have also been filed against writers, politicians, athletes, students, academics and schoolchildren. 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). In another, in July 2019, a singer was sentenced to 11 months in prison for insulting the president in a song. In May 2020, a warrant for 'insulting a public official' was issued against a CHP youth leader for seven-year old social media posts made when she was 17, while an 80-year old man was detained in April for merely 'liking' a supposedly insulting post on Facebook.

3.53 Most cases prosecuted under Article 299 do not result in prison sentences; however, many have spent time in pre-trial detention. Human rights observers claim the use of Article 299 has created an environment of intimidation and has considerably limited freedom of expression by encouraging self-censorship.

3.54 DFAT assesses 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

3.55 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 and subsequent enduring legislation, 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 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.

3.56 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 recent years a number of high-profile activists have been arrested and subjected to long, complex and inter-linked legal procedures. Prominent human rights activist and philanthropist Osman Kavala was detained in October 2017, accused of participating in a George Soros-linked plot to overthrow the state. He was acquitted in February 2020, only to be re-arrested on the same day on military espionage-linked charges. The legal manoeuvres likely attempted to sidestep an order from the ECHR to release Kavala from pre-trial detention. Similarly, Amnesty International's Taner Kilic was convicted in July 2020 of membership in a 'terror organisation' and sentenced to more than six years in prison. Three other prominent human rights activists were convicted of terrorism offences alongside him while seven were acquitted.

3.57 During the COVID-19 pandemic, Turkey legislated a widespread prisoner amnesty to stop the spread of the virus in crowded prisons. While numerous violent criminals were released, human rights defenders and others charged under broad terrorism and national security charges were required to remain in prison.

3.58 Security forces closely monitor activities of groups defending the rights of religious and cultural minorities, women, unionists, and the lesbian, gay, bisexual, transgender and/or intersex (LGBTI) community. 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.

3.59 DFAT assesses 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 the rights of labourers.

Media and Internet

3.60 Several constitutional articles guarantee the freedom of expression and of the media. Article 26 states 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 the press is free and shall not be censored, and 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.

3.61 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 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 the PKK. Media reports suggest this number has since grown to more than 180, although consolidation throughout the industry and collapsing business models has also contributed to the decline in the number of outlets. Authorities have also arrested large numbers of journalists, many of whom face terrorism-related charges. According to the Committee to Protect Journalists (CPJ) 2019 report, Turkey had 47 journalists in prison, down from 68 in 2018. The CPJ claims dozens are still facing trial and appeal. 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.

3.62 In March 2018, the ECHR ruled 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 2018 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 was released and re-arrested eight days later in November 2019, and the case continues.

3.63 The government has particularly targeted journalists working with Kurdish-language outlets: emergency decrees 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 southeast, have reported threats, physical violence and criminal investigations from state authorities. Journalists in the southeast who have spoken out against the PKK or in support of the government have faced intimidation and threats from the PKK. Authorities have also filed terrorism-related charges against journalists working on sensitive issues, particularly the conflict in the southeast and investigations into the Gulen movement.

3.64 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.

3.65 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 10 most watched television channels and nine of the 10 most read newspapers. This concentration of ownership by government-aligned figures means authorities rarely need to use or enforce powers that allow them to censor the press in the event of a terrorist incident.

3.66 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 broadcasters to 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.

3.67 Internet penetration has continued to increase in recent years: the share of Turkish households with internet access was 88 per cent at mid-2019. 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. In August 2019, Turkey's parliament approved new regulations that allow RTUK to oversee all online content, and mandate online streaming services to obtain a broadcast license. Despite significant concern from rights groups when these measures were introduced, they do not appear to have been widely used.

3.68 The government has had for some years tight restrictions over internet access, content, and usage. Turkish authorities do not need court approval to block websites. Major platforms such as YouTube often comply with directions to remove specific content and, if not, Turkish authorities have shown a willingness to block whole platforms until directions are complied with. For example, Turkey blocked Wikipedia from April 2017 until January 2020 because the platform did not remove at the direction of RTUK a reference to Turkey in the article on state-sponsored terrorism. Turkey's Constitutional Court – at the behest of the ECHR – assessed the wholesale blocking of the platform was a violation of freedom of expression.

3.69 Freedom House's 2019 'Freedom on the Net' report ranked Turkey 'Not Free' in relation to internet freedom. According to the 2018 Web Report from Turkey's Freedom of Expression Association, 245,826 websites were blocked in Turkey as at the end of 2018. The government has regularly suspended access to prominent social media sites such as Facebook, Twitter, YouTube and WhatsApp on national security grounds, for example following an attack on Turkish troops in Idlib in Syria in February 2020. Authorities have regularly shut down access to internet and mobile services at times of tension, particularly in the southeast. Authorities regularly detain and prosecute people for social media posts that 'insult' the government (see [Critics of the Government: Defamation](#)). In March 2020, the Government arrested 400 people for 'provocative' posts regarding COVID-19.

3.70 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 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 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.

3.71 In July 2020, the Turkish parliament passed a bill designed to give the government greater control over social media, with particular implications for users of social media and online entertainment giants, such as Facebook and Netflix, in Turkey. The bill will force social media platforms with over one million daily users, such as Facebook, Twitter and YouTube, to open offices in Turkey and will impose stiff penalties if the international companies refuse, including slowing the bandwidth of the sites and making them largely inaccessible. Critics have argued the move will lead to further censorship in Turkey and is an attempt to close off one of the last remaining spaces for free expression. The legislation is expected to commence in October 2020. It was unclear at the time of the publication the degree to which the various international companies would comply.

Women

3.72 Article 10 of the Constitution states all individuals are equal without any discrimination before the law, regardless of sex. A May 2004 amendment to Article 10 added a provision stating women and men have equal rights, and the state has the obligation to ensure 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](#)). 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.

3.73 However, some discriminatory clauses persist: Article 287 of the Criminal Code on genital examinations allows a judge or prosecutor to authorise virginity testing, even if the subject does not consent. Article 13 of the *Regulation for the Implementation of Uterine Evacuation and Sterilization Services* based on the *Law on Population Planning* (1983), states a married woman can terminate her pregnancy only with spousal authorisation. Critics also cite Article 41 of the Constitution which states the family is the foundation of Turkish society and is based on equality between the spouses; and 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 the government has promoted policies and institutional arrangements that support perceived 'family interests' at the expense of women's rights. In April 2020, there was widespread community uproar

over a draft law dubbed ‘marry your rapist’ which would have permitted men accused of having sex with girls aged 14 and over to avoid punishment if they married their victims. The government attempted to pass similar legislation in 2016. In both instances, they withdrew the legislation (see [Personal Status Laws](#)).

3.74 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 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 rising within state authorities and society, and discussion focusing on vaguely defined concepts of ‘gender equity’ or ‘gender justice’ openly and increasingly undermined gender equality. Senior members of the government have been less discriminatory and demeaning in their public statements compared to previous years, and have recently championed various women’s equality initiatives. However, some observers assess the government is under significant pressure from the conservative segment of their electorate to limit these efforts, and at times regrets championing the cause of women, particularly through mechanisms such as the *Istanbul Declaration*.

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, below the global average of 22 per cent. Two women currently serve in the 16-strong cabinet. At the local level, the situation is different. At the 2019 Municipal Elections only 8 per cent of mayoral candidates were women, and women constituted only 2.5 per cent of those elected. The World Economic Forum’s 2020 Global Gender Gap index rated Turkey 130th out of 153 countries. Turkey’s 2019 female labour force participation was 34.5 per cent.

3.77 Gender-based and family violence is widespread in Turkey in both urban and rural areas. According to the Minister of Family, Labour and Social Services, the number of femicides in recent years were: 299 in 2019; 280 in 2018; 353 in 2017 and 304 in 2016. A separate NGO count put the 2019 figure at 474 deaths. 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 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 November 2019, Turkey launched a new action plan to fight domestic violence called *Mercan*. The plan includes new legal measures, more social workers and a special ‘risk analysis module’; however, critics say the issue is authorities have failed to implement the laws that already exist. Furthermore, in August 2020, AKP officials reportedly told Reuters they will shortly decide whether to withdraw from the Council of Europe’s 2011 *Istanbul Convention* on preventing and combating violence against women. Religious and conservative groups in Turkey contend the international accord undermines traditional family values.

3.78 NGOs have frequently commented on the lack of capacity in women's shelters. 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. According to the US Department of State, there were 81 violence prevention centres throughout the country in 2019, one in each province. There were 144 women's shelters nationwide, providing shelter to approximately 30,000 women. The number of domestic violence shelters is insufficient to meet demand, and they are not well located. Ankara's five million people reportedly have only three shelters, while many cities with populations over 100,000 have no shelters. CEDAW notes shelters often seek to reconcile women with their husbands or compel them to part with their children, and 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.

3.79 There are claims COVID-19 has significantly worsened violence against women. The Federation of Women's Associations of Turkey stated it received 80 per cent more reports of domestic assaults in March 2020 than in the same period in 2019. A bill designed to prevent overcrowded prisons from spreading COVID-19 approved the release of tens of thousands of prisoners, some of whom were convicted of violent offences (though not murder or rape). Critics expressed concern this would exacerbate violence against women, particularly given COVID-19 curfews which had effectively locked victims in with offenders.

3.80 The July 2016 CEDAW report (the most recent available) expressed concern about the situation of Kurdish women, particularly those affected by violence between security forces and the PKK in the southeast since the resurgence of that conflict in 2015 (see [Security Situation](#)). CEDAW noted women displaced from their homes faced 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 southeastern Turkey claim trustees appointed to replace elected representatives (see [Political System](#)) 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 Kurdish women, fearing police abuse and public shaming, are reluctant to discuss domestic violence outside their community. They also reportedly fear 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.

3.81 NGOs reported between one and 31 'honour killings' in Turkey in 2019. Pro-government media report honour killings have 'plagued' Turkey for decades. It is unclear if victims were Turkish citizens or if honour killings took place in refugee populations in the country. Honour killings in Turkey 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, same-sex sexual acts (see [Sexual Orientation and Gender Identity](#)), or liberal behaviour and dress. Individuals convicted of honour killings can be sentenced to life imprisonment, but NGOs report courts can reduce actual sentences due to mitigating factors, which include anger or passion.

3.82 DFAT assesses 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 the southeast face an additional low to moderate 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.

Sexual Orientation and Gender Identity

3.83 No legislation in Turkey prohibits sexual activity between people of the same sex: the Ottoman Empire decriminalised sodomy in 1858. The legal age of consent for all sexual acts is 18 years, which includes sexual acts between people of the same sex. 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 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 individuals 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.

3.84 Human rights groups report police have used legal provisions relating to 'offences against public morality', 'protection of the family' and 'unnatural sexual behaviour' to justify harassment of lesbian, gay, bisexual, transgender and/or intersex (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 – one NGO that tracks these cases reported 62 hate crimes in 2018, which it claims is consistent with previous years. 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 used Article 29 to mitigate sentences in cases of murder of LGBTI individuals.

3.85 A strong societal taboo exists against LGBTI issues and individuals. However, recent annual polling by Kadir Has University shows an increase in support for equal rights for LGBTI individuals. In 2020, 45 per cent of respondents thought LGBTI individuals should have equal rights, up from 36 per cent in 2019 and 33 per cent in 2016. In 2018, 55.3 per cent of respondents said they would not want an LGBTI neighbour, in 2019 this dropped to 46.5 per cent.

3.86 Pro-government media and high-level officials, including President Erdogan, frequently make derogatory comments and statements about homosexuality. During the COVID-19 pandemic, the head of the *Diyanet* said at a Ramadan sermon that Islam condemned homosexuality because it brought disease, and that thousands of people were exposed to HIV each year. The comments were supported by President Erdogan and several cabinet ministers.

3.87 Human rights observers report 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 employers have used these provisions to discriminate against LGBTI individuals. Social stigma against HIV/AIDS leads many LGBTI individuals to avoid testing for fear the results 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 There are a number of prominent NGOs in Turkey that work to promote the rights and interests of LGBTI individuals, including in Istanbul, Ankara, Izmir, Adana and other major cities, and unofficial groups in smaller cities and university campuses. 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. A ban in place since November 2017 by the governor of Ankara prohibiting LGBTI public events such as cinema, theatre performances, panels, interviews and exhibitions was declared illegal in April 2020 by an Ankara Administrative Court. However, in practice the ban in Ankara and many other provinces persists as officials refuse permission on a case-by-case basis, citing security concerns. In the months following the overturning of the ban, police used water cannons, rubber bullets and tear gas to break up Pride Month gatherings. Authorities have banned the Istanbul Pride march on public order and security grounds annually 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.

3.90 LGBTI prisoners and detainees are vulnerable to physical violence, harassment and denial of medical services (see [Conditions in Detention](#)). LGBTI prisoners often seek medical clearance to move to isolated containment cells on grounds of mental or physical illness. Other LGBTI prisoners have meanwhile complained about the use of solitary confinement as inhumane treatment.

3.91 DFAT assesses 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 LGBTI individuals' participation in the workforce and broader community.

Military Objectors

3.92 Article 72 of the Constitution states 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. New laws introduced in June 2019 allow conscripts, after one month of military training, the ability to buy-out the remaining five months for a fee of 31,000 Turkish Lira (AUD6,640 as at June 2020). This applies only to those called up after the introduction of the new law. Those already considered draft evaders are not eligible for the new law and buy-out scheme.

3.93 Although military service is viewed as a rite of passage for young men, exemption or deferment on a non-financial basis 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 (although if they later return to Turkey they have to pay a fee), or for 'proving' their homosexuality. Local sources report 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 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 barcode in biometric passports (see [Passports](#)) is linked to the national database, meaning authorities can identify draft evaders on their return to Turkey (see [Passports](#)).

3.95 The government does not recognise the right to conscientious objection to military service on any basis. Those who do not present for registration at a military recruitment branch are issued a fine, and fines continue to be issued for the period authorities consider an individual has evaded conscription. Fines increase in value as the number of years of avoidance increases. While the law allows for imprisonment as punishment for avoiding military service, DFAT understands it is not used in practice. Non-payment of fines in Turkey can, in theory, result in asset seizures and withholding of salary and pensions. In practice, there are a very large number of conscription evaders and the state lacks capacity to follow-up on most cases. Prison is not used as a penalty for unpaid fines in Turkey. Turkish men who are resident overseas are not required to do military service while they hold a foreign work permit. Those who do not hold such a permit are considered draft evaders and may be subject to considerable fines upon their return.

3.96 DFAT assesses 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 a degree of harassment from authorities for unpaid fines, and may have 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 southeast, although this is at a significantly reduced level compared with previous years (see [Security Situation](#)). Turkey's Human Rights Association reported that, during 2019, 38 people died due to right to life violations – 29 were killed in border regions during military offensives, while nine were killed by security forces for defying stop warnings, by security services violating their weapons use powers, or during attacks related to curfews or protests. Security services operate with a relative degree of impunity and many agencies involved in the broad 'fight against terror' have immunity from prosecution.

4.2 In his May 2015 report (most recent), the UN Special Rapporteur on extrajudicial, summary or arbitrary executions noted 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 southeast 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 At its 120th session in February 2020, the UN Working Group on Enforced and Involuntary Disappearances transmitted one new reported case of enforced disappearance in Turkey, and clarified a further two. Ninety-one cases are outstanding. Most of these cases relate to disappearances between 1992 and 1996 in southeastern Turkey in the context of clashes between the PKK (see [Kurds](#)) and government security forces. Turkey's most recent case is of a Syrian national allegedly arrested in March 2018 by Turkish forces in coordination with an allied armed group in Afrin.

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 obtaining accurate figures as the government had done 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. The UN Working Group's report noted 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 a number of foreign countries. Some of those disappeared within Turkey have reportedly been held incommunicado for months and subject to torture. 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. Similar incidents have been reported in Mongolia and across Africa. In Guinea, for example, extradited teachers from Gulenist schools were reportedly imprisoned upon return to Turkey.

Deaths in Custody

4.6 Turkey's Human Rights Association recorded 69 deaths in prison in 2019 due to sickness, suicide and violence, an increase on recent years. In April 2020, officials confirmed three prisoners had died from COVID-19. The Justice Ministry does not otherwise release data on inmate deaths of any kind. 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

4.7 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 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 he would approve any parliamentary bill to reinstate the death penalty and suggested another referendum to gauge popular levels of support for the move. In August 2019 Erdogan again re-affirmed his position after the murder of a woman by her ex-husband sparked national outrage. To date, however, the government has not taken any action to reintroduce the death penalty, including holding the suggested referendum, despite controlling a majority of seats in parliament.

TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

4.8 Turkey is a party to ICCPR, CAT and OP-CAT (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. Turkey permits annual visits by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and has only recently, in August 2020, approved publication of reports from 2017 and 2019. The 2019 report noted that the Committee for the Prevention of Torture (CPT) received a considerable number of allegations of excessive use of force or physical ill-treatment against persons in custody, with a number of these allegations backed by medical evidence. The CPT also remained concerned about restrictions against access to a lawyer during the initial phase of custody for certain serious crimes. A visit for 2020 is yet to take place. 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.

4.9 Despite these legal protections, human rights observers report torture and other ill-treatment of detainees occurs in Turkish detention facilities, particularly as a means of extracting confessions or forcing detainees to denounce other individuals. Turkey's Human Rights Association reported 1,477 individuals had alleged they were subject to torture and other forms of ill-treatment while in custody during 2019. In a February 2018 statement, the UN Special Rapporteur on torture expressed serious concerns about the rising allegations of torture and other ill-treatment in Turkish police custody, since his last visit in December 2016. The Special Rapporteur said there were allegations individuals suspected of links to the Gulen Movement or PKK were exposed to brutal interrogation techniques, including beatings, electrical shocks, exposure to icy water, sleep deprivation, threats, insults and sexual assault. The Special Rapporteur also said torture complaints were allegedly dismissed in some instances because a state of emergency decree exempted public officials from criminal responsibility for acts taken in the context of the state of emergency.

4.10 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 southeast, however, 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. In May 2019, reports emerged that up to 100 people dismissed from the public service on suspected ties to the Gulen Movement were mistreated while under the custody of police in Ankara. The Ankara Bar Association interviewed six detainees, five of whom testified that authorities blindfolded them, dragged them around police facilities, hit them with batons, and threatened to insert batons into their rectums. The Turkish National Police deny the claims.

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 \(NHRI\)](#)). 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 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 Turkey's Forensic Medicine Institute, part of the Justice Ministry, conducted an investigation into allegations 54 prisoners in the southeastern province of Urfa were tortured in 2019 after photos of a group of prisoners lying naked on the ground were published. The Institute acknowledged the prisoners had scratches, but noted they were 'not deadly'. Members of the group claimed to have been subjected to eight different methods of torture for 12 days, including being hooded and having their genitals electrocuted. The

local Bar Association said torture had been systematic in the province since 2015, and the Institute's report had not been prepared in an objective manner. Authorities have taken no further action.

4.13 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.

4.14 DFAT assesses reports of torture in Turkish police stations and detention facilities, particularly in the southeast, 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


4.15 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 new anti-terrorism legislation introduced at the conclusion of the state of emergency, suspects can be detained for 48 hours for individual offences, and 96 hours for collective offences. In both instances detention can be extended twice with the approval of a judge, amounting to six days for individual offences and 12 days for collective offences. 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. International and domestic human rights observers claim law enforcement officials do not always follow these requirements, and there are numerous accounts of individuals being held in detention beyond 12 days without formal charge. The maximum time an individual can be held in pre-trial detention is seven years.

4.16 These constitutional requirements and laws are often implemented inconsistently. Following the 2016 attempted coup tens of thousands of people were detained, often denied access to the evidence underlying the accusations against them, and often with different outcomes for near identical cases. The Turkish government has acknowledged many of these issues and in October 2019 introduced a judicial reform strategy to ensure a more efficient and transparent system. Observers have noted the use of lengthy pre-trial detention has often served as a form of summary punishment in politically motivated terrorism charges.

Corporal Punishment

4.17 Neither the Criminal Code nor the Criminal Procedure Code allows judicial 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 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. Turkey is still examining



recommendations on corporal punishment against children from its 2020 UPR (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 coast guard, formerly part of the TSK, but now a component of the Interior Ministry, shares maritime border responsibility with the TSK. 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 355,000 active personnel, 380,000 reserves, and 1.4 million Turkish citizens reaching military age annually, the TSK is one of the world's largest militaries. Global Firepower ranked Turkey 11th out of 138 countries in its annual review of military strength for 2020.

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, and it is now fully under civilian control.

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 20,000 military personnel in the immediate aftermath of the attempted coup and state of emergency period, including 150 generals. In the period following the state of emergency, a further 4,562 were dismissed up to June 2020. A further 4,156 are still under investigation.

5.5 The February 2017 OHCHR report (most recent) detailed numerous allegations of human rights violations committed by both security forces and the PKK in connection with the security operations in the southeast. Allegations included: excessive use of force; extrajudicial 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 was restricted around the clock for several days at a time (see [Kurds](#)).

5.6 The TSK is currently engaged in security operations in Syria (Operations Peace Spring (northeast Syria), Spring Shield (Idlib) and Raqqa (Olive Branch)); northern Iraq (Operation Claw); and Libya (Peace Storm); and in maritime security operations in the Aegean, Mediterranean and Black Seas. They also contribute to NATO, UN and other international coalition operations.

Police

5.7 The Turkish National Police ('the police') is the civilian police force responsible for law enforcement in Turkey, with around 310,000 members, of which approximately 6 per cent are female. 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.

5.8 Like other branches of the Turkish civil service, the dismissals of alleged Gulenists following the 2016 attempted coup have affected the police. As at July 2019, 33,372 personnel had been dismissed from the police force for Gulen links since July 2016. Gulen-related investigations also consume a significant proportion of police resources.

5.9 International and domestic human rights groups have expressed concerns 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 police and other security forces mistreated and tortured detainees (see [Torture and other Cruel, Inhuman or Degrading Treatment or Punishment](#) and [Arbitrary Arrest and Detention](#)).

Night Watchmen

5.10 Night watchmen or 'Bekcis' are a neighbourhood watch force who have been present in Turkey since the 1960s. The system was abolished in 2008, but has been gradually reinstated in recent years. In June 2020, the group was given new police-like powers that allow them to stop people on the streets, ask for identification, conduct random checks and use weapons. The force is comprised almost exclusively of young men who are supportive of the ruling AKP. They wear a brown police-like uniform. Throughout 2019 and 2020 there were numerous allegations of night watchmen harassing citizens with impunity. Opposition political parties strongly oppose the enhanced role of the night watchmen.

Other Security Forces

5.11 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 'village guards', a Kurdish civilian militia that provides additional local security in the southeast, largely against the PKK (see [Security Situation](#)).

National Intelligence Organisation (MIT)

5.12 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 has the ability to grant its members legal immunity from prosecution, and checks on the organisations operations are limited.

Judiciary

5.13 Article 9 of the Constitution states 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 are reserved for disciplinary cases only.

5.14 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 was reduced from 22 to 13, of whom six are appointed by the president. The Minister for Justice (a separate presidential appointee) chairs the board, and the Deputy Minister of Justice is a permanent member. Parliament elects the seven remaining board members. The judiciary itself does not have the power to select any board members.

5.15 Since the July 2016 attempted coup, the government has suspended, detained or dismissed almost one third of judicial staff, who were accused of affiliation with the Gulen movement. 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 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. Local sources also note the heavy caseload, and appointment of young, inexperienced, often politically aligned judges and prosecutors to fill the positions of those dismissed has led to an uptick in poor judgements, often having to be overturned by higher courts after long delays.

Conditions in Detention

5.16 The Ministry of Justice's General Directorate of Prisons and Detention Houses administers Turkey's prison system. At the end of December 2019, Turkey had a prison population of 294,000 in 355 penitentiary institutions. A further 490,000 people were on release on judicial control arrangements. The total capacity in Turkish prisons is 220,230, meaning occupancy as at December 2019 was 133 per cent, or 73,770 excess inmates. However, tens of thousands were released in April 2020 as part of COVID-19 prevention measures.

5.17 According to international observers, detention conditions in Turkey have worsened considerably since the July 2016 attempted coup; however, outside of the overcrowding and associated issues, they largely met the UN special rapporteur's standards for physical conditions. Turkey's Human Rights Association reported 69 deaths in prisons in 2019 and a large number of allegations of torture and mistreatment, including beating, invasive body searches, arbitrary discipline action, solitary confinement, and restricted access to healthcare (see also [Torture and other Cruel, Inhuman Or Degrading Treatment Or Punishment](#)). As at March 2020 the NGO reported 1,564 sick prisoners, 590 of whom were in a critical condition and faced issues accessing healthcare. In Parliamentary reports an official said as of September 2019 the prison system had 1,300 health workers, which included eight medical doctors, 65 dentists and 805 psychologists.

5.18 In locations where there are no designated prisons, minors are kept in separate sections within male and female adult prisons. Children younger than six can stay with incarcerated mothers. Pre-trial detainees and convicts often occupy the same cells and blocks. Detainees are separated on the basis of the offence: those charged with, or convicted of, terrorist offences are held separately from others. There is a strict separation between those detained for having Gulenist connections and members of other organisations, such as the PKK. There is limited recent evidence to suggest prisoners detained for PKK and Gulen-related convictions are treated worse than others. LGBTI prisoners are usually separated from heterosexual prisoners, although there are still reports of discrimination, sexual harassment and humiliation, particularly for transgender inmates.

5.19 In general, inmates charged with normal crimes are entitled to one visit per week – and in a month only one of these is permitted to be open; the others are all closed behind glass. Those charged with terrorism offences are permitted one open visit every two months. Those serving a life sentence are entitled to two visits – one open and one closed – in a month. Documents belonging to lawyers and records of conversation with their defendants cannot be examined. However, an official can be present at the visit and documents exchanged may be subject to examination by the Enforcement Judge. DFAT understands phone calls are determined on an individual prison basis. Low security facilities are more flexible with outgoing calls, whereas, for example, the Izmir High Security prison allows inmates to make only one 10-minute phone call per week. Those determined as 'dangerous' are only allowed one call every fortnight.

5.20 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 May 2019 (releasing its 2019 visit report on 5 August 2020). Article 2 of the Code of Criminal Procedure states 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 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.

INTERNAL RELOCATION

5.21 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 southeast 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).

5.22 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.

5.23 DFAT assesses the registration requirement and the nationwide reach of security services mean an individual facing adverse official attention is unlikely to be able to escape this through internal relocation. Those facing adverse societal attention may be able to escape through internal relocation, particularly to major urban centres.

TREATMENT OF RETURNEES

Exit and Entry Procedures

5.24 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 have led to Turkey regularly closing its land border crossing points with these countries. Local sources advise that, while the Syrian 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. The border with Iran remains somewhat porous and is a route for irregular migration.

5.25 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 records (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 \(MERNIS\)](#)).

5.26 Article 23 of the Constitution states a citizen's freedom to leave the country may be restricted only by decision of a judge based on a criminal investigation or prosecution. Those who have been charged or are on bail are unable to depart. Under the state of emergency, the government imposed international travel restrictions on officials, academics and other official passport holders who had to obtain permission to depart. This state of emergency measure has now been removed and no Turkish citizens require an exit permit. Following the 2016 attempted coup, authorities 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 is aware of a number of cases where individuals have claimed that, despite a court or inquiry commission decision lifting their travel ban, authorities have still refused to issue a travel document. DFAT

assesses 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 may be possible for Turks to leave the country for Europe either overland or via boat without coming to official attention.

Conditions for Returnees

5.27 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 is not aware of any significant stigma attached to this group. Turkey's sophisticated information databases mean 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.

5.28 Regarding double jeopardy provisions, Turkey ratified Protocol 7 of the European Convention on Human Rights in May 2016. Article 4 of the Protocol states 'no one shall be liable to be tried or punished again in criminal proceedings under the jurisdiction of the same State for an offence for which he has already been finally acquitted or convicted in accordance with the law and penal procedure of the State.' Article 9 of the Criminal Code states a person convicted in a foreign country for an offence committed in Turkey is subject to retrial in Turkey. Article 16 provides for the period of detention served elsewhere to be deducted from the final punishment given for the same offence in Turkey. Where Turkish officials determine Article 9 applies, DFAT understands parallel investigations and verdicts can exist. Moreover, DFAT is aware of instances where Turkish authorities have sought extradition for individuals that were rejected on double jeopardy concerns. DFAT assesses Turkey applies double jeopardy provisions on an ad-hoc basis. In 2019, Turkey declined to extradite a terrorism suspect to the US citing the double jeopardy principle as the suspect had already served a sentence in Germany.

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 973 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 2017. 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. All citizens are required to surrender their old ID cards for the new biometric cards by 2023. Turkey uses similar biometric cards for other forms of identification including residence permits and diplomatic IDs. The issuance of an ID card does not automatically convey citizenship.

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 and ID card serial number.

5.35 The *Law on the Protection of Personal Data* (2016) stipulates 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 government data protection authority. Some legal experts have asserted 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. In 2019 the European Commission said Turkish data protection was not in line with European standards and a more comprehensive and coherent legal framework was required for the confiscation of proceeds of crime and to improve capacity to manage frozen assets.

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. Passport applicants must apply in person at the General Directorate of Population and Citizenship Affairs offices located in every province. Applicants 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 10 years and depends on the fee the applicant is willing to pay. Turkey issues six different kinds of 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; diplomatic passports (issued to diplomats, MPs, and a wide range of senior government officials) have black or navy blue covers; and temporary or emergency passports have pink covers and are issued by Turkish foreign missions. Separately, DGMM issues special travel passports for foreign nationals, used in deportation cases.

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 family members (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. In March 2019, the Ministry of Interior announced it would lift restrictions on 57,000 passports, with restrictions on a further 11,000 passports lifted in February 2020. DFAT understands the majority of cancelled passports were special (green) passports. In some cases the government has cancelled or refused to issue passports to family members of individuals outside the country who are accused of ties to the Gulen movement.

5.39 Inside Turkey, passports are not issued to people who are legally considered draft evaders (subject to fines etc.) where those details are registered in MERNIS. Passports are issued to people who have not undertaken military service but are yet to be sanctioned for it – and there is no requirement for proof of completion of military service to satisfy passport issuance requirements. Overseas at Turkish diplomatic missions, passports are issued to draft evaders to allow them to return to Turkey to complete their military service although this may be a limited validity document. Overseas, like in Turkey, there is no requirement to provide proof of completion of military service.

Prevalence of Fraud

5.40 International sources report 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.