



İNSAN HAKLARI DERNEĞİ HUMAN RIGHTS ASSOCIATION

Necatibey Cad. 82/11-12,
06430 Demirtepe-Ankara
TURKEY
Tel: +90 312 230 35 67-68-69
Fax: +90 312 230 17 07
E-mail: ihd@ihd.org.tr,
<http://www.ihd.org.tr>

19 April 2019

İHD 2018 REPORT ON HUMAN RIGHTS VIOLATIONS IN TURKEY

Authoritarian Regime and the Order of Permanent State of Emergency

2018 has been a year during which elections to build an authoritarian regime based on a single-man rule were held and the permanent state of emergency was established in Turkey.

The “Turkish-type Presidency” elections of 24 June 2018 was held and all the substantial amendments introduced into the Constitution, which was declared to be amended by the referendum of 16 April 2017, entered into force with the elections. Therefore, the year 2018 has been a year during which an authoritarian regime was constructed. This process has yet to be finalized.

The State of Emergency (SoE) regime started on 21 July 2016 and ended on 19 July 2018 but the SoE was virtually extended for another 3 years with Law No. 7145 that entered into force on 31 July 2018. Thus 2018 has also been a year during which the order of SoE was rendered permanent.

2018 has witnessed a process during which the Council of Europe re-initiated the political monitoring procedure against Turkey with the Parliamentary Assembly of the Council of Europe (PACE) Resolution 2156 (2017) of 25 April 2017. The Council of Europe, however, has not been able to deliberate its monitoring report in 2018. The European Court of Human Rights’ (ECtHR) attitude towards the substantiality of democracy and human rights problems in Turkey has also proven to be a noteworthy case in point. The fact that the ECtHR, which has been moving away from the principle of rule of law, has been constantly pointing to the Constitutional Court in order to avoid deliberating applications from Turkey has laid bare the corrosion in the protection of human rights values. It has been observed that the Constitutional Court, on the other hand, has been failing to hold rulings in favor of human rights and has been engaged in a negative attitude especially when “the national security policies of the state” were at stake. The court’s negative attitude, specifically towards the SoE decree laws and laws, has revealed the fact that it has not been an effective domestic remedy to protect human rights.

In spite of the problems brought about by democratic forces’ failure to consolidate against the emergence of an authoritarian rule in Turkey, the fact that the peoples of Turkey have gotten the democracy and peace message across especially at the polling stations has been significant and meaningful. İHD would like to underline the necessity that democratic forces perceive this message of the people in both 24 June 2018 and 31 March 2019 elections and form a democratic alliance.

İHD, hereby, presents its findings and assessments on violation allegations under separate headings:

PERMANENT STATE OF EMERGENCY

Turkey has spent half of 2018 under the SoE regime yet again. The SoE regime, which was declared on 21 July 2016 and lifted on 19 July 2018 after having been extended for 7 times, has given way to numerous

Human Rights Association (İnsan Hakları Derneği-İHD) is a non-governmental, independent, and voluntary body. The association, which was founded in 1986 by 98 human rights defenders, today has 28 branches, 6 representative offices, and 7,945 members. İHD is the oldest and largest human rights organization in Turkey and its “sole and specific goal is to promote ‘human rights and freedoms.’”

rights violations and not only has it established an uncontrolled form of governance that clearly transgresses the lines drawn by the Constitution but also rendered it permanent.

A total of 32 SoE decree laws have been issued during this period with 12, 18 and 2 decree laws issued in 2016, 2017 and 2018 respectively. These SoE decree laws, which have been implemented for a year and a half without fulfilling the requirement that necessitated deliberation at the Grand National Assembly of Turkey (GNAT) within 30 days following their issuing, have been hastily brought up on the agenda of the GNAT and have been passed into laws and incorporated into the legislation. Thus these decree laws have introduced amendments into more than 300 laws, most of which were irrelevant to the SoE, including them into the legislation and rendering them permanent.

31 SoE decree laws have been passed into laws and entered into force. According to the Constitution, SoE decree laws can be implemented only during the term of the SoE. When one studies the content of such decree laws, however, it is seen that they put forth permanent provisions with prospective effects. On this account, the main opposition party, Republican People's Party (CHP) lodged an application before the Constitutional Court to repeal decree law No. 670 while the SoE was still in effect. Yet, the Constitutional Court held that these decree laws were not within the Constitutional Court's jurisdiction in its judgment of 2 November 2016 (Merits No. 2016/171, Judgment No. 2016/164) which was published in the *Official Gazette* on 8 November 2016 opening up a rather large and arbitrary space for the political power. After the decree laws were passed into laws, the Constitutional Court dismissed the applications lodged by CHP for the repeal of these laws as well. The entirety of these judgments were published in the *Official Gazette* of 29-30 June 2018. Thus, the rule of law that set forth the provision that decree laws should only be limited to a specific SoE period was violated within Turkey's domestic law, including the Constitutional Court, and the political power was granted the opportunity to arbitrary governance.

135,147 people were dismissed from their public posts through name lists annexed to the emergency decree laws within the SoE period. Those who were listed in these were allegedly associated with terrorism offences without ever standing any trial and were defined as persons "who were members of, belonged to or in junction with [iltisaklı] or linked to terrorist organizations or structures, formations or groups held to have engaged in acts against the State's national security by the National Security Council."

These public employees in question have been deprived of the opportunity to be employed in public service for good and have merely been sentenced to "civil death." Rights violations have appeared in such cases, including but not limited to; unemployment, economic precarity brought about by dismissals by decree laws, restriction of freedom of expression, risking security of the person including targeting in the media and social media, violation of the right to private life through unlawful house and office searches, and violation of the right to freedom of movement. All these have profound traumatic effects on the dismissed as well. Suicide cases account for one of the most significant indicators of this fact. A total of **37 suicide cases** (of persons holding different public posts) have been reported since the first day of the issuing of such decree laws.

The balance sheet of the SoE which commenced on 21 July 2016 and ended on 18 July 2018 that we have been able to ascertain is as follows:

- The period of police custody has been extended to 30 days with the decree law No. 667 which went into effect on 23 July 2016, while the right of the suspect to confer with a defense counsel was restricted for the first five days of custody with the emergency decree law No. 668 which went into effect on 27 July. This practice was implemented round-the-clock for 6 months. The period of custody was then cut down to 14 days, while the restriction on conferring with a defense

counsel was cut back to 1 day with the emergency decree law No. 682 which went into effect on 23 January 2017.

- 135,147 public employees were dismissed from public posts through decree laws which were blatantly unconstitutional and issued during the SoE when the Constitutional Court was thoroughly by-passed. Yet, only 3,833 formerly dismissed public employees were reinstated to their posts. Work permits of 22,474 persons, most of whom were teachers who worked for closed-down private institutions, were revoked and only the permits of 614 of them were restituted.
- A total of 4,395 judges and public prosecutors were dismissed from their posts mostly through the Board of Judges and Public Prosecutors decisions and through Constitutional Court judgments while military judges and prosecutors were dismissed through Supreme Military Council decisions during the SoE. However, only 170 dismissed judges and prosecutors were reinstated.
- The number of closed-down private healthcare institutions was 48, while 2 were reopened.
- The number of closed-down private educational institutions (schools, prep schools, students' boarding houses and dormitories) was 2,281. 15 private universities were closed down and the activities of 19 trade unions and confederations were discontinued. A total of 3,041 tenured staff of 15 closed-down universities became unemployed.
- The number of companies that were seized by the state and to which trustees were assigned was 985 and it was reported that the economic size of these companies amounted to about 41 billion TRL with 49,587 workers.
- The greatest harm was inflicted upon freedom of expression during the SoE, accordingly, upon freedom of the press. While the number of closed-down media companies, prominently visual and print media, was 201, only 25 of them were permitted to be reopened.
- An ample number of journalists were imprisoned during the SoE. Currently at least 171 journalists are jailed.
- 1,607 associations were closed down during the SoE with only 183 were allowed to be reopened. Further, 168 foundations were also closed down and 23 were permitted to be reopened. While it was alleged that many of these associations and foundations were associated with the Fethullah Gülen organization, it was indicated that others were associated with various illegal organizations without basing this allegation on any concrete grounds. The other closed-down associations are mainly Kurdish cultural institutions, women's organizations, rights and legal bodies.
- Decisions taken by the SoE Commission were rendered within the jurisdiction of only 2 competent administrative courts in Ankara at the beginning, the number is now 6.
- Violations of the right to freedom of expression hit record high figures during the SoE. According to the official statistics provided by the Ministry of Justice, while criminal charges were brought against 4,187 individuals under Article 299 of the Turkish Penal Code (TPC), i.e. insulting the president, in 2016, this figure went up to 6,033 persons in 2017. While in 2016, 482 lawsuits were lodged under Article 301 of the TPC which proscribes insulting Turkishness, this figure went up to 753 in 2017. Moreover, the number of lawsuits lodged on the grounds of propaganda for an illegal organization was 17,322 in 2016, this figure also went up to 24,585 in 2017.

The legal procedure has virtually become impossible for those negatively affected by the SoE. When one takes into account the fact that the government's decisions have affected more than a hundred thousand individuals, the significance of the problem becomes much more obvious. The **State of Emergency Procedures Investigation Commission**, which was established on 22 May 2017 having been intended

for SoE measures in compliance with none of the criteria covered by the recommendations of the Venice Commission, has been inching itself across the files before it and along with its insufficient decisions it has been consolidating the permanent impacts of the SoE. The commission in question has announced on 9 November 2018 that it had undertaken a total of **131,922 procedures** including **125,678 dismissals from public posts** through decree laws within the scope of the SoE. Out of these **2,761** procedures were about the closing down of institutions/organizations. The number of applications lodged before the commission was 126,000. Out of these, the commission decided on a total of **63,100** applications accepting 4,750 while **dismissing 58,350**. Even these figures alone point out to the fact that this commission is not functional in practice, particularly regarding recommendations about an independent organ equipped with the appropriate tools to materialize the right to seek legal remedies.

Although the SoE was lifted on 18 July 2018, the 25-article Law No. 7145 on “Amendments to Some Laws and Decree Laws” prescribing that significant practices implemented during the SoE would remain in force for at least another three years was adopted by the GNAT on 25 July 2018, thus, the SoE was rendered permanent with all its consequences. Some loopholes, which could not be covered by the decree laws that made extraordinary practices of the regime mainly permanent, were also attempted to be filled in by Law No. 7145 which entered into force on 31 July 2018 after having been ratified by the president.

The grounds for Law No. 7145 state that the amendments it introduced were necessary as the SoE that has been maintained for two years could not be extended. Via Law No. 7145:

- It was prescribed that the period of police custody could be extended to a total of 12 days through 4-day extensions by a judge’s ruling. The Constitution has been blatantly violated in this way since the period of custody can only be extended to a maximum of 4 days even for collective offences upon the request of the public prosecutor and the ruling of the judge as per Article 19 of the Constitution. Under the same article periods of custody can be extended in cases of SoE and war. This legislative move indicates that the SoE is de facto sustained.
- Not only have the governors been granted the power to prohibit the entry and exit of specific persons into and from specific places in a city for 15 days, they have also been granted the authority to declare curfews and ban vehicles to go out in traffic without a time limit at certain places and times. It is without doubt that liberty and security of the person enshrined in Article 19 of the Constitution and the rights to freedom of residence and movement enshrined in Article 23 of the Constitution would be violated. Along with these rights, many related rights would also be violated accordingly through the use of this power.
- Procedures and practices that will give way to the violation of Article 34 of the Constitution, which designates the right to peaceful assembly and protest, has been paved for by granting governors such new powers as restriction and early dispersal of protests and rallies.
- It has been designated that dismissal of persons from public office would continue through commissions to be established at every public institution and organization, and by the consent of the related minister. Indeed, the SoE order is being maintained in just the same way as emergency decree laws by introducing such a concept as persons “in junction with” [iltisaklı] terrorist organizations and structures and entities posing a threat to national security. It also sets forth that passport invalidations of those who have been and to be dismissed will continue. As for purged academics, it has been regulated that they will not be reinstated to their former universities even if a decision for reinstatement is handed down.
- Many modifications that terminate procedural guarantees and the right to a fair trial have been introduced. These include instances during which a need arises to retake the testimony of a person about the same incident, this procedure can be undertaken by the law enforcement

through the writ of the public prosecutor, and challenging detention orders and release demands can be concluded through file reviews.

Many a right have been violated through the permanent SoE Law No. 7145. These include but not limited to 1) The right to liberty and security of person, 2) Freedom of residence and movement, 3) Presumption of innocence, 4) Right to a fair trial, 5) Principle of equality and the prohibition of discrimination, 6) Freedom of thought and opinion, 7) Freedom of expression, 8) Freedom of association, 9) Respect for the privacy of private and family life, 10) Academic freedom, 11) Right to work. The above-mentioned and other provisions of this law restrict rights and freedoms and grant a boundless power to the government, rendering the SoE permanent. İHD is of the opinion that if a country passes unconstitutional laws and acts as if these are constitutional rules, there can be no discussions about rule of law in that country.

RIGHT TO LIFE

The political power's policies predicated upon violence both at home and abroad have constituted the major cause of violations of the right to life in 2018. Violations of the right to life, however, are not limited to those perpetrated by the state's security forces. They also include those violations brought about by the failure of the state to undertake its obligation to "prevent" violations perpetrated by third parties and "protect" its citizens from such incidents. According to data provided by İHD's Documentation Center, within the first 11 months of 2018:

- 20 individuals lost their lives, while 15 were wounded due to summary execution, random shootings, or fire on the grounds that they disobeyed stop warnings by the law enforcement. 10 individuals lost their lives, while 41 were wounded along border regions by unknown or targeted shootings with no known source.
- A total of 502 individuals lost their lives due to armed conflict; of these 107 were in the security forces (soldier, police officer, village guard), 391 were militants, while 4 were civilians. A total of 246 individuals were wounded during this period; of these 236 were soldiers, police officers and village guards, while 6 were militants and 4 were civilians.
- 7 individuals lost their lives while 26 were injured due to being hit by armored vehicles of the security forces.
- 3 individuals lost their lives, while 22 were wounded due to mine and unclaimed bomb, etc. explosions.
- At least 23 individuals lost their lives under suspicious circumstances in prisons, while at least 5 individuals, one being a trans woman, lost their lives in custodial places also under suspicious circumstances.
- At least 10 individuals lost their lives under suspicious circumstances while performing their compulsory military services.
- At least 1,923 workers lost their lives due to occupational/corporate murders according to the data provided by Health and Safety Labor Watch.
- At least 340 women were killed due to male violence, while 39 women committed suicide in 2018. According to our data, 18 women survived suicide attempts while 832 women were injured because of male violence. Official figures, on the other hand, reveal that the situation is far worse and alarming.

- According to İHD's data, 21 children committed suicide while 51 children were murdered and 502 children were subjected to violence public or private spaces in 2018. It was determined that 44 children were subjected to violence at school.

İHD would also like to note that capital punishment, which the political power has often referred to in 2018 as well, cannot be reinstated. Capital punishment signifies state violence that terminates the right to life, in other words, it is murder in the first degree by the hand of the state. The right to life is of top priority that needs to be protected first and foremost. The termination of the right to life by the states themselves as punishment leads to the complete disregard of values of humanity bringing about irrevocable and irreparable damages. Therefore, it can never be accepted by human rights defenders. Moreover, it is certain that Turkey's CoE and EU membership will be suspended if it reinstates capital punishment as it has already signed and ratified additional Protocols 6 and 13 to the ECHR and the Second Optional Protocol to the International Covenant on Civil and Political Rights. The legal, political and economic consequences of such a suspension would be grave. Further, crime and punishment are not retroactive. Countries that implement such retroaction are no longer a part of the modern world. This issue is too significant to be subjected to political abuse. İHD would like to underline the significance of the matter once more.

Armed conflict in the pre-dominantly Kurdish Eastern and Southeastern Anatolia Regions of Turkey has created a concrete situation which should be handled within the scope of humanitarian law and for which Common Article 3 of the Geneva Conventions should directly be implemented. International court rulings confirm this situation as well.

The International Criminal Tribunal for the former Yugoslavia's Boskoski Judgment (Prosecutor v. Ljube Boškoski and Johan Tarčulovski), contains a compact and virtually complete list of objective indicative factors of "intensity of the fighting" and the "organization of the armed group or groups involved" that have been developed since the case of Duško Tadić. The following are the factors taken into account by the tribunal to assess both the intensity level of the conflict (seriousness of attacks, the spread of clashes over territory and over a period of time, any increase in the number of government forces and mobilization and the distribution of weapons among both parties to the conflict, the number of civilians forced to flee from the combat zones, the type of weapons used –in particular the use of heavy weapons and other military equipment such as tanks and other heavy vehicles, the blocking or besieging of towns and the heavy shelling of these towns, the extent of destruction and the number of casualties caused by shelling or fighting, the quantity of troops and units deployed, etc.) and the five groups of factors used to assess the level of organization of the armed group (factors signaling the presence of a command structure, factors indicating that the group could carry out operations in an organized manner, factors indicating a level of logistics, factors relevant to determining whether an armed group possesses a level of discipline and the ability to implement the basic obligations of Common Article 3 and factors indicating that the armed group is able to speak with one voice). When one studies these factors, it is revealed without doubt that the ongoing conflict in Turkey is one that falls under **non-international armed conflict** within the meaning of Common Article 3 of the Geneva Conventions. The ECtHR's *Benzer and Others v. Turkey* judgment of 12 November 2013 categorically confirms this issue. Turkey was convicted within the scope of this case regarding the killing of 38 individuals due to the bombardment of Kuşkonar and Koçağılı villages of Şırnak province on 26 March 1994 by Turkish fighter jets. The ECtHR referred to the Common Article 3 of the 1949 Geneva Conventions, ratified by Turkey in 1954, (para. 89) and to the relevant paragraphs of the United Nations' Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (para. 90) in its judgment and held that an indiscriminate aerial bombardment of civilians and their villages could not be acceptable in a democratic society and were not reconcilable with any of the grounds regulating the use of force which were set out in Article 2 § 2 of the

Convention or, indeed, with the customary rules of international humanitarian law or any of the international treaties regulating the use of force in armed conflicts referring to its former judgment of *Isayeva v. Russia* (No. 57950/00, 24 February 2005) (para. 184). The ongoing domestic armed conflict accounts for one of the most significant causes of violations of the right to life in Turkey. İHD would like to emphasize that these ongoing violations can be prevented by implementing humanitarian law to these conflicts.

One form of violation of the right to life, which we faced for the first time in 2017 and continued in 2018 as well, has been the shooting to death and injuring of civilians by way of armed unmanned aerial vehicles (AUAV). It should also be mentioned that such means of killing, the use of which should have been prescribed by strict conditions even in war, is completely incompatible with the current legislation and they should be prohibited. It is clear that a “stop warning” cannot be issued while using these AUAVs.

The homeland security package which was passed into law in 2015 introduced amendments into the Law of Police Powers and the law enforcement’s power to use arms was considerably boosted, a fact that has also been confirmed by the increase in the number of extrajudicial execution cases. These amendments along with Law No. 6722 should be modified in no time and impunity brought about by the SoE decree laws should immediately be put to an end.

TORTURE AND ILL-TREATMENT

Recently there have been serious findings and allegations covering a large area that pointed out to a significant increase in cases of torture and other ill-treatment practices to punish and/or intimidate persons and/or exercise power over persons and/or as instruments of criminal procedure (intended for extracting confession or collect information/“evidence”). Cases of torture in official custodial places, extra-custodial places, in the streets, in prisons, in almost everywhere and the law enforcement’s “interference by using excessive and disproportionate force” amounting to “torture” in protests and rallies have become common. Moreover, we stand witness to the fact that torture and other forms of ill-treatment are practiced in order to consolidate the control and pressure of the political power over different sections of the society and to spread terror and fear within the society.

- According to the data collected by the İHD, a total of 2,719 persons were subjected to torture and other forms of ill-treatment in 2018, including 356 persons by beating and other means, 246 in extra-custodial places and 2,598 during rallies and protests intervened into by the law enforcement. In applications sent from prisons to the İHD, 1,149 persons stated that they were subjected to torture and ill-treatment in various prisons while 160 persons stated that they were subjected to torture and ill-treatment due to attempts to force them to become informants.
- There are numerous pieces of evidence showing that the law enforcement’s use of “excessive and disproportionate force” amounted to torture against persons exercising their right to freedom of peaceful assembly all over the country. Particularly, police intervention into the peaceful protests staged twice daily before the Human Rights Statue in Ankara’s Yüksel Street constitutes merely one of the instances of such “extreme and disproportionate use of force” across the country.

The United Nations Special Rapporteur on Torture, Nils Melzer, issued a special report on his mission to Turkey entitled “Extra-custodial Use of Force and the Prohibition of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” on 20 July 2017 and underlined an important assessment which read: “Notwithstanding any additional elements that may be required for a formal qualification as ‘torture’ under the applicable treaty definition, any extra-custodial use of force that involves the intentional and purposeful infliction of pain or suffering on a powerless person as a vehicle for achieving a particular purpose will always amount to an

aggravated form of cruel, inhuman or degrading treatment or punishment.”¹

- The re-emergence of enforced disappearance cases that constitute a black hole in our recent history and, in fact, for our civilization is extremely alarming.
- According to data collected by the Documentation Center at İHD, 28 persons were subjected to enforced disappearance or attempts were made to this end in 2018. These persons who were also tortured and released after some time. 160 persons were forced to become informants in extra-custodial places in 2018.²
- “Law on Amendments to Some Laws and Decree Laws” that went into force on 31 July 2018 sets forth that the period of police custody can be extended to a total of 12 days through 4-day extensions by a judge’s ruling; this infringes even upon the provisions of the current Constitution.
- Procedural guarantees of due process, which play a significant role in preventing torture but have been mainly disregarded in practice for years, have been eliminated to a large extent due to legislative modifications introduced by decree laws during the SoE. These procedural guarantees include informing the detainee about the reasons of custody, informing third parties, access to defense counsel, access to a medical doctor, appropriate physical examination under appropriate conditions and obtaining medical reports in due form, speedy applications to judicial authorities for lawfulness review, proper handling of custody records, and possibility of independent observations. One can argue also based on such amendments that procedural guarantees have recently been terminated in no small measure and a thoroughly arbitrary situation has been created about this issue.

Article 3 § d of Decree Law No. 668 put forth that the following restrictions could be implemented in inmates’ conferences with their lawyers “upon the order of the public prosecutor, in cases where the safety of the society and the prison might be at risk, there existed a possibility that directions were received from a terrorist organization or from criminal organizations, instructions or orders were given to these or secret, open or ciphered messages were communicated to them via comments”:

- Audio or visual recording of conferences by technical equipment,
- Presence of an officer to monitor conferences between inmates and lawyers,
- Seizure of documents or document copies, files that inmates hand in to their lawyers, or vice versa, and records of their conferences,
- Restriction on the dates and times of such conferences,
- Immediate termination of the conference when it is understood that the conference was being held for the above-mentioned reasons,
- Prohibition of inmates’ conferences with their lawyers upon the order of a Criminal Peace Judgeship following the request of a public prosecutor and requesting a new lawyer to be assigned from the bar association in cases where statements were taken down about inmates. A public prosecutor may also request that the lawyer assigned by the bar association be replaced.

Various visitation restriction practices like restricting defense counsels’ conferences with their clients who were being investigated for similar charges and review of file-related documents at

¹ <https://undocs.org/pdf?symbol=en/a/72/178> (pp.17-18).

² For further information, see İHD’s special report “Testimonies, Interviews, Enforced Informant-Making through Methods of Coercion and Threat, and Abduction Cases”: <https://ihd.org.tr/en/index.php/2018/11/16/ihd-special-report-on-testimonies-interviews-forced-informant-making-through-methods-of-coercion-and-threat-and-abduction-cases/>

conferences with inmates are still maintained even after the end of the SoE as well.

- The latest instance of the story of national human rights institutions that have been undermined altogether for years (and that are completely at odds with the Paris Principles and the Optional Protocol to the Convention against Torture) has been the Human Rights and Equality Institution of Turkey (TİHEK) which was established through a law published in the *Official Gazette* of 20 April 2016. TİHEK has also been authorized as the National Prevention Mechanism against torture with the Emergency Decree Law No. 703 of 9 July 2018 and, through an amendment introduced to its article that designated the selection of its board members, it was set forth that not only all its board members but also its chairperson and second chairperson would be assigned by the president. The same amendment also eliminated various criteria about the selection of its members as well. The first presidential circular letter of 15 July 2018 affiliated TİHEK with the Ministry of Justice. Consequently, the Human Rights and Equality Institution of Turkey has not resolved problems of independence previously underlined about the abolished Human Rights Institution of Turkey, on the contrary, it enabled the establishment of a board that was fully dependent on the executive power. Visitation reports issued by the institution created an impression that these visits did not bear the minimum standards and they were merely undertaken to meet formal ends. In this respect, TİHEK should be re-evaluated as a whole including its legislative regulations as per the provisions of both the Paris Principles and the protocol, and the institution's problems should be solved.
- Impunity still proves to be the greatest obstacle before the struggle to end torture. We still face the fact of impunity as one of the most basic elements that make torture possible because of such reasons as the failure to initiate investigations against perpetrators, the fact that initiated investigations do not turn into prosecution, preparation of indictments based on charges that require lesser sentences instead of torture in cases where lawsuits were brought against suspects, failure to sentence suspects or sentencing them for offenses other than torture and deferring their sentences. According to data provided by the Ministry of Justice, in 2017 lawsuits were brought against 84 persons based on the offense of torture under Article 94 of the TPC, while 26,016 lawsuits were brought against citizens under Article 265 of the same code which proscribes resisting public officers. The high number of lawsuits based on the offense of resisting even under such an oppressive climate as the SoE reveals the fact that impunity is still embraced as a policy.
- Impunity has thoroughly been secured and all forms of arbitrariness were facilitated to their fullest extent for public officers by prescribing that public officers who undertook procedures during the SoE would not be held accountable in legal, administrative, financial and penal liabilities through many decree laws, notably those numbered 667 and 668. Moreover, the scope of impunity was extended in a way to encompass civilians for the first time through decree law no. 696 of 24 December 2017. In other words, the significance of the categorical difference of a regulation which paves the way to return to a time when individuals had the power to punish others and, in this regard, implies the denial of the principle of rule of law, state of law which authorizes only the state to punish offenders is profoundly important.
- The fact that the ECtHR declared the application for the Roboski Massacre “inadmissible” on 17 May 2018 refers to an unforgettable threshold regarding the level to which the problem of impunity reached along international mechanisms as well. This judgment by the ECtHR, which implies an attempt to “bury in history” a massacre that was witnessed by everyone on 28 December 2011, provides a rather special example revealing the state of the international mechanisms that have been transformed into severely bureaucratic structures, notably the ECtHR itself, against the current regimes of crisis.

- Similar assessments to those offered here based on applications to İHD have also been delivered by the UN Special Rapporteur on Torture in his report of 18 December 2017 based on his visit to Turkey between 27 November and 2 December 2016. The report in question not only does cover assessments and facts but also 31 concrete recommendations. The UN Special Rapporteur on Torture also felt the need to express his deep concerns on the issue once again on 27 February 2018. Moreover, similar assessments have found their way into the “Report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East”³ penned by the Office of the UN High Commissioner for Human Rights and issued in March 2018 along with the Council of Europe’s “Turkey 2018 Report”⁴ of 17 April 2018.
- Further, the fact that the government has not yet permitted the publication of a finalized report on the observations and assessments of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) based on its ad hoc visit to Turkey between 29 August and 6 September 2016 is yet another indicator of the problem of torture in Turkey.

PRISONS

According to data provided by the Ministry of Justice, there were 59,429 inmates in Turkish prisons on 31 December 2002, i.e. when AKP claimed power. This figure has gone up to 260,144 in 385 penitentiary institutions as of November 2018 despite the fact that about 430,000 persons have been on supervised release.

According to data offered by the Ministry of Justice during the budget deliberations at the GNAT, a total of 260,144 people were incarcerated in 385 penitentiary institutions as of 16 November 2018. 202,434 of these persons are sentenced prisoners, while 57,710 are prisoners with no conviction. No data has been provided for a long time now on the number of prisoners on remand, i.e. those inmates whose sentences have not been upheld yet. These are shown as being included in the number of sentenced prisoners.

The fact that 431,990 persons are on supervised release as of December 2018 lays bare the over-all atmosphere of the country, in other words, the fact that the society is being fully controlled and an overwhelming part of the population is being restricted or deprived of their liberty.

Besides, it has been stated that the number of persons released on judicial control instead of detention was over 400,000.

One can argue that this virtually quintupled number of prisoners only during the rule of this government, an unprecedented occasion in our country’s history, accounts for a summary of recent developments in the country on another level as well. Further, this skyrocketing figure assumes even more gravity when one takes into account the turnover rates, the number of those who were recorded to go in and out of prisons, as has also been covered by the 2017 prison statistics provided by the Turkish Statistical Institute (TSI) on its official website. For instance, 215,761 convicts were recorded to be admitted into penitentiary institutions between 1 January and 31 December 2017, while 193,662 convicts were recorded to be released between the same dates.

When one considers that the current capacity of prisons is 211,766; it can be seen that this constant increase in the prison population has also brought along the deterioration of material conditions in prisons and an increase in cases of deprivation of rights in recent years.

³ https://www.ohchr.org/Documents/Countries/TR/2018-03-19_Second_OHCHR_Turkey_Report.pdf

⁴ <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-turkey-report.pdf>

Moreover, torture and other ill-treatment practices against prisoners have also skyrocketed after the break out of conflict again especially in July 2015 and the quenching of the military coup attempt onwards.

- Practices like beating prisoners for various reasons (strip search, medical examination in handcuffs, forced reporting at standing roll-calls) at the time of and after admission to the prison, labeling those who were imprisoned for political offences as “terrorists” and beating them for this reason, all kinds of arbitrary treatment and disciplinary actions, solitary confinement, banishment, and involuntary transfers have recently reached unprecedented levels.
- Solitary confinement or isolation in small groups, which has been in practice since 2000 and has seriously been impairing the physical and psychological integrity of prisoners, is a deteriorating problem that has also become widespread. One should underline once again CPT’s standard principle: “The CPT considers that one should aim at ensuring that prisoners in remand establishments are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature. Of course, regimes in establishments for sentenced prisoners should be even more favorable.” Although the circular letter of 22 January 2007 (45/1) by the Ministry of Justice prescribes that 10 prisoners could get together 10 hours a week to socialize is still in force, its provisions are not implemented.

The fact that Abdullah Öcalan, who is a sentenced prisoner, has not been allowed to confer with his lawyers since 27 July 2011 and with his family members since 11 September 2016 is a human rights violation and this state of affairs has not changed except for half an hour meeting with his brother on 12 January 2019.

- Other problems that have been going on for a long time include restriction of access to healthcare services, denial of the right to visit the prison infirmary, ill-treatment practices including handcuffed transfers to the Forensic Medicine Institute, courthouses and hospitals, failure to provide timely and effective solutions to prisoners’ medical problems. Banishment of a majority of prisoners, who hardly have the opportunity to continue their treatments, to other prisons has severely endangered the right to access healthcare services especially in recent years.
- Sick prisoners account for another significant issue regarding prisons. According to the latest data of 7 April 2019 provided by İHD, there are a total of 458 critically ill prisoners. Not only do these persons have significant problems in gaining access to healthcare services, but also face serious problems in obtaining medical evaluation reports based on independent and qualified examinations including the fact that the Forensic Medicine Institute is neither independent nor impartial. The phrase “security of the society” found in the provision that stated “those evaluated to be not posing a severe and concrete danger to the security of the society” in the amendment of 18 June 2014 introduced to the Code on the Execution of Sentences and Security Measures has completely rendered the release of prisoners dependent on arbitrary decisions even though there existed medical reports showing that sick prisoners faced concrete life-threatening conditions.
- Uniform clothing has been imposed as a compulsory practice for prisoners, convicted and otherwise, for offenses within the scope of Anti-Terror Code in outbound transfers to hearings with the decree law no. 696 of 24 December 2017. The “imposition of uniform clothing” that has found its way to the agenda recently among the numerous problems in prisons and meant derogatory punishment on its own is likely to give way to highly serious drawbacks today and in the future.
- Further, at least 23 prisoners lost their lives in prisons under suspicious circumstances in 2018 as far as İHD’s Documentation Center was able to ascertain. Although there are allegations about these suspicious mortality cases, no effective investigation processes have been undertaken to the best of our knowledge.

- Applications lodged before the İHD in 2018 reveal that a total of 4,034 persons alleged rights violations including 1,149 for torture and ill-treatment and 2,885 for other issues (health, communication, disciplinary action, involuntary transfer, etc.).
- More than 3,000 prisoners in 86 prisons across Turkey are on an indefinite and non-alternate hunger strike that was initiated by Leyla Güven on 8 November 2018 in order to lift the isolation imposed on Abdullah Öcalan and three other prisoners kept in İmralı Prison. Besides HDP deputies Dersim Dağ, Tayip Temel and Murat Saraç have also been on an indefinite and non-alternate hunger strike since 3 March 2019 at HDP's Diyarbakır offices. Moreover, tens of persons all over the world are on hunger strike to the same end. 8 persons have claimed their own lives to protest the isolation imposed on Abdullah Öcalan between January and April 2019. İHD would once more like to underline that such isolation should be lifted and laws should be implemented equally for everyone to stop hunger strikes.

THE KURDISH ISSUE

The armed conflict that restarted immediately after the general elections of 7 June 2015 is still going on not only due to the fact that the government failed to take sincere and coherent steps for the peaceful and democratic resolution of the Kurdish issue, but also with the impact of developments in the Middle East. The most intense conflict environment faced lately, has given and indeed is giving way to gross and serious human rights violations.

As has been stated in the “Report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East” drafted by the Office of the UN High Commissioner for Human Rights issued in March 2018, lack of effective investigations and the immunity granted to security forces even in the presence of serious allegations of gross human rights violations constitute a major problem. A decline was observed in the number of investigations upon the extension of powers granted to the security forces. Criminal complaints filed before the public prosecutors' offices regarding the killings of many individuals (130 to 189 individuals) in places defined as “basements” during the “curfew” in Cizre were dismissed by non-prosecution judgments on the grounds that there were no grounds for legal action. Such judgments were based on arguments like the “presence of a legal basis in the incident” and “lack of evidence showing no transgression of justifiable self-defense limits.” Cizre Public Prosecutor's Office has dismissed 72 out of 120 criminal complaints filed before it declaring non-prosecution and has not undertaken any action about the rest as of October 2018. The ECtHR process, the first hearing of which was held on 13 November 2018, is still pending with regards to a total of 35 applications with total disregard of the principle of rule of law and is clogged by political interests and the bureaucratic mechanisms. The ECtHR stated that it would only be able to take the issue regarding these 35 applications into account only after the exhaustion of domestic remedies in Turkey. Thus, the most competent organ of the Council of Europe still acts as a bystander to the Kurdish issue.

“Round-the-clock curfews” were imposed intensively during 2015 and 2016, gave way to the violation of at least more than 1.8 million persons' most fundamental rights to life and health in cities and districts. These curfews were also sustained in 2018 with all their negative impacts though in shorter terms and smaller scales. Further, reports penned by the European Commission for Democracy through Law (Venice Commission) and the Council of Europe Human Rights Commissioner openly stated that these curfews lacked legal grounds with regards to both domestic and international laws. According to the data collected by the HRFT Documentation Center between 16 August 2015 and 1 January 2019, a minimum of officially confirmed 351 round-the-clock and/or open-ended curfews were declared in 11 cities and at least 51 districts in Turkey.⁵ 43 new curfews were declared in 2018 mostly in the South-Eastern region.

⁵ <http://en.tihv.org.tr/curfews-in-turkey-between-the-dates-16-august-2015-1-october-2018/>

It should also be noted that about 1 million 809 thousand residents were “arbitrarily deprived of their liberty” intentionally due to “perpetual curfews” that lasted for months. Residents living in regions under the full control of the state were deprived of their fundamental rights and freedoms and these persons’ access to basic needs like water, food and healthcare services were prohibited for long terms. This imposition of “perpetual curfews” should be evaluated within the scope of the prohibition of torture and other forms of ill-treatment, which have already amounted to serious levels, considering the fact that persons suffered from conditions including severe pain and emotional suffering either individually or collectively. Law No. 7145 that went into force on 31 July 2018 and the amendments introduced into Article 11 of Law No. 5442 grant governors the authority to declare curfews for 15 days and to restrict the entry and exit of persons to cities.

Moreover, elected mayors were removed from office and state trustees were appointed to replace mayors in 99 municipalities. 94 of these municipalities belonged to the Democratic Regions Party (DBP), while 4 to the Justice and Development Party (AKP) and 1 to the Nationalist Movement Party (MHP). 50 co-mayors of the Democratic Regions Party are still in jail.

16 current or former deputies of Peoples’ Democratic Party (HDP), including the former co-chairs Selahattin Demirtaş and Figen Yüksekdağ, are in prison. The fact that the 4 years and 8 months of prison sentence handed down to Mr. Demirtaş within the scope of another case was upheld on 4 December 2018 shortly after the ECtHR judgment providing for his “release” has also deepened the concerns about the operation of legal procedures in Turkey.

We would like to note that the government should adopt peaceful policies in line with the principle of peoples’ right to self-determination by altering its Middle Eastern policy in ending the civil war in Syria and achieving domestic stability in Iraq and should withdraw its military presence in these countries.

İHD has always supported a democratic and peaceful resolution to the Kurdish issue. We are insistent on our stance. Therefore, we want the conflict to end right now. All the involved parties should develop sincere and effective programs in order to deliver, monitor and consolidate a state of de-conflict by establishing a conflict-free environment and to achieve social peace.

The results of the 31 March 2019 local elections have revealed that a great majority of the citizens, particularly in Western Turkey, have indiscriminately disregarded hate speech and refused the discriminatory and otherizing rhetoric seen during the campaign. The war policies followed by AKP and MHP that formed the People’s Alliance (Cumhur İttifakı) have not met with approval and they lost the elections in metropolitans. Voters of Turkey have united at the polling stations and got the message of peace and democracy home.

İHD would like to note that the political power needs to analyze the results of the local elections accurately and should immediately take steps towards building a novel peace process.

FREEDOM OF THOUGHT, EXPRESSION AND BELIEF

The alarmingly increasing pressure and control of the political power over the media, especially after the declaration of the SoE, has held out in 2018 as well. The right to freedom of expression and thought has sustained gross violations. Lawsuits have been brought against numerous persons including journalists, authors, academics and human rights defenders leading to the detention of some, and journals and books were pulled off the shelves this year as well.

- 178 media outlets were closed down by decree laws issued during the SoE to date.
- The number of banned, raided and fined newspapers and media outlets in 2018 was 133.
- The number of jailed journalists and media employees was 171 in 2018 according to our data.

Turkey ranked the 157th out of 180 countries, having went down in comparison to the previous year, in the 2018 World Press Freedom Index issued by Reporters Without Borders (RSF).

Academia in Turkey has also sustained heavy blows under such circumstances. 6,081 academics were dismissed without any justification or due legal process. Appeals mechanisms and legal remedies have been rendered inaccessible for dismissed academics through regulations implemented during the state of emergency. Additionally, these academics have been banned from working in the public sector as well. They have been ripped off their right to social security. And their passports have been invalidated. 407 academics dismissed from their posts at universities are those who signed the declaration “We Will Not Be a Party to This Crime!” penned by Academics for Peace on 10 January 2016. Lawsuits have been brought against the signatory academics for peace under Article 7 § 2 of the Anti-Terror Code No. 3713 with impugned allegations of “making propaganda for a terrorist organization.” As of 24 April 2019, lawsuits have been brought against 688 academics since 5 December 2017 according to data provided by Academics for Peace⁶. Within the framework of finalized cases in local courts, judges have sentenced 186 academics to imprisonment. Of these, 32 academics’ imprisonment sentences have not been deferred. The imprisonment sentence handed down to Prof. Dr. Zübeyde Füsün Üstel of Galatasaray University has been upheld. Prof. Üstel is now facing imprisonment any time. Further imprisonment sentences imposed on Prof. Dr. Büşra Ersanlı of Marmara University; Prof. Dr. Gülhan Türkay, Prof. Dr. Gençay Gürsoy and Prof. Dr. Şebnem Korur Fincancı of İstanbul University and 27 other academics are still pending before the court of appeals. This oppressive process against Academics for Peace proves to be a crystal clear indicator of the ways in which the principle of the rule of law and the right to a fair trial have been eradicated in Turkey.

Among other instances one finds lawsuits brought against 39 individuals under Articles 6 § 2 and 7 § 2 of the Anti-Terror Code who symbolically acted as editors-in-chief on duty of the daily *Özgür Gündem* for a day within the scope of a solidarity campaign in 2016, against human rights defenders in general and İHD executives in particular and against lawyers practicing human rights law, specifically those taking part in social cases, in order to actively exercise the right to defense. For further information on the issue, İHD reports “Lawyers under Judiciary Pressure,”⁷ “Increased Pressures on Human Rights Defenders, Human Rights Association and its Executives”⁸ can be consulted. On this note, we would like to reiterate our demand for the immediate release of human rights defenders Osman Kavala, Hasan Ceylan and Özgür Ateş along with all jailed lawyers in the person of Selçuk Kozağaçlı.

An ample number of individuals, notably İHD’s Co-Chairperson Eren Keskin, who face hundreds of thousands of liras in fines and tens of years in prison because of their journalistic activities risk imprisonment any given time. Indeed, journalist Ayşe Düzkan is in jail now.

As has already been stated in the opinion of 13 March 2017 by the Venice Commission entitled “Opinion on the Measures Provided in the Recent Emergency Decree Laws with Respect to Freedom of the Media” and in the memorandum of 15 February 2017 by Council of Europe’s Human Rights Commissioner entitled “Memorandum on Freedom of Expression and Media Freedom in Turkey,” lawsuits were brought against many people and they were sentenced because of their statements and acts within their right to freedom of expression through different laws. For instance, according to the data provided by the Ministry of Justice, lawsuits were brought against 10,745 individuals under Articles 6 and 7 § 2 of the Anti-Terror Code in 2013 and this figure continuously went up amounting to 24,585 persons in 2017. Further, the number of persons against whom lawsuits were brought under Article 314 § 2 -which regulates membership in an armed organization proved to be an article often resorted to in such cases-

⁶ <https://barisicinakademisyenler.net/node/314>

⁷ <http://ihd.org.tr/en/index.php/2018/07/25/lawyers-under-judiciary-pressure/>

⁸ <http://ihd.org.tr/en/index.php/2018/06/20/report-on-increased-pressures-on-human-rights-defenders-human-rights-association-and-its-executives/>

dramatically increased from 8,110 in 2013 to 136,795 in 2017 according to the data provided by the Ministry of Justice as well.

On this note, all jailed journalists, intellectuals, and authors including Reyhan Çapan, Ahmet Altan and Nazlı Ilıcak, should immediately be released.

According to the the statements by the Ministry of the Interior, the number of persons arrested on the grounds of their social media posts was 7,109 while the number of those detained on the same grounds amounted to 2,828 as of 19 December 2018. The number of those against whom legal action has been taken was over 10,000.

The Ministry of the Interior stated on 21 March 2018 that a total of 845 persons, who had criticized the Afrin operation in their social media posts and at various events, were arrested.

In 2018 many institution and body representatives who criticized Turkey's military campaign against Syria's Afrin region were arrested and detained. According to İHD's data, the number of persons who were arrested because of their social media posts about the Afrin campaign was 864, while the number of those who were detained on the same grounds was 84 as of 9 April 2018.

Most of those against whom legal action was taken were students, politicians and human rights defenders. Among them were the central executive committee members of the Turkish Medical Association, executives and members of KESK and affiliated trade unions, executives and members of DİSK, KAOS GL activists, members of Pir Sultan Abdal Cultural Association, Students' Collective members, the co-chairperson of Halkevleri, Dilşat Aktaş, and its members, Boğaziçi University students, members of the General Board of Directors of the Federation of Idea Clubs (Fikir Klüpleri Federasyonu), Human Rights Association members; HDP deputies, executives and members; Peoples' Democratic Congress representatives, Socialist Reestablishment Party executives and members, Democratic Regions Party executives and members, EMEP executives and members, Socialist Party of the Oppressed executives and members, co-speakers of the Greens and the Left Party of the Future, co-speaker of the Socialist Solidarity Platform.

Moreover, Turkey ranked 99th among 113 countries in the "Rule of Law Index," which measures rule of law adherence in 113 countries and jurisdictions worldwide, provided by the World Justice Project since 2008 according to the data publicized in 2016. Yet, Turkey went back two steps and ranked 101st according to the data of February 2018, while it went down to 109th in the 2019 index.⁹

Alevis' demands for equal citizenship have not been met in 2018 either. The requirements of ECtHR judgments to repeal compulsory religion courses in schools and to recognize Cem Houses as places of worship were not fulfilled. The Court of Cassation, however, started to rule in favor of the Alevis in 2018.

Alevis, Christians and Jews were the target of threats and hate speech of radical sunni and racist groups.

The fact that the right to conscientious objection has not been accorded yet maintains its place as a significant violation of human rights.

İHD report and recommendations for the "Elimination of Injustice in Penal Legislation"¹⁰ and the "Opinion Report and Recommendations on the New Human Rights Action Plan"¹¹ regarding notably

⁹ https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2019-Single%20Page%20View-Reduced_0.pdf

¹⁰ <https://ihd.org.tr/en/index.php/2018/09/26/ihd-report-and-recommendations-for-the-elimination-of-injustice-in-penal-legislation/>

¹¹ <https://www.ihd.org.tr/yeni-insan-haklari-eylem-plani-hakkinda-yazili-gorus-raporu/>

the right to freedom of expression and the right to liberty and security of person presented to the Ministry of Justice incorporate rather detailed assessments and recommendations.

FREEDOM OF ASSOCIATION AND PRESSURES ON HUMAN RIGHTS BODIES AND DEFENDERS

The declaration of the SoE and the closure of trade unions, associations and foundations through decree laws demonstrate the fact that freedom of association has been gravely repressed by the political power. 1,431 associations and 145 foundations were closed down through decree laws as of December 2018. These include Agenda: Child! Association that had invaluable contributions to the human rights field, Human Rights Research Association, Progressive Lawyers Association (ÇHD), Lawyers for Freedom Association (ÖHD), and Mesopotamia Lawyers Association (MHD).

2018 has also proven to be a year during which many lawyers and human rights defenders, notably the executives, members and employees of the İHD, were arrested or even detained in blatant infringement of the principles enshrined in the UN Declaration for the Protection of Human Rights Defenders. Not only does the closure of NGOs but also arrests and lawsuits have been instrumentalized to narrow down the civilian space in Turkey. What follows is an incomplete list of examples on the issue:

- The report of 1 June 2018 by İHD incorporates information on 221 lawsuits out of more than 500 brought against İHD executives. A total of 143 lawsuits were brought against İHD's Co-Chairperson Eren Keskin alone. Ms. Keskin was sentenced to 7.5 years in prison under Articles 299 and 301 of the Turkish Penal Code (TPC) on 29 March 2018 within the scope of one of these lawsuits along with other heavy sentences based on other lawsuits. İHD's Malatya Branch Chair Ms. Gönül Öztürkoğlu was arrested on 27 November 2018 and detained, while she was released on 22 March 2019. İHD's former Bitlis representative Mr. Hasan Ceylan, and İHD's Dersim Branch executive Mr. Özgür Ateş are prisoners on remand.
- At least 30 investigations and lawsuits against the founders, president, members of the board of directors and volunteers of HRFT are still pending.
- Further, authorities have launched both administrative and judicial procedures against the legal personalities of human rights bodies like the HRFT and İHD. Investigation processes have been initiated and are pending with regards to a report¹² drafted by the HRFT, İHD, Agenda: Child! Association, Trade Union for Public Employees in Healthcare and Social Services and Diyarbakır Bar Association following a visit to Cizre within the scope of initiatives to document gross human rights violations in residential areas under curfew in Turkey's South East. Moreover, there are two separate pending investigations against İHD.
- Lawsuits are still pending for 8 human rights defenders and two consultants who were arrested in Büyükkada, İstanbul on 5 July 2017 while they were at a workshop on the welfare and safety of human rights defenders organized by Amnesty International Turkey.
- The report by İHD issued on 1 June 2018 incorporates information on 78 lawsuits, specifically against lawyers practicing in political cases.¹³ The Chairperson of Progressive Lawyers Association Selçuk Kozagaçlı and many other executives and lawyers of the association are in jail.
- There is an increase in cases of coercion and judicial harassment against medical doctors who resist cases contradicting medical ethics, universal values, and at the same time, the principles of the İstanbul Protocol. Recently physicians who denounced war and armed conflict in their statements as has been prescribed by their professional liabilities and duties have been arrested, detained and subjected to criminal proceedings. For instance, the Central Council members of

¹² <http://en.ihd.org.tr/wp-content/uploads/2016/04/Cizre-Report-2016.pdf>

¹³ <http://ihd.org.tr/en/index.php/2018/07/25/lawyers-under-judiciary-pressure/>

the Turkish Medical Association were arrested on 30 January 2018 because of their statement of 24 January 2018 that denounced war and reminded all once again that “war is a public health problem.” Four council members were released four days after while the others were released seven days after the fact. Investigations initiated against the council members are pending.

- The lawsuit brought against the central executive committee members of KESK (Confederation of Public Employees’ Trade Unions) under Article 216 of the TPC and Article 7 § 2 of the ATC because of their statement on Afrin is pending. Judicial harassment on KESK, with about 5 thousand members dismissed from their public posts, and its affiliated trade unions is ongoing.
- Mr. Osman Kavala, who has served as a founding member, executive board member, or advisory board member of many NGOs, was arrested on 19 October 2017 and is still under pre-trial detention. İstanbul Chief Public Prosecutor’s Office asked for Mr. Kavala’s detention without ever taking his testimony at the end of a 14-day police custody, and he was detained as per Article 309 of the TPC that sets forth the offense of attempting to abolish the constitutional order and Article 312 of the TPC that prescribes the offense of attempting to abolish the government. While 12 out of 13 academics and rights defenders who were arrested on 16 November 2018 were released Mr. Yiğit Aksakoğlu was detained. There is a total of 16 suspects, including Mr. Kavala and Mr. Aksakoğlu, within the scope of a lawsuit known by the public as the Gezi lawsuit. The indictment against these persons have been submitted and the first hearing will be held on 24 June 2019. These investigations are conducted as a continuation of Gezi Park protests and these can be considered to be attempts to silence social dissidence down the line by issuing arrest warrants against many individuals.

Conducting extensive and repetitive country-wide arrest and detention operations specifically against a political party (HDP) is a direct interference into democratic politics. Constant arrest and detentions of HDP executives and members have amounted to world record breaking levels while this state of affairs necessitates the drafting of a special report. Arrest and detention campaigns against HDP’s members and executives have continued non-stop during both the 24 June 2018 and 31 March 2019 elections processes.

THE RIGHTS TO FREEDOM OF PEACEFUL ASSEMBLY AND DEMONSTRATION

2018 has proven to be year during which freedom of peaceful assembly and demonstration was abolished as a rule while rallies and demonstrations could arbitrarily be held only as exceptions and authorities have attempted to render this arbitrariness ordinary. In other words, 2018 has been a year during which violations and restrictions prevailed with regards to freedom of assembly and demonstration just like the previous one as well.

Even the pre-election period for the 24 June 2018 elections has gone by with governors’ offices’ prohibition of assembly and demonstration decisions in 25 cities and have been rendered dependent on permissions from these offices. Only 2 governors’ offices out of 25 regarded election campaigns as being outside the scope of their decisions to prohibit rallies and demonstrations.

During the official SoE period governors’ offices in many cities had been handing down one-off and regarding a specific day/protest prohibition decisions or all-encompassing ones covering all protests consecutively for various rallies, demonstrations and events having been authorized by the antidemocratic regulations in the SoE laws. Although the SoE was lifted on 19 July 2018, this and similar practices continue to be implemented. These bans cover a wide spectrum of events ranging from a rally on the negative impacts of geothermal power plants to high school and university festivals, from culture and arts, nature festivals to LGBTI+ events.

Even under such circumstances, where the right to freedom of peaceful assembly and demonstration has essentially been disregarded, the following interferences have taken place in 2018 according to the data collected by İHD's Documentation Center:

621 times into the protests staged with the demand "I want my job back" notably in Ankara and İstanbul; 10 times into the press statements by Saturday Mothers; thrice into the protests staged by İstanbul airport workers asking to improve their working conditions; 849 times into peaceful protests planned to be staged by various segments of the society (unpaid workers, unassigned teachers, trade unions, farmers, university students and professors, women's platforms, LGBTI+ groups, residents, political parties, associations, professional organizations). People were subjected to police violence amounting to torture and 2,598 persons filed complaints regarding these instances.

On the basis of struggle against impunity and for justice, especially the weekly vigils "Let the Disappeared Be Found, Perpetrators Be Tried" held under İHD's umbrella by Saturday Mothers and Peace Mothers, families of the disappeared and human rights defenders persevere against all forms of oppression and prohibition. Human rights defenders will not ever refrain from their pursuit of justice.

Some of these bans bear symbolic significance that reveal the mentality of the political power. Trans and Pride Marches that have been staged by LGBTI+ individuals for years were banned in many cities this year as well. Yet, people got together in many cities in spite of all these bans and interventions.

VIOLATIONS OF THE RIGHT TO VOTE AND BE ELECTED

There have been harsh critical stands and observation reports on the failure to hold democratic, just and fair elections in Turkey for long. Indeed, reports issued by such international bodies conducting independent election observations like OSCE and the PACE and national bodies like İHD and the Association for Monitoring Equal Rights, which wanted to carry out independent monitoring at the national level but were never allowed to do so, justify these critical points.

When the Supreme Board of Elections unlawfully decided to recognize unsealed ballots and ballot envelopes as valid for the referendum of 16 April 2017 held under the SoE conditions, a grave confidence crisis has broken out. The Board, hence, seriously damaged the right to vote and be elected through amendments introduced into Law No. 298 in the 24 June 2018 elections again held under the SoE conditions.

Decree law no. 687 of 9 February 2017 abolished the Supreme Board of Elections' jurisdiction over television and radio stations, therefore, enabling them to beat fines in case that they broadcast biased news reports. This decree law repealed the board's constitutional jurisdiction. Indeed, a state of affairs in favor of the ruling party was manufactured while great disadvantage was brought about on part of the opposition via this emergency decree law during the 24 June 2018 election process. Media outlets have posed obstacles before the right of the people to access information and the right of political parties to electioneer by allocating less airtime for opposition parties and their candidates. In any case, a rather unfair state had already been created through the closure of more than 170 media outlets by decree laws.

The government has passed Law No. 7102 on 13 March 2018 before the decision to hold snap elections. This law introduced significant amendments to Law No. 298 on the Basic Provisions of Elections and Electoral Rolls. When one studies these modifications, it is seen that they deliver results in favor of the ruling political party and enable election manipulation. The main opposition party has brought these amendments to the law before the Constitutional Court but the court dismissed the application giving way to grave concerns. The Constitutional Court has indeed disregarded the rule to hold just and fair elections.

According to our findings regarding the former elections, the electoral system and the Supreme Board of Elections' practices have violated an ample number of international criteria within a time period spanning from electorate registration to the announcement of election results.

Each and every voter's equal access to information on elections without any distinction, voting on one's own free will without facing any pressure and constraint, granting equal opportunities to all political parties and candidates running for the elections constitute the major criteria for the legitimacy of elections.

The Constitution which was declared to have been amended via the referendum of 16 April 2017 repealed the rule to assign impartial persons to serve as ministers for the Ministry of the Interior, Ministry of Justice, and Ministry of Transportation. The violence witnessed in Suruç, Şanlıurfa on 14 June 2018 stands testimony to how significant this rule is. Yet, the statements and attitude of Minister Soylu, who was the top officer of the ministry of the interior that was supposed to assist the competent public prosecutor's office to shed light on the incident, was indeed appalling.

The fact that Minister Soylu did not permit NGOs in Diyarbakır, which wanted to visit the scene after the violent incidents, to leave Diyarbakır and accused all these NGOs and targeted them on a TV program afterwards constitutes an offense.

İHD and HRFT have drafted a special report on the coercive practices and violations between 26 April 2018, the official start off for election campaigns, until 20 June 2018 for the 24 June elections.¹⁴ This report incorporates repressive practices and violations, arbitrary restraint orders by civilian authorities, interventions and attacks by security forces along with attacks and obstructions by civilian groups.

Moreover, ECtHR's latest *Demirtaş v. Turkey* judgment has officially proven that Turkey prevented Mr. Demirtaş's right to engage in political activities and by doing so violated his right to vote and be elected.

VIOLENCE AGAINST WOMEN

Women have faced many rights violations in 2018 yet again. Many rights and freedoms of women, particularly their right to life, have been infringed. According to our data, 359 women were killed in 2018 including 39 cases of suicide while 823 women were subjected to male violence both in the public and private space. Official figures reveal that the number of women subjected to violence is in the tens of thousands while the number of women who were killed due to violence is even higher.

Women who wanted to stage events on the occasion of International Women's Day on March 8 faced obstructions and interventions in many a city. Women's protests and events were banned by governors' offices in Van, Diyarbakır, Gaziantep, Mardin, Hakkari and Elazığ. At least 31 women were arrested following police interference in Ankara, Tekirdağ and Kocaeli. Moreover, 5 women activists from trade unions and NGOs were arrested in Ankara following house raids conducted before March 8.

Activities planned by women on the occasion of November 25 International Day for the Elimination of Violence against Women in Mardin were banned by the governor's office. The police intervened by using physical violence against women who wanted to stage protests in Kadıköy and Beyoğlu districts of İstanbul, and Diyarbakır.

24 women's murder cases were finalized between January and November 2018. The perpetrators were handed down reduced sentences in 10 of these cases on the grounds of "good conduct" or "provocation."

¹⁴ <http://ihd.org.tr/en/index.php/2018/06/22/violations-during-propaganda-period-and-voting-security/>

Jinnews news site reporting “women-based news” was denied access 7 times by the Information Technologies and Communications Authority (ITCA) in 2018. *Jinnews* news agency’s office in Diyarbakır was raided by the police. ITCA filed criminal charges against *Jinnews* on the grounds of its news reports before Diyarbakır Chief Public Prosecutor’s Office and a lawsuit was brought against the editors of the news site.

REFUGEES/ASYLUM-SEEKERS/IMMIGRANTS

Turkey’s stand on refugees¹⁵ has not changed in 2018 either. No permanent solutions were offered to solve refugees’ problems while the policies implemented were short-term and far from facilitating coexistence. The number of persons who had to immigrate to Turkey due to the ongoing war in Syria since 2011 is over 3.5 million as of 2018 according to official figures while the estimates show more than 4 million. Although these people have spent seven years in Turkey, they still legally have a “temporary protection status” and cannot access the right to asylum. Other rights and services are mostly focused on those coming from Syria, while refugees from Afghanistan, Iran and African nations amounting to about 365,000 in number are being disregarded. This precarious state that all refugees in Turkey are in lead these people who were forced to leave their countries to seek other safer countries. The number of people who lost their lives while trying to get to Europe from the Mediterranean was more than 2,000 in 2018.

One of the most important issues that refugees have to face are the removal centers. At such centers access to legal counsel proves to be a significant problem, while extended stays and insufficient information drag the people at these centers into a serious uncertainty which, in turn, forces refugees to return to their countries “voluntarily” even if they do not want to. On another level, sending refugees back to their countries has made its way to the statements of politicians as a campaign pledge before the 24 June presidential elections. It has been observed that discrimination and hate speech against refugees escalated in the national media as well as the social media during this period. Moreover, refugees’ presence in Turkey occupied a significant place in opposition parties’ criticism towards the government in the following period as well.

Some of the temporary shelters –a.k.a. camps- where refugees from Syria had been located in Hatay, Gaziantep and Mardin were closed down in the last quarter of 2018. While some of the refugees in these camps were relocated to other shelters in the border regions, some had to face a new shelter problem. The number of refugees in 21 temporary shelters was 234,900 in December 2017, while this figure went down to 174,256 in 14 temporary shelters as of October 2018.

ECONOMIC AND SOCIAL RIGHTS

About 200,000 workers, who were dismissed from their public posts through decree laws (135,000 public employees) and those who lost their jobs in the private sector due to the SoE, have been sentenced to starvation with their families amounting to about one million people. These dismissals, which we qualify as civil death, account for a very grave violation of economic and social rights. It is impossible for the State of Emergency Procedures Investigation Commission to deliver a solution in its current state. All dismissals can be repealed by a single decree law and those who were connected with the coup d’état attempt can be ascertained by conducting intra-institutional disciplinary investigation procedures. The use of the concept “in junction with” [iltisaklı] is altogether contrary to law. Thus, a decision can be handed down by only investigating the coup attempt based on the grounds of SoE.

¹⁵ Everyone who came into Turkey due to compelling reasons are referred to as “refugees” by human rights bodies regardless of their legal status. Thus, the term “refugee” will be used in the following parts.

Already limited workers' rights have even witnessed worse setbacks under the SoE. Some possible strikes have been deferred and de facto strike bans have been imposed in Turkey.

Judicial harassment against workers following the criminalization of İstanbul's third airport construction workers' protests to seek remedies reveal the degree to which the political power has moved away from economic and social rights. The increasing number of corporate murders also proves to be very alarming.

According to data provided by the Health and Safety Labor Watch, at least 1,923 workers lost their lives within in 2018. There has recently been a constant increase in the number of corporate murders euphemized as occupational accidents.

Tens of thousands of persons have not been able to start working due to the imposed security and background checks for those who would start working in the public or private sectors for the first time. About hundreds of newly graduated medical doctors have not been permitted to work in the healthcare sector. It has also been revealed that at least 500,000 subcontracted workers were not given tenure on the grounds that they failed such security clearance within the scope of a plan announced vauntingly to the public by the government.

The attempt to prohibit medical doctors and dentists, who were dismissed from their public posts through decree laws, from working in the private sector did not yield any results and the government backtracked on the bill due to the fact that professional and workers' organizations in the healthcare sector took a firm stand against it. It was, however, maintained that the purged physicians who had not been able to undertake a compulsory period of "national service" in the public healthcare system and newly graduated physicians who failed to receive security clearance would only be able to practice medicine after waiting for 450 days.

Over all, unemployment is on a steady rise due to the impact of the economic crisis and poverty becomes even more widespread accordingly. The goal of human rights is to save humanity from fear and poverty. Therefore, more insistent endeavors are called for in the economic and social rights field in the following term.

CONCLUSION

İHD would like to underline the necessity to initiate a reform process in order to improve the human rights field in Turkey. On this note, the report drafted by İHD and other human rights bodies along with professional chambers presented to the Ministry of Justice "Assessment Report and Recommendations on the New Human Rights Action Plan" should be taken into account.

İHD would also like to stress that Turkey needs to assess the results of the local elections and is required to draft a new and democratic Constitution based on the principle of separation of powers founded on rule of law which embraces a decentralized mode of governance and depends on human rights. Moreover, the Constitution of 16 April 2017, stated to have been voted for under the SoE conditions with the unlawful decision of the Supreme Board of Elections, should be liberated from its entirely authoritarian structure.

İHD would like to indicate that the task that is of utmost priority in delivering a solution to Turkey's democracy and human rights problems is the return to a democratic and peaceful resolution process in the Kurdish issue.

HUMAN RIGHTS ASSOCIATION