



To: The Office for the High Commissioner for Human Rights  
UN Special Rapporteur on Freedom of Religion or Belief

## Submission by the Freedom of Belief Initiative for Call for input: Report on Respecting, Protecting and Fulfilling the Right to Freedom of Thought

09.06.2021

1. The Freedom of Belief Initiative's submission addresses the freedom of thought of children and question 12 which requests information about what practices and policies may unduly affect freedom of thought of individuals in vulnerable situations, specifically children. The Norwegian Helsinki Committee's Freedom of Belief Initiative is a human rights project that aims to promote freedom of religion or belief for all in Turkey.<sup>1</sup>

2. Following a brief discussion of the child's right to freedom of thought and complementary rights we would like to draw the attention of the UN Special Rapporteur on Freedom of Religion or Belief to the child's right to freedom of thought in relation to religious education in public schools in the case of Turkey.

3. International treaties which protect freedom of thought, conscience and religion also protect the right of the child to freedom of thought, conscience and religion by stating that "everyone" has this right.<sup>2</sup> However, the Convention on the Rights of the Child (UNCRC) Article 14 will be prioritized here, because it is more directly applicable and gives the opportunity to make a broader evaluation. The text of Article 14 is as follows:

- (1) State Parties shall respect the right of the child to freedom of thought, conscience and religion.
- (2) State Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
- (3) Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.<sup>3</sup>

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<sup>1</sup> For more information on the Norwegian Helsinki Committee see [www.nhc.no](http://www.nhc.no) and for more information on the Freedom of Belief Initiative see [www.inancozgurlugugirisimi.org](http://www.inancozgurlugugirisimi.org).

<sup>2</sup> See UN ICCPR Article 18, ECHR Article 9.

<sup>3</sup> The UNCRC was accepted by the United Nations General Assembly's Decision No. 44/25 dated November 20, 1989 and entered into force on September 2, 1990. The Convention entered into force on 4 May 1995 for Turkey.



4. The freedom of thought, religion and conscience of a child is seen as part of the “right of power to decide” category. These are individual rights regarding personal matters and individual choice, which are based on the fact that every individual, including a child, is independent and has a personality.<sup>4</sup> Freedom of expression, freedom to gather together, freedom of association and the right to education are other rights in this category.<sup>5</sup> Freedom of thought, conscience and religion cannot be limited and must be protected, therefore, under no circumstances should anyone be forced to believe a certain belief, religion or belief expression. Freedom of thought is a wide-ranging area. Accordingly, the indoctrination or forcing of a child to express his or her thoughts is strictly prohibited. Freedom of conscience thought, is a narrower area which protects people’s consciences from a moral and philosophical point of view.<sup>6</sup> Believing in a divine existence is not necessarily required and could change. Likewise, freedom of religion should be assured and unrestricted. Like freedom of thought, enforcing a child to make his/her religion public or religious indoctrination is also prohibited. A child is free to believe in a religion or not, hence states are not allowed to force a child to believe in a religion or not.

5. As stipulated in Article 14(2), parents may guide their children, but two fundamental rules must be taken into account in this process. Firstly, this guidance must comply with the evolving capacities of the child and secondly, with the whole UNCRC.<sup>7</sup> In this case, for example, the “guidance” cannot contain any physical or mental violence (Article 19). The right to participation of the child (Article 12) must be considered. All children able to have an opinion also have the right to freely express their opinions “for all matters affecting them”.

6. Of all children’s rights, being heard is one of the fundamental values of the UNCRC and the CRC emphasizes that this article not only establishes a right, but also must be considered in the interpretation and application of all remaining rights.<sup>8</sup> The CRC particularly draws attention to the fact that teenagers and children belonging to marginalized and disadvantaged groups especially experience obstacles in fulfilling this right.<sup>9</sup>

7. According to the CRC, even if there are challenges in assessing their age and maturity, states must consider children as a group to be heard and every effort must be taken to listen to their views.<sup>10</sup> In addition, states are responsible to provide an encouraging environment for the child to develop free thinking and opportunities for them to exercise their right to participation.<sup>11</sup> The exercise of freedom of expression by one or more child is a

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<sup>4</sup> Gemalmaz, H. B. 2011. “The Right of the Child to be Educated in the Framework of the ECHR in the Line of His/Her Own Views / Convictions”, 1. Children's Rights Congress (Istanbul, Turkey), 189-208.

<sup>5</sup> Ibid.

<sup>6</sup> Brems, E., “Article 14: The Right to Freedom of Thought, Conscience and Religion” in *A Commentary on the United Nations Convention on the Rights of the Child*, Brill, 2006

<sup>7</sup> Ibid.

<sup>8</sup> CRC, supra note 3, para. 2.

<sup>9</sup> CRC General Comment No. 12 on Article 12 (Right to Participate) CRC/C/GC/12, 1 Temmuz 2009, para. 4.

<sup>10</sup> Ibid. para. 10.

<sup>11</sup> Ibid. para. 11.



fundamental element of the participation process and should be the starting point for developing policies that affect children.<sup>12</sup>

8. The meaning of “the capacity of the child to build an opinion of his/her own” is a topic requiring particular attention. According to the CRC “This expression must not be considered as a limitation, but an obligation of states to assess as far as possible the capacity of the child to build an independent opinion of their own.”<sup>13</sup> States should assume that the child has the capacity to build their own opinions and accept that they have the right to express them; **it is not the child’s duty to prove their capacity first.**

9. It is important that the CRC emphasize Article 12 which does not limit a child by age in expressing their opinions. This is why states should not apply age limitations in law or in practice on freedom of expression of children<sup>14</sup>

### **The Compulsory Religious Culture and Morals Knowledge Courses**

10. The Religious Culture and Morals Knowledge (RCMK) course is among the compulsory courses taught in basic education (4-12 grades), two hours a week in Turkey. The changes in RCMK curriculum and textbooks since 2007 are linked to European Court of Human Rights judgments of *Hasan and Eylem Zengin v Turkey* case and *Mansur Yalçın and others v Turkey*.<sup>15</sup>

11. An assessment of the Grade 4-10 and Grade 12 books published by MEB and Grade 11 RCMK textbooks published by Dikey Publishing has been carried out.<sup>16</sup>

### ***Impartial / Non-doctrinal***

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<sup>12</sup> Ibid. para. 13.

<sup>13</sup> Ibid. para. 20.

<sup>14</sup> Ibid. para. 21. See also. By requiring that due weight be given in accordance with age and maturity, article 12 makes it clear that age alone cannot determine the significance of a child’s views. Children’s levels of understanding are not uniformly linked to their biological age. Research has shown that information, experience, environment, social and cultural expectations, and levels of support all contribute to the development of a child’s capacities to form a view. For this reason, the views of the child have to be assessed on a case-by-case examination. (para. 29)

Maturity refers to the ability to understand and assess the implications of a particular matter, and must therefore be considered when determining the individual capacity of a child. Maturity is difficult to define; in the context of article 12, it is the capacity of a child to express her or his views on issues in a reasonable and independent manner. The impact of the matter on the child must also be taken into consideration. The greater the impact of the outcome on the life of the child, the more relevant the appropriate assessment of the maturity of that child. (para. 30)

<sup>15</sup> ECtHR, *Hasan and Eylem Zengin v Turkey*, Application No. 1448/04, October 9, 2007 and *Mansur Yalçın and Others v Turkey*, Application No. 21163/11, September 16, 2014.

<sup>16</sup> The 11th grade textbook published by MEB Publications could not be reached. However, the textbook published by Dikey Publications was accepted as a textbook for five years as of the 2019-2020 academic year, with the assize of the MEB Board of Education and Discipline no 8 dated 18.04.2019. Yildirim, M. “Compulsory Religious Education in Turkey – A human rights-based evaluation of the Religious Culture and Knowledge of Ethics lessons and books”, Association for Equal Rights, 2021.



12. Teaching about religions should be carried out in an impartial, objective and non-doctrinal manner.<sup>17</sup> In the RCMK textbooks the existence and nature of God, the Holy Qur'an, Hz. information about Muhammad, the formation of the world, the purpose of man and life, death, afterlife, angels and demons and the doctrines of the religion of Islam are presented in the form of positive assertions. **The doctrinal nature of the compulsory RCKE constitutes interference in the child's right to freedom of thought.**

13. Examples:

Allah sent divine books to guide people to the right path and teach them what they do not know. The last divine book sent by Allah to Muhammad is the Quran. The Quran is the word of Almighty Allah from beginning to end. (4th Grade, p.42)

Nobody can escapes death. Even the planets and the whole universe turn upside down and disappear in due course. Every person who has died until the Day of Judgment, when the life of this world will come to an end, is kept in a world called barzakh between the world and the hereafter. Resurrection takes place after the doomsday. All people are resurrected by the order of Allah and gather at the place of Judgment, they are taken into account by Allah. All he has done while in this world is weighed in the scales of divine justice called trial balance. People now have only one road (Sirat Bridge) left. Those who pass the order will enter Paradise with the permission of Allah, and those who cannot enter Hell. (Grade 7 p.23)

### ***Inclusive***

14. RCMK includes sections on different religions and Islamic interpretations in separate units.

15. Although information about the religions of Christianity and Judaism is included at different grade levels, the basic principles and practices of these religions are broadly included in the 11th grade textbook. However, according to Christian and Jewish theologians in Turkey this information is based inaccuracies or incompatible with the basic teachings of Christianity and Judaism. In particular, the assumption that the Islamic view that their scriptures that constitute the main sources of Christianity and Judaism, have been "tampered with", has an important place in the book.

16. Theism, deism, atheism, and agnosticism are discussed in the 4th unit of the RCMK 11th Grade textbook under the heading "Issues About Faith". These issues are dealt with Islamic explanations / apologetics on these, and these teachings are not presented objectively.

Example:

Islam firmly rejects the deist approach. According to our religion, it is Allah who created the universe and everything in the universe. His dominance over the

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<sup>17</sup> Toledo Guiding Principles, supra note 3., UNCHR General Comment No. 22, supra note 28 and the ECtHR decisions are discussed in detail in the section on international law above.



universe continues all the time. Everything in the universe exists and continues to exist thanks to the infinite might, knowledge and creativity of Allah. (Grade 11, p.102)

17. For example, after explaining the features of atheism, the following explanations are given:

Atheism is an understanding contrary to human nature. Because in human nature, belief in Allah is innate. For this reason, even those who claim to be atheists take refuge in Allah when they are in a difficult situation and when they are desperate. This situation is explained as follows in a verse in the Quran: "When a problem comes to man, he turns to his Lord and begs him. Then, when Allah gave him a boon from him, he forgets that he had begged before. Wives run to him to lead him astray from the path of Allah ..." (11th Grade, p. 111)

### ***Freedom of thought, conscience and religion of the child***

18. Every child has the right to freedom of thought, religion and conscience and can use this right to the extent of his/her evolving capacity. The child uses his or her right, not by their parents or anyone else. The examples given below show that children have to give "correct" answers to doctrinal matters that are not presented objectively and that lead them to certain behaviors as "correct" behavior. Considering that the RCMK course performance of children will be evaluated through exams, homework or in-class participation and that the grade they will receive will have a significant effect on their education life, it is seen that the child must perform in a way as doctrinally approve of the information provided from within the religion. This exposes the child to conditions in which he or she may have to act against their thought, religion or conscience.

19. See examples of questions or tasks below:

6. "O Believers! Alcohol, gambling, idols and fortune-telling are undoubtedly devilish, avoid them so that you can enjoy happiness. " (Maide Sura, verse 90.)

Which of the following cannot be deduced from this verse?

A) Islam prohibits alcohol and gambling.

B) It is stated in the verse that fortune telling and arrows of chance should be avoided.

C) The religion of Islam wanted people to stay away from things that harm their mental health.

D) It is okay to drink enough to not get drunk. (Grade 8 p.88)

5. ( ) Prayer shows our devotion to Allah. (Grade 4 p.29)

20. The child is expected to write a prayer:

Write a prayer based on the prayers of the Prophet (5th Class p.27).

Read the Rabbena prayer and write a prayer in your own words. (Grade 5, p.55)



21. The child who does not adopt the idea of creation in her/his parents and / or her /his own world of belief will experience contradiction in the expected answer to the following question.

5. Which of the following statements is false?

- A) Beings in the universe came into being by chance.
- B) Allah is the creator of everything.
- C) Allah knows everything we do.
- D) Allah has power over all things. (Grade 5, p.35)

22. Although not present in all new RCMK textbooks, expressions such as "our religion", "our prophet", "our holy book, the Quran," which are signs of a language that teaches religion from within, continue to be used in many books:

**Ablution** is the washing and wiping of certain organs in our body as required by our religion. (4th Grade, p.105)

Example: "Let us know that prayer is a very important act of worship required in our religion. Let's give importance to fulfill our duty of servitude by praying. Your prayers we perform. It means to appear before Allah, to talk to our Lord, to communicate with him without intermediaries. (MEB Publications, Grade 6 p.35)

23. Therefore, the doctrinal teachings, examples of which are given below, may be incompatible with the child's thoughts:

Creation - Almighty Allah reveals in the Quran that He created the universe in a measure and order. The continuation, functioning and ending of the universe also take place at His discretion. God, who creates and rules all this measure and order, encompasses everything with his infinite knowledge and power. (Grade 8 / p.12)

24. As shown by the examples above, the content of RCMK textbooks has not the quality of a neutral, objective and inclusive teaching about religion with many elements. Beyond how much "Islam or sects within Islam, different traditions and other religions or beliefs" have a place in the teaching content, how they are presented is the most important factor that determines the quality of the course. Hence, religious education constitutes an interference in both the freedom of thought, religion and conscience of the child and the right of parents to raise their children in line with their own religious or philosophical views.

25. Between grades 4-12, in other words when the child being exposed to this religious education for a significant part of his / her teaching life and having to fulfill his / her homework and / or exam responsibilities within the assessment-evaluation system related to the course increases the impact and prevalence of this interference.



26. It does not need further explanation that for the child who does not adopt or is critical of the religious teachings conveyed within the scope of this religious education, where he or she is responsible for listening to and learning in the classroom the transmission of his / her religion or belief or philosophical view through Islamic evaluation, the victimization is worse as well as for the parents of these children.

27. The discriminatory exemption mechanism also interferes in the child's right to freedom of thought.

28. As noted above, there is no exemption mechanism without discrimination in Turkey. Currently, only Christian and Jewish students can benefit from the right of exemption by showing their religious affiliation through the registration in the field of religion in the population register. Students who want to benefit from the exemption right but who do not belong to these religions cannot benefit from this right and they have to attend classes and get a passing grade from their exams in order to continue their education.

29. The child's right not to be compelled to reveal her / his thoughts, religion or belief is violated since the child's religion or belief must be revealed to the schools administration and the child is not allowed to participate in the exemption application process, it's the parents who are to ask for exemption.

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