

Picture of Freedom of Expression

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It is painful to see the same picture after years full of promises for progress toward democratization and free expression. Turkey still seems to be a land of contradictions, where you can hear the sharpest critics against the Government, but at the same time see journalists and writers on trial or in jail because of their articles or statements, policemen using teargas against peaceful demonstrators in a quiet park.

In the first years of AKP government, many positive steps were taken with the impulse of EU membership. Although most of those changes -especially legislative amendments- kept some gelignite hidden in them to be used when needed; yet, it seemed possible to proceed by positive implementation. The State -a sort of bureaucratic oligarchy with military at the middle- was the greatest handicap, trying to obstruct any democratic change in order to keep the power in hand and AKP had to overcome many provocations, such as the court case against the party with the threat of closure, cancellation of president elections, mass "Flag" meetings and April 27 message at Armed Forces Website, a very open black mail threatening with a military takeover. Now the secret putch attempts are over, "Ergenekon, Balyoz, Ayisigi, Sarikiz" plans are decoded and former military leaders are under arrest, facing trials. On the other hand, a package of constitutional amendments aiming to change the structure of judiciary is approved by people's votes at 12-09-2011 referendum.

AKP Government also declared some plans titled "Opening" to bring new solutions to main unsolved problems of the society, creating new bridges

among diverse social groups, Turks, Kurds, Alawis, Armenians, Jews, Greeks and other minorities.

The most important one, "Kurdish Opening" was interrupted at the very first step. Following a great attack of critics -which brought MHP (National Movement Party) and social democrat CHP (Republican People's Party) together- they took back all their attempts and a wave of arrests started with the excuse of fighting with terror.

In this series of operations (called KCK operations) nearly 8.000 people were taken into custody and more than 4.000 of them are under arrest. Among them are active members of pro-Kurdish party BDP (with 36 seats in the Parliament), 3 MPs elected in general elections, many mayors, journalists, publisher Ragip ZARAKOLU and Prof. Busra ERSANLI are still in prison.

Here we submit the main lines of violence against freedom of expression in many fields, writing, publishing, assembly, demonstrating, arts, Internet etc. with only a few examples to draw the picture.*

1. Journalists, writers, publishers, academics, students etc. ... in prison

According to Bianet(Independent Communication Network) and "Initiative for Solidarity with Arrested Journalists", 104 journalists -including Ahmet SIK*, Nedim SENER*, academics such as Prof. Busra ERSANLI, Prof. HABERAL, who is also an elected MP from CHP-, publishers such as Ragip Zarakolu, translators such as Ayse Berktay are in prison. Politicians -including Prime Minister Erdoğan- define them as "terrorists" but they are put into prison because of their articles or speeches and most of those statements have nothing to do with "hate speech".

(* SIK and SENER were released to calm down the protests, but others are still in prison.)

2. Membership of Terrorist Organizations

Those people are usually accused of being members of terrorist organizations and tried due to Anti Terror Law, which causes to be investigated, detained and tried in extraordinary conditions, with very limited rights. Article 2 of this law brings a ridiculous definition which makes it possible: "Anybody who is not a member, but commits a crime on behalf of the terrorist organization, is to be accepted and sentenced as a member of the organization".

3. Internet Bans

After the sensational bans on Google, YouTube and its services, which caused massive protests, the State brought new obligations to service providers and limited Internet access with some security (!) packages. There is also a list of banned words, which may bring trouble when you use them in your address. For example, you cannot access the websites with the words "Darwin" or "Evaluation" in their names. On the other hand, even some tweets have been the reason for investigations and court cases.

4. Banning Publications

Ahmet SIK's work "Imam's Army" was banned even before it was finished and published. Hard disks on which the drafts were saved were confiscated. Thanks to some other copies, which the author had sent by e-mail to some colleagues, the work was not lost and publicised on the Internet by many people at the same time as a civil disobedience action. No investigation or case followed.

5. Barriers on Scientific and Artistic Works

A case was opened against Prof. Hamzaoglu with the accusation of "using the results to panic the habitants" and a demand of imprisonment of 4 years, because he declared the results of a research on high pollution at Dilovası (Province Kocaeli) to the public,

After Prime Minister Erdoğan defined the 24,5 m high "Humanity Monument" in Kars as an "Ugly monster", the City Council decided to have it destroyed and it was.

6. Consciencous Objection

*Consciencous objection is still a "crime". The slogan "Everybody is born as baby" (Proverb: Every Turk is born as a soldier) was defined as "Disinclining people from military service" and a case was opened against objectors **.*

7. Oppression on NGOs

Göküksagi (Rainbow) Association -LGBT- was banned with the accusation of violating the "Law for Associations". Its existence was defined as a threat for "Public moral".

Transmission of three teaser films at TV stations -prepared by "The Purple Roof Association" to attract public attention to violence against women- was banned by RTÜK (Radio - TV Supreme Council).

8. Right to Assembly and Demonstrate

"Everybody has the right to assembly and make peaceful demonstrations without having to receive any permission" reads article 34 of the Constitution and the same sentence is repeated at concerning law. But yet, people of

Turkey watch or read the same sentences on TV channels and newspapers everyday: *"Police intervened the UNPERMITTED demonstration and"*

Metin Lokumcu (54) died as a result of the teargas used by police during a protest demonstration at Rize, against the hydroelectric dams on 31.05.2012. Despite the first reports telling that he died because of another health problem, the report of TTB (Physicians Chamber) told that the reason was the "teargas".

Singer İlyas Arzu (from Mesopotamian Cultural Center) was accused of being a member of an illegal organization, because he accompanied the slogans with his tambourine, during a demonstration.

During a raid to Mr. Arif Pelit's house, police found some legal political publications and 19 lighters. No matter if he was a chain smoker, the Court accepted the idea of the prosecutor that those lighters might be used in a probable illegal demonstration to light the Molotov cocktails.

9. Problems of Judiciary

A Turkish proverb: They asked the camel why its neck was not straight. The answer was quite straight: "Which part of my body is?"

The "Hrant Dink" case (Armenian journalist assassinated in 2007) has ended with a court decision in which no organized crime was approved and only a few triggers were sentenced.

*The main KCK case at Diyarbakir Criminal Court is stuck to "Defence in Kurdish Language" problem. Despite very clear article 39/4 of Lausanne Treaty (1923, acceptance of the new Turkish State at international level)***. The accused insist on defending themselves in Kurdish and the court rejects it.*

10. *Permission of investigation?*

A new scandal shook the agenda in February 2012. The “Extraordinarily Authorised Prosecutors of the Criminal Court of Istanbul” invited the secretary of MIT (National Intelligence Organization) to be questioned about the negotiations with imprisoned PKK leader Ocalan. This unusual progress was interpreted as a result of the underground struggle within the security between pro-government group in one side and Fethullah Gulen group (a very strong religious sect) on the other. The answer of the Government was to bring a new draft law to the Parliament and put it into practice urgently. Now any investigation about MIT secretary needs permission from the Prime Minister.

Remember?

It was the same practice for article 301 of the Penal Code, which sentenced Hrant Dink and Nobel Prize winner Orhan Pamuk. A sentence was inserted to the article, that a permission form Ministry of Justice should be necessary in order to open a case using this article.

Government has fewer problems, as long as the Ministry of Justice will not give the permissions to prosecutors. But what if it does? Is this not “Wiping the dust under the carpet?”

Let us get back to “Separation of Powers” which is supposed to be the basic principle of Turkish judicial system.

Is it not the duty of any prosecutor to investigate any “public crime” and open a case if necessary? In which type of “State” such “permission” from the “administrator” can be necessary to investigate and try a public officer?

Of course, such a practice can be reasonable only in a feudal system, but never in a republic, especially if "Separation of Powers" is accepted as the basic principle of the judicial system.

** A detailed book like the former one titled "Freedom of Expression in Turkey? JEIN" will be published within two months)*

*** Article 318 defines anti-military statements as "disclining" people from military service" and sentences up to 2 years of imprisonment.*

**** Lausanne Treaty, article 39/4: Everybody is free to speak any language anywhere without any obstacles. The State will be responsible to let citizens speak in their native languages at court cases.*