

## Analysis

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**Summary:** The realities and debates of the rights of lesbian, gay, bisexual, and transgender (LGBT) persons reflect the clashing social, political, and geostrategic trends in Turkey. While more openness, awareness-building, and concrete demands are rising from some segments of society, these are confronted by a trend of rising conservatism and backlash. In the meantime, regional dynamics are also applying differing pressures. As its neighbors are clarifying their positions, and demands are raised from the citizens of the country, Ankara cannot delay taking a stance on equal rights for LGBT citizens for much longer. The choice is between a tyrannical majority and a pluralistic liberal democracy.

## Gay Rights: Where is Turkey Heading?

by *Diba Nigar Göksel*

### Introduction

The realities and debates of the rights of lesbian, gay, bisexual, and transgender (LGBT) persons reflect the clashing social, political, and geostrategic trends in Turkey. While more openness, awareness-building, and concrete demands are rising from some segments of society, these are confronted by a trend of rising conservatism and backlash. In the meantime, regional dynamics are also applying differing pressures. While to the west of Turkey, LGBT rights have become one of the litmus tests of democracy, to Turkey's north, in Moscow, this issue has been labeled a symbol of "European decadence" and anti-gay crack-down is on the rise. Meanwhile, one of the seven countries worldwide where gay sex is a crime punishable by the death penalty is Turkey's neighbor to the southeast, Iran.

It remains unclear whether Turkey is adopting a more European outlook in this area, albeit with transition pains, or if the Western model is unraveling at its seams due to the empowerment of a conservative majority in Turkey and the shift of Turkey's geostrategic gravity away from Europe. As distinctions become sharper across the region, and the battle lines become clearer, "the middle" may prove an

awkward place for Turkey to stand. With discrimination and violence on the basis of gender identity and sexual orientation ever more visible in Turkey today, these issues need to be taken up in the framework of basic human rights.

### Between East and West: What Color is Turkey?

In the battle between traditional values and modernity, Turkey appears to be a bridge to the East on the rainbow map of Europe.<sup>1</sup> A feature of this bridge, however, is that it is itself ridden with deep cracks. In the LGBT sphere, a breaking of taboos and stronger mobilization for rights can be observed. However, this empowerment is partial and fragile, and conservative backlashes threaten to bring about regression, particularly given the direction in which political will leans. So far, Turkey's color in the rainbow is not easy to distinguish.

EU accession-driven reforms in Turkey and the growing international advocacy of LGBT rights have played a role in activating the LGBT rights movement in Turkey, as have domestic

<sup>1</sup> *Rainbow Europe Map and Index*, May 2012, [http://www.ilga-europe.org/home/publications/reports\\_and\\_other\\_materials/rainbow\\_europe\\_map\\_and\\_index\\_may\\_2012](http://www.ilga-europe.org/home/publications/reports_and_other_materials/rainbow_europe_map_and_index_may_2012)

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dynamics. The elimination of patriarchal concepts in laws pertaining to women's sexuality, challenges of formerly untouchable official narratives of history, and targeting of discrimination on the basis of ethnicity and religion have arguably created a climate more conducive for challenging taboos regarding LGBT rights as well.

As demands for rights and recognition have risen among LGBT rights activists, though, so has the conservative expression of homophobia, with sometimes fatal violence. This pattern of more rights being matched with a backlash is not unique to LGBT rights but is endemic in identity politics across the country. Democratization and socioeconomic change have emboldened various identities, triggering more tension. As the debates become more open, the fault-lines of the country's social and political polarization have also come to the fore.

A paradox can be observed in terms of social acceptance and the public debate. On one hand, there is increased dynamism among the LGBT community. The legal registration of civil society organizations with explicitly LGBT agendas in Turkey has been a phenomenon of the 2000s.<sup>2</sup> International human rights organizations and EU institutions have also become vocal on LGBT rights in the last decade. There has been a boom of related studies and surveys.

Turkey was the first Muslim country in which a gay pride march was held, in 2003. Each year, the pride march grows and spreads in the country. LGBT experiences have also been depicted more intensely in the arts and the media. The film "Zenne Dancer," based on the real story of a young man murdered by his father to protect the "honor" of the family, is a recent noteworthy example. Another recent production is a documentary titled "My Child," featuring interviews with families of LGBT individuals and depicting the strains of social pressures. The first gay film festival was held on November 17, 2012. More features by popular writers and in mainstream newspapers have raised awareness to the tragic consequences of widespread homophobia and transphobia.

<sup>2</sup> Such as Lambda Istanbul, KAOS-GL, Pink Life, Black Pink Triangle, SPOD, and Istanbul LGTT.

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On the other hand, this course has been paralleled with homophobic violence and intolerant, hostile rhetoric about homosexuality among conservative journalists, intellectuals, politicians, and organized citizen groups.<sup>3</sup>

The humanization of gay people through media, arts, culture, and daily encounters is an important step in the road towards normalcy and equal rights for gays. However, to the extent that the state ignores — or worse, emboldens — hate speech and violent crimes that accompany "coming out," prejudice and fear will prevent a turning point from being marked in this country.

### The Politics of Coming Out: Unlikely Bedfellows

Homosexuality has never been criminal in Turkey, but discrimination on the basis of sexual orientation or gender identity is also not explicitly banned. In other words, LGBT-QI (lesbian, gay, bisexual, transgender, queer, or intersex) people can still not find grounds to seek redress if they are discriminated against from jobs, housing, or financial or health services on the basis of their sexual or gender identity. While the need for the protection of LGBT people against violence is uttered at the political level, translating this into law, and action, has lagged.

Despite the fact that, objectively, legal grounds do not exist, dismissal from duty for being gay still occurs. Part of the problem is judicial interpretation and implementation. On the basis of ambiguous notions such as "obscenity," "offenses against public morality," "protecting public health," or "encouraging lesbian, gay, bisexual, transvestite, and transsexual behavior," freedom of expression has been limited, publications have been banned, and NGO activity or human

<sup>3</sup> Sinan Birdal, "Queering Conservative Democracy," *Turkish Policy Quarterly*, Winter 2013



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rights defenders have been prosecuted. Worse yet, as the European Commission has also noted, courts have applied the principle of “unjust or heavy provocation” to reduce sentences of perpetrators of hate crimes and murders against transsexuals and transvestites.”<sup>4</sup> Police violence and impunity against transgenders and violation of gay people’s privacy with frequent ID controls in gay-friendly bars, cafes, discos, and the like are other frequently cited problems related to law enforcement.<sup>5</sup> In the past year, courts handed down rulings contradictory about whether gay sex can be considered “unnatural;” if it is, the law would enable the imprisonment of people who publish or distribute gay porn.

High profile statements by government officials also encourage discrimination. In March 2010 the state minister responsible for women and family, Selma Kavaf, made a public statement saying, “I believe homosexuality is a biological disorder, a disease. It needs to be treated.” Despite reactions from domestic and international actors, she did not retract her comments, nor did any AKP representative counter this position on behalf of the party. Ever since this event, the LGBT community has by and large adopted a more critical stance toward the governing party. This trend continued in December 2011 when the then interior minister, Idris Naim Sahin, described homosexuality as a factor contributing to “an environment in which there are all kinds of dishonor, immorality, and inhuman situations.” Such expressed positions are irresponsible in a country where many people still see “honor” as a justified reason for murder.

Though the threat of closure continues to hang over LGBT non-governmental organizations, they have been able to forge coalitions with the feminist movement, and increasingly with various other political actors. LGBT NGOs have developed in political participation, most recently providing input to the crafting of relevant items toward the making of the country’s new constitution, in a process ongoing since mid-2011.<sup>6</sup>

In May 2012, two of the four parties of the Constitution Reconciliation Committee — the BDP and CHP — supported the demand of the LGBT rights movement to

<sup>4</sup> European Commission, 2009.

<sup>5</sup> <http://www.amnesty.org/en/library/asset/EUR44/001/2011/en/aff47406-89e4-43b4-93ed-ebb6fa107637/eur440012011en.pdf>

<sup>6</sup> Volkan Yilmaz, “The New Constitution of Turkey: A Blessing or a Curse for LGBT Citizens?,” *Turkish Policy Quarterly*, Winter 2013

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integrate the phrases “sexual orientation” and “gender identity” into the equality cause of the new draft constitution. The AKP and MHP parties rejected this proposal. Efforts to have LGBT people included in the laws protecting women against gender-based violence have also been refused by the government. While, for decades, the military represented the harshest rhetoric and regulation regarding gays in Turkey, today the dividing lines regarding LGBT issues is bringing about unlikely political bedfellows.

### Morality and the Masses

Turkish society is by and large conservative. According to one survey, only 11.2 percent of Turkish people think homosexuality should not be a criminal act.<sup>7</sup> In another survey, 84 percent of Turkish respondents stated that they did not want to live near LGBT neighbors.<sup>8</sup> There is a risk that cultural relativism and Western efforts to “appease” Muslim conservatives will enable exceptionalism when it comes to gay rights. But the front against LGBT rights is not a Muslim phenomenon. Similar resistance is encountered, among the countries of the Western Balkans and countries in the Eastern neighborhood of the EU, such as Ukraine and Moldova. In many of today’s EU members, too, gay rights have not come easily. Ironically, homoerotic themes are prevalent in the literature of Muslim geographies and the Ottoman Empire until the late 17<sup>th</sup> century. Some say it was Western influence in the modern times that brought rigid interpretations to the previously widespread cultural acceptance of male-male love.

To attain advanced democratic standards, the conservative instinct underlying Turkey’s current phase of social engineering needs to be confronted with an embrace of pluralism. In fact, a higher standard of human rights will automatically deliver the basic rights the gay community

<sup>7</sup> KONDA and Social Policies, Gender Identity and Sexual Orientation Studies Association (SPoD) survey, 2012

<sup>8</sup> 2011 World Values Survey



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in Turkey today demands. Already important progress will have been marked if anti-discrimination legislation is made more comprehensive, to explicitly include sexual orientation and gender identity. Besides enacting such a law, ensuring its implementation through mechanisms to monitor implementation and holding law enforcement agencies and public servants accountable for compliance is also needed. Laws and adequate action against hate speech is an important step, which should be applied for all minorities and vulnerable groups. If it is enforced as projected, the “Action Plan to Prevent Human Rights Violations” that is in the Ministry of Justice’s pipeline can provide some solutions to problems that LGBT citizens face, such as protection of private life and investigation into cases of mistreatment.

Ambiguous wording needs to be weeded out of all legislation, as do loopholes enabling arbitrary implementation. Vague wording such as “insulting the Turkish nation,” “insulting Islamic values,” “insulting historical events or figures,” or “violating public morals” have been used to curb freedom of expression over history, religion, and nationalism as well. Such phrases leave interpretation of laws to the discretion of judges and prosecutors, which should be objected to on grounds of basic human rights. At this juncture, besides legal changes, a firm stance by political leaders and public authorities against discrimination and hate crimes is crucial. Public education campaigns against discrimination and anti-bullying programs in schools are also needed to address related social norms and cycles of victimization.

As the public authorities work on stronger implementation of action to combat violence against women, homophobic violence needs to also be addressed. To the extent that the authorities claim that the Turkish public “is not ready” for LGBT recognition and protection, it should be remembered that similar statements could be heard ten years ago, when the feminist movement rose up in protest against reduced sentences for honor killings of women. Back then, the AKP government heeded these calls. The 2004 penal code eliminated sentence reductions for honor killings. In doing so, public support was not measured against the principle. Quite the contrary, the law was designed to *counter* entrenched social customs that contradicted human rights, not to adapt to them. This same spirit needs to legislate against discrimination toward LGBT people.

Turkey is literally between the East and the West — and this is not necessarily a comfortable place to be. Straddling two worlds may rhetorically bode well, but in practice, it calls for tough choices. It appears the increasingly clear standards of the EU regarding LGBT rights are in contradiction with the conservative standards expected of this Turkish government from some of its counterparts in the Muslim Middle East.

As its neighbors are clarifying their positions, and demands are raised from the citizens of the country, Ankara cannot delay taking a stance on equal rights for LGBT citizens for much longer. The choice is between a tyrannical majority and a pluralistic liberal democracy.

### About the Author

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