

**2019 Human Rights Report**

**Right to Life**  
stop warnings, death under custody, summary execution, murder by unknown assailants, illegal organization attacks, armed conflict...

**Torture and Ill-treatment**  
torture, ill-treatment, threats, police violence, prisons...

**Liberty of the Person**  
arrests, detentions, abductions, long detention, off-the-record arrests

**Freedom of Speech**  
journalists, human rights defenders, social media users, closure-denial of access decisions...

**Freedom of Assembly**  
peaceful assemblies, banned events and protests, investigations, court cases

**Freedom of Association**  
political parties, trade unions, associations and foundations, court cases, closure judgments

**Human Rights Association**

Human Rights Association (İnsan Hakları Derneği-İHD) is a non-governmental, independent, and voluntary body that is the oldest and largest human rights organization in Turkey and its "sole and specific goal is to promote human rights and freedoms."

İHD's annual human rights violations reports document Turkey's human rights violations. You can find the 2019 report at <https://ihd.org.tr/en/>

**İHD** İNSAN HAKLARI DERNEĞİ  
HUMAN RIGHTS ASSOCIATION  
KOMELEYA MAFÊN MIROVAN

1986

# İHD 2019 REPORT ON HUMAN RIGHTS VIOLATIONS IN TURKEY

May 2020  
Ankara

Human Rights Association (İnsan Hakları Derneđi-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, 5 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.’”

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## Abbreviations

AI	Amnesty International
AKP	Adalet ve Kalkınma Partisi (Justice and Development Party)
ATC	Anti-Terror Code
BES	Büro Emekçileri Sendikası (Trade Union of Office Workers)
CCP	Code of Criminal Procedure
ÇHD	Çağdaş Hukukçular Derneği (Progressive Lawyers' Association)
CHP	Cumhuriyet Halk Partisi (Republican People's Party)
CoE	Council of Europe
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
DTK	Demokratik Toplum Kongresi (Democratic Society Congress)
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
Eğitim Sen	Eğitim ve Bilim Emekçileri Sendikası (Education and Science Workers Union)
FMI	Forensic Medicine Institute
GNAT	Grand National Assembly of Turkey
Haber-Sen	Basın Yayın İletişim ve Posta Emekçileri Sendikası (Media Communication and Postal Employees' Union)
HDP	Halkların Demokratik Partisi (Peoples' Democratic Party)
HRFT	Human Rights Foundation of Turkey
HRJP	Human Rights Joint Platform
HRW	Human Rights Watch
İHD	İnsan Hakları Derneği (Human Rights Association)
KESK	Kamu Emekçileri Sendikaları Konfederasyonu (Confederation of Public Employees' Trade Unions)
MHP	Milliyetçi Hareket Partisi (Nationalist Movement Party)
OHCHR	Office of the High Commissioner for Human Rights
OPCAT	Optional Protocol to the Convention against Torture
PACE	Parliamentary Assembly of the Council of Europe
SES	Sağlık ve Sosyal Hizmet Emekçileri Sendikası (Trade Union of Public Employees in Healthcare and Social Services)
SoE	State of Emergency
SOHR	Syrian Observatory for Human Rights
TİHEK	Türkiye İnsan Hakları ve Eşitlik Kurumu (Human Rights and Equality Institution of Turkey)
TMA	Turkish Medical Association
TPC	Turkish Penal Code
TurkStat	Turkish Statistics Institute
WGEID	Working Group on Enforced or Involuntary Disappearances

# INTRODUCTION

## Social Dissidence against Persistent Authoritarian Governance

The last five years of Turkey has been a period during which the regime has become more and more authoritarian while the official ideology has been exceptionally implemented. Particularly, armed conflict that broke out on 24 July 2015 and the coup d'état attempt of 15 July 2016 have both assumed a determinant role in bringing forth these consequences.

Although the failed coup d'état attempt was quenched merely a day after while the armed conflict was ongoing, the authorities declared a state of emergency (SoE) turning the situation into a monumental opportunity for the construction of an authoritarian regime. The SoE that was launched on 21 July 2016 was lifted on 19 July 2018.

Constitutional amendments were sustained by the Higher Board of Elections by the referendum of 16 April 2017, which was held under SoE conditions, and these amendments transitioned the country to a "Presidential Government System or Turkish-Type Presidential Model" which allowed for a political party leader to act as the president. This model went into force with the presidential and general elections of 24 June 2018 again held under SoE conditions. The SoE was lifted right after the elections on 19 July 2018.

Yet Law No. 7145, which went into force on 31 July 2018, virtually extended the SoE for another three years. The year 2019, thus, was one that maintained the SoE rule at the same time.

The electoral victory of opposition parties specifically in metropolitans in the local elections of 2019 can as well be regarded as an objection raised against the authoritarian regime. Particularly the fact that the opposition acted together during the re-run of İstanbul Greater Municipality elections of 24 June 2019 can be considered a significant development in terms of deliverance of pro-democracy advancements.

Despite the failure to bring about a solution to the Kurdish issue and the ongoing armed conflict, the policy to assign state trustees to replace the elected co-mayors of pre-dominantly Kurdish metropolitans like Diyarbakır, Van and Mardin following the local elections on 19 August 2019 proved to be the starkest characteristic of the authoritarian regime that resulted in the invalidation of voters' will and, therefore, the election results. This policy of assigning state trustees has been maintained during 2019 and 2020 so as to cover not only municipalities won by HDP but by CHP as well.

The process which was initiated by the Parliamentary Assembly of the Council of Europe's (PACE) re-initiated the political monitoring procedure against Turkey on 25 April 2017 has been sustained in 2019 as well. The Council of Europe, however, has not been able to deliberate its monitoring report in 2019 either. 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 court's violation judgments limited to the cases of Selahattin Demirtaş and Osman Kavala have not even been implemented as was due. 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, moreover,

has been failing to rule in favor of human rights and engaged in a negative attitude especially when “the national security policies of the state” were at stake. The court’s negative conduct, specifically towards the SoE decree laws and laws, revealed the fact that it has not been an effective domestic remedy to protect human rights. Yet some partial annulment judgments by the Constitutional Court about SoE decree laws which were passed into laws following the end of SoE and the maintenance of this conduct can be regarded as hopeful.

2019 has been a year which witnessed the emergence of a novel type autocratic regime of liberalism creating profound uncertainties within the permanent state of emergency with immense limitation on and prohibition of the most fundamental rights including freedom of expression, association, assembly and protest. The most prominent instrument of repression in this context was the judiciary itself.

Despite the problems brought about by the failure of democratic powers to act together against the construction of an authoritarian regime conception, the fact that the people of Turkey hit home a message of democracy and peace specifically through the ballot boxes in the local elections is very significant and meaningful. İHD would like to underline the requirement that democratic powers perceive the message of democracy and peace sent by the people in 31 March 2019 elections by coming together and establish a democratic alliance.

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

## 1. PERMANENT STATE OF EMERGENCY

Although the SoE was lifted as of 19 July 2018, Law No. 7145 on “Amendments to Some Laws and Decree Laws” went into force after having been ratified by the president on 31 July 2018, thus, the SoE was rendered permanent with all its consequences. The notable regulations within this context were the common implementation of custody periods for 12 days, governors’ prohibition of press conferences along with assemblies and protests almost without exceptions having been equipped with SoE powers, and the state institutions’ pursuit of dismissals from public office.

The large part of the restrictions and bans announced by the government due to the COVID-19 pandemic publicized in Turkey on 11 March 2020 are powers put forth in Article 11 of Law No. 5442, which was amended by Law No. 7145, granting governors SoE powers. The fact is these powers can only be used in case of a security threat.

The gross consequences and impacts of the SoE have been felt on public life in an ever increasing fashion. **The Inquiry Commission on the State of Emergency Measures**, which was established in order to review SoE decisions and procedures that affected about 140,00 individuals, has been inching its way across the files before it and through its insufficient decisions it has further been consolidating the permanent effects of the SoE. The commission stated on 27 March 2020<sup>1</sup> that it has undertaken a total of **131,922** measures, **125,678** of which were dismissals from public service.

<sup>1</sup> The Inquiry Commission on the State of Emergency Measures. “Announcement.” 27 March 2020.

<<https://soe.tccb.gov.tr/>>

Among these measures, **2,761** organizations/institutions were closed down. While the total number of applications lodged before the commission was 126,000, it delivered a total of 105,100 decisions accepting a mere number of **11,200** while rejecting a great majority of **93,900**. There are still 21,200 pending applications. Although the commission should have prioritized the files of dismissed healthcare staff because of the COVID-19 pandemic and reinstate them to their jobs, it seems that the commission is not quite concerned about the pandemic.

Further Article 3 § d of Decree Law no. 668 issued during the SoE prescribed that prisoners' conferences with their lawyers could be restricted upon the order of the public prosecutor. Such restrictive practices have been maintained even after the SoE ended. The Constitutional Court, however, annulled Article 59 §§ 5 and 10 of Enforcement Law No. 5275 which were instances of such legislation by its judgment of 24 June 2019 (Merits No. 2018/73 E, Judgment No. 2019/65 K) published in the *Official Gazette* on 29 November 2019. These provisions had previously allowed "audio or visual recording of conferences by technical equipment, presence of an officer to monitor conferences between prisoners and lawyers, seizure of document or document copies, files that prisoners hand in to their lawyers or vice versa, and records of their conferences." Moreover the fact that the Constitutional Court also annulled the amendments regarding the requirement to conduct security background checks when recruiting individuals to public service can be considered a part of the judiciary's duty to rein back the permanent SoE order.

## 2. THE 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 2019. Violations of the right to life, however, are not limited to those committed 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 committed by third parties and "protect" its citizens from such incidents.

According to data collected by İHD Documentation Center in 2019:

- 9 individuals lost their lives, while 16 were wounded due to summary execution, random shootings, or fire on the grounds that they disobeyed stop warnings by the law enforcement.
- 8 individuals lost their lives due to assaults by unknown assailants.
- A total of 440 individuals lost their lives due to armed conflict; of these 98 were in the security forces (soldiers, police officers, village guards), 328 were militants, while 18 were civilians. A total of 233 individuals were wounded during this period; of these 206 were soldiers, police officers and village guards, while 1 was an armed militant and 26 were civilians.
- 3 individuals lost their lives including one child while 2 children were injured due to being hit by armored vehicles<sup>2</sup> used by security forces.

<sup>2</sup> For a comprehensive study of violations of the right to life due to armored vehicle crashes see the research report by İHD Diyarbakır Branch (Turkish). 19 July 2019. < <https://www.ihddiyarbakir.org/Content/uploads/b1043412-4f2d-4ba4-968f-d595de2d989e.pdf>>

- 3 individuals lost their lives, including 2 children while 5 were wounded including 2 children due to mine and unclaimed bomb, etc. explosions.
- At least 69 individuals lost their lives in prison due to sickness, suicide, violence etc. 4 were injured.<sup>3</sup>
- At least 17 individuals lost their lives while 5 were injured under suspicious circumstances while performing their compulsory military service or on active duty.
- 1 individual lost their life due to an attack by an illegal organization.
- One of the most notable developments in 2019 was the fact that a total of 81 persons including 32 children lost their lives in rivers, ponds or heavy rain due to recklessness and negligence while 28, including 11 children were injured.
- At least 1,736 workers lost their lives due to occupational accidents/murders according to the data provided by Health and Safety Labor Watch Turkey.<sup>4</sup>
- At least 431 women were killed due to male violence, while 359 survived with injuries in 2019. According to İHD's data, 726 women were subjected to violence in public and private spaces, while 499 women were sexually assaulted and abused. The number of women forced into prostitution was 721.
- 5 individuals were murdered while 7 were injured in hate crimes against LGBTI+ individuals in 2019. 1 individual was murdered in the same year under the disguise of "honor" killing.

According to the data collected by İHD Documentation Center, at least 16 civilians were killed while 71 civilians were injured due to explosives like mortar shells etc. that hit districts on the border during Turkey's military campaign into northeastern Syria. At least 17 soldiers were killed while 33 others were injured during the same period. There is, however, no reliable data on the number of casualties sustained by armed militants and Turkish-backed paramilitary groups in Syria because of the military campaign. 13 civilians were killed while 6 others were injured along the border in 2019 other than those caused by this military campaign.

According to documentation by such organizations as the Syrian Observatory for Human Rights (SOHR), Human Rights Watch (HRW) and Amnesty International (AI), tens of civilians were killed including the Secretary General of Future Syria Party Hevrin Khalaf and two journalists while many people were injured. Most particularly attacks by paramilitary groups against civilian settlements are ongoing in the latest instance of which 10 civilians including 8 children were killed while more than 20 were injured in a mortar attack into a settlement in the Tel Rifaat area.

Geneva-based UN Office of the High Commissioner for Human Rights (OHCHR), stated in a press briefing note on Syria on 15 October 2019 that "Turkey could be deemed responsible as a State

<sup>3</sup> The press reported that CHP İzmir Deputy Atilla Sertel tabled a parliamentary question to be answered by the Minister of Justice regarding the allegation that 14 prisoners -4 in open, 10 in closed prison- lost their lives in Menemen R-Type Open and Closed Prisons due to unhygienic conditions in 2019. *Bianet*. 4 September 2019. <<https://bianet.org/5/97/212614-chp-mp-fourteen-inmates-died-due-to-epidemic-in-izmir-prison>>

<sup>4</sup> Health and Safety Labor Watch Turkey. 2019 Report. 15 January 2020. <<http://isigmeclisi.org/20220-yasamak-ve-yasatmak-icin-direnecegiz-2019-yilinda-en-az-1736-isci-yasa>>

for violations committed by their affiliated armed groups” and reminded the country of its obligation to prevent such acts.<sup>5</sup>

In protecting the right to life one of the utmost priorities should be the fight against impunity. Further, the scope of security forces’ authority to use arms should be narrowed down and legislation that lead to impunity should be changed. Provisions that provide for impunity in amendments through Law No. 6722, SoE decree laws and the laws that signed such decrees into laws should be repealed.

Turkey needs to initiate a genuine conflict resolution process and enable permanent de-conflict. Turkey should also ratify and put into force UN’s International Convention for the Protection of All Persons from Enforced Disappearance, should recognize UN’s Rome Statute and the jurisdiction of the International Criminal Court and should ratify the Additional Protocols to the Geneva Conventions.

### **3. TORTURE AND ILL-TREATMENT**

There are significant findings and allegations covering a wide area that point out to a great increase in recent cases of torture and other ill-treatment practices implemented in order to punish and/or intimidate and/or exercise power over persons and/or used as instruments of criminal procedure (intended for extracting confession or information/“collecting evidence”). Acts of torture at official detention centers and extra-custodial places, in the streets, in prisons and almost everywhere, along with the “extreme and disproportionate interference” of the law enforcement amounting to the level of “torture” in assemblies and demonstrations have become widespread. Further, it has been observed that torture and other forms of ill-treatment were implemented in order to enhance the control and coercion of the political power over different segments of the society and to spread terror and fear.

- According to İHD’s data, the number of individuals alleging they were subjected to torture and other forms of ill-treatment under custody and at extra-custodial places in 2019 was 1,477.
- There are numerous pieces of evidence revealing the fact that the use of “extreme and disproportionate force” by the law enforcement against individuals exercising their right to peaceful assembly and demonstration all over the country amounted to the level of torture and other forms of ill-treatment. Particularly, police interference into the peaceful protests staged twice daily before the Human Rights Monument on Yüksel Street, Ankara merely constitute one of the examples of such “extreme and disproportionate force” across the country. According to İHD’s data, law enforcement intervened 1,344 assemblies and demonstrations in 2019, while 3,935 people alleged that they were

<sup>5</sup> OHCHR. “Press briefing note on Syria.” 15 October 2019.

<https://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25145&LangID=E>

- subjected to beating and ill-treatment during such interventions.
- Seven cases of enforced disappearance/abduction were ascertained in 2019 and the families of six of these individuals have lodged applications before the İHD. Five of these applications were communicated to the UN Working Group on Enforced or Involuntary Disappearances (WGEID) and the disappeared were found following these communications. The fate and whereabouts of the sixth individual still remains unknown. It was also understood that the found individuals had been subjected to torture and ill-treatment.
  - According to news reports and applications filed before the İHD, numerous persons including university students, journalists and activists were forced to testify off-the-record and to become informants through coercion and threats notably in İstanbul, Ankara, Diyarbakır and İzmir in 2019 and some those who refused to do so were detained on charges of “membership in an illegal organization” or were abducted only to be released after some time having been subjected to various forms of torture and ill-treatment. The total number of applications alleging forced informant-making lodged before İHD’s central offices and its branches in 2019 was 71. Media on the other hand reported 66 such cases. Thus a total of 137 persons were allegedly subjected to such torture and other forms of ill-treatment.

Procedural guarantees of due process, which play a significant role in preventing torture but were mainly disregarded in practice for years, have been terminated to a large extent due to legislative modifications introduced by decree laws during the state of emergency. These procedural guarantees include informing the detainee about the grounds 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 state of affairs has been created about this issue.

The problems that form the basis of our critique of the Human Rights and Equality Institution of Turkey (TİHEK) authorized as the “National Prevention Mechanism” which is supposed to be an effective and significant instrument for the prevention of torture have also remained the same as of 2019. No steps were taken to make TİHEK operate in line with the Paris Principles and OPCAT provisions. Functional and financial independence problems, which are among these foremost principles, have yet to be resolved. There are principal and methodological errors in the visit reports issued by the institution as well. İHD maintains its impression based on these reports issued in 2019 that preventive visits to detention centers did not bear the minimum standards and that these visits were paid only as a formality.

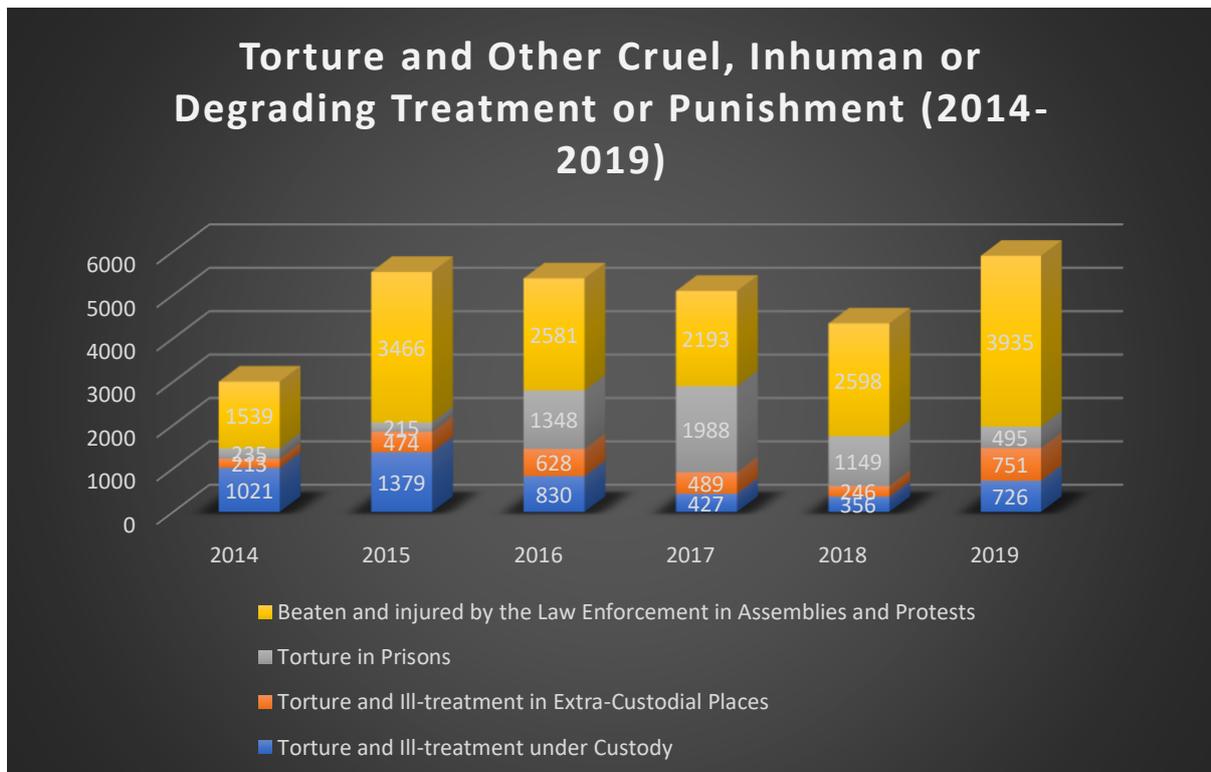
Impunity still proves to be the most significant obstacle before attempts to end torture. Impunity is still witnessed as one of the most basic elements that make torture possible because of such reasons as the failure to initiate investigations against perpetrators, the fact that initiated investigations do not lead to criminal proceedings, 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 the “2018 Legal Statistics” data provided in 2019 by the Ministry of Justice’s General Directorate of Criminal Records and Statistics, investigations were initiated into 2,196 persons under Articles 94 and 96 of the Turkish Penal Code (TPC) which designate torture and ill-treatment offenses, while non-prosecution decisions were delivered for 1,035 persons, 766 persons stood trial, and various other decisions were handed down for 395 persons. The statistics reveal that there is a significant rise in the number of investigations and trials for the offense of torture and ill-treatment even in official figures.

Further, investigations were initiated into 163,032 persons, while 48,064 of these faced trial in 2018 due to “offenses against the reliability and functioning of public administration” under Article 265 of the TPC that proscribes prevention of public duty or resisting a public officer. The fact that there is such a significant difference between trials for torture and resistance under the state of emergency conditions where violence by the law enforcement skyrocketed is a clear signifier of the dimensions of impunity which is indeed being pursued as a systematic policy.

Moreover, 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. CPT’s latest report on its visit to Turkey in May 2019 has not been released yet either.

**Figure 1.** Annual Change in Data Collected by IHD’s Documentation Center on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2014-2019)



## 4. 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 a total of 294,000 in 355 penitentiary institutions based on data by the Ministry of Justice presented during the budget deliberations at the Grand National Assembly of Turkey (GNAT) in December 2019. Of these about 11,000 were indicated to be women, yet no precise figure on the number of convicted and non-convicted women prisoners was provided. While there were 3,100 child prisoners, 780 children were kept in prisons with their mothers.

In addition, the number of persons subjected to the supervised release measure was about 230,000 as of 2019. Further the number of persons released under judicial control without resorting to detention is about 490,000 as of the end of 2019.

No data has been provided for a long time now on the number of prisoners on remand [hükmen tutuklu], i.e. those inmates whose sentences have not been upheld yet. Data collected by the Turkish Statistical Institute (TurkStat), unfortunately, is lagging behind a year. Yet the available data can even qualify as one reflecting the gravity of the situation. According to the latest data released by TurkStat on 5 December 2019,<sup>6</sup> the number of persons in prisons as of 31 December 2018 was 264,842 having increased by 14% in comparison to the previous year. Another important data pertain to the rate of turnover in prisons, i.e. the number of persons going in and out of prisons. According to the TurkStat data, 266,889 people were admitted into penitentiary institutions in 2018 while 215,170 persons were released in the same year. Such a high circulation rate indicates that the number of prisoners is in fact much higher than it seems.

The Ministry of Justice states that the total capacity of current 355 penitentiary institutions is 220,230 persons. In this case it can be concluded that the prisons are overcapacity by about 74,000 prisoners. This, in turn, brings along deterioration of material conditions in prisons and a significant increase in cases of deprivation of rights.

Authorities have been releasing prisoners since 15 April 2010 through an amendment introduced to Law No. 7242 on the Enforcement of Sentences and Security Measures, known by the public as a special amnesty granted to the leaders and members of ordinary criminal organizations. The latest data on this recent development have not been issued yet. A blatantly unconstitutional, unjust and discriminatory regulation was introduced with this law which further aggravated the conditions of enforcement for political prisoners.

Moreover, torture and other ill-treatment against prisoners have also skyrocketed following the declaration of the SoE:

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, forced and involuntary

<sup>6</sup> TurkStat. “Judicial Statistics.” 5 December 2019. <[http://tuikweb.tuik.gov.tr/PreTablo.do?alt\\_id=1070](http://tuikweb.tuik.gov.tr/PreTablo.do?alt_id=1070)>

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 the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment's (CPT) 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."<sup>7</sup> 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.

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 (FMI), 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 İHD's statement of 31 March 2020,<sup>8</sup> there are a total of 1,564 sick prisoners 590 of whom are in critical condition. This number goes up each year. 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 FMI is neither independent nor impartial.

3,200 prisoners went on indefinite and non-alternate hunger strikes initiated on 7 November 2018 in Diyarbakır E-type Prison by Hakkari deputy for Peoples' Democratic Party (HDP) and co-chair of Democratic Society Congress, Leyla Güven, demanding the lifting of isolation on Abdullah Öcalan. 15 prisoners went on death fast from hunger strike on 30 April 2019, while 15 others did so on 10 May 2019. Prisoners Zülküf Gezen in Tekirdağ Prison, Ayten Beçet in Gebze Women's Prison, Zehra Sağlam in Oltu T-type Closed Prison, Medya Çınar in Mardin E-type Closed Prison, Mahsum Pamay in Elazığ Prison, Yonca Akici in İzmir Şakran Closed Prison and Sıraç Yüksek in Osmaniye Prison put an end to their own lives demanding the lifting of isolation on Abdullah Öcalan. Hunger strikes ended on 26 May 2019. Abdullah Öcalan and three other prisoners held in İmrâlı Prison had last met with their attorneys and families on 7 August 2019 and isolation had been reinstated. In 2020, family visitation was allowed once on 3 March 2020 while telephone communication was established on 26 April 2020.

İHD and other rights and law organizations issued a joint statement on 30 March 2020<sup>9</sup> sharing the measures that should be taken due to the COVID-19 pandemic and communicated the statement to

<sup>7</sup> CPT. "26<sup>th</sup> General Report of the CPT." 1 January-31 December 2016. p. 34. <<https://rm.coe.int/168070af7a>>

<sup>8</sup> İHD. "COVID-19 Pandemic and Sick Prisoners." 31 March 2020. <<https://ihd.org.tr/en/ihd-statement-on-the-covid-19-pandemic-and-sick-prisoners/>>

<sup>9</sup> İHD et al. "COVID-19 Pandemic and Urgent Measures in Prisons." 30 March 2020. <<https://ihd.org.tr/en/joint-statement-covid-19-pandemic-and-urgent-measures-in-prisons/>>

the government as well. Amendments to the enforcement law introduced by Law No. 7242, however, were passed in an unequal manner with an aim to keep political prisoners incarcerated under the ATC behind bars while prisoners were left to face the threat of COVID-19.

İbrahim Gökçek and Helin Bölek, members of the music band Grup Yorum, were forcefully hospitalized upon the request of the İstanbul police on 11 March 2020 while they were on an indefinite and non-alternate hunger strike that they had initiated when they had been in prison despite being released; upon their refusal to be fed they were discharged from Ümraniye Training and Research Hospital on 16 March 2020 and had been on hunger strike for 288 days.

Ms. Helin Bölek, unfortunately, lost her life on the 288<sup>th</sup> day of her hunger strike on 3 April 2020.

İHD asked for an appointment with the Ministries of Interior and Justice along with the Speaker's Office at the GNAT and Deputy Chairmanship of the AKP in order to discuss the conditions of hunger strikers and after quite some time a meeting was held on 17 March 2020 with the Deputy Interior Minister's Office.

A delegation communicated the demands of all hunger strikers at the meeting stating that they simplified their demands including the approval of a future concert application by Grup Yorum members; referral of Mustafa Koçak who was in critical condition to the FMI, which was a legal and legitimate demand, and his release in accordance with a medical report by the FMI (considering that he could not be imprisoned in his then current condition) and the review of his case file in line with the principles of fair trial; and the expectation of hunger striker lawyers that the Court of Cassation would handle their case files meticulously focusing on the right to a fair trial which was the lawyers' most primary demand. Although the meeting was one that was comprehensive enough to handle the problem in depth, it was later communicated that the Minister of Interior himself and his deputies had evaluated the meeting concluding that unless the hunger strikers ended their protest their demands would not be taken into consideration. All this process was relayed by the delegation to the hunger striking members of Grup Yorum and their lawyers, due information was communicated and shared with the public on 28 March 2020.<sup>10</sup>

There has been no development following the meeting and Mustafa Koçak, who was incarcerated in İzmir Kırıklar F-Type Prison, lost his life on 24 April 2020 on the 297<sup>th</sup> day of his hunger strike.

Grup Yorum member İbrahim Gökçek has been on hunger strike for 323 days under house arrest while his condition is now at a very critical stage.<sup>11</sup>

Lawyer Selçuk Kozağaçlı and seven of his colleagues went on an indefinite and non-alternate hunger strike on 3 February 2020 in Silivri Prison No. 9 demanding fair trials both for their clients and themselves while four lawyers stopped their strike during the process due to health reasons on 10 March 2020 and Barkın Timtik, Ebru Timtik, Oya Arslan and Aytaç Ünsal continued their hunger strike.

Lawyers Ebru Timtik and Aytaç Ünsal decided to turn their hunger strikes to indefinite (death fast) on 5 April 2020, Lawyers' Day in Turkey. Ebru Timtik has been on hunger strike for 124 days in Silivri

<sup>10</sup> İHD et al. "Açlık Grevindeki Grup Yorum Üyeleri ile İlgili İçişleri Bakanlığıyla Görüşen Heyet Açıklaması." 28 March 2020. <<https://www.ihd.org.tr/aclik-grevindeki-grup-yorum-uyeleri-ile-ilgili-icisleri-bakanligiyla-gorusen-heyet-aciklamasi/>>

<sup>11</sup> İbrahim Gökçek lost his life on 7 May 2020.

Prison, while Aytaç Ünsal has been on hunger strike for 91 days in Bandırma Prison.

## 5. THE KURDISH ISSUE

Gross violations of human rights and humanitarian law brought about by the armed conflict that restarted in 24 July 2015 subsist as due political steps have not been taken in line with the results of the 7 June 2015 general elections. İHD has always persistently argued for the democratic and peaceful resolution of the Kurdish issue. İHD, therefore, wants the conflict to stop right now. Following the foundation of a non-conflict environment, this state of non-conflict should be strengthened and monitored as well as candid and effective programs should be developed by all parties in order to establish social peace.

“Round-the-clock curfews” have also been maintained in 2019 with all their adverse impacts though in shorter terms and smaller scales. These 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. Further, reports drafted 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 Human Rights Foundation of Turkey’s (HRFT) Documentation Center, between 16 August 2015 and 1 January 2020, a minimum of officially confirmed **381 round-the-clock and/or open-ended curfews** were declared in 11 cities and at least 51 districts in Turkey.<sup>12</sup> A minimum of **23 time limited curfews** (between specific times designated in the curfew declaration) were declared between 11 August 2017 and 1 January 2020 in various villages and hamlets of Hakkari’s Şemdinli and Bitlis’s Hizan, Güroymak, Mutki, Tatvan and central districts. 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 absolute 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 introduced amendments to Article 11 of Law No. 5442 and the governors were granted restrictive powers like declaring curfews for 15 days banning the entry and departure of persons to and from cities.

Since the restart of armed conflict attacks against graveyards housing particularly the graves of armed militants and destruction of their tombstones have unfortunately been sustained in 2019 as well. It is quite dire to see that the violations revealed in İHD’s special report<sup>13</sup> on the exhumation

<sup>12</sup> HRFT. “Curfews in Turkey between 16 August 2015-1 January 2020.” 9 January 2020.

<https://en.tihv.org.tr/curfews-in-turkey-between-the-dates-16-august-2015-1-january-2020/>

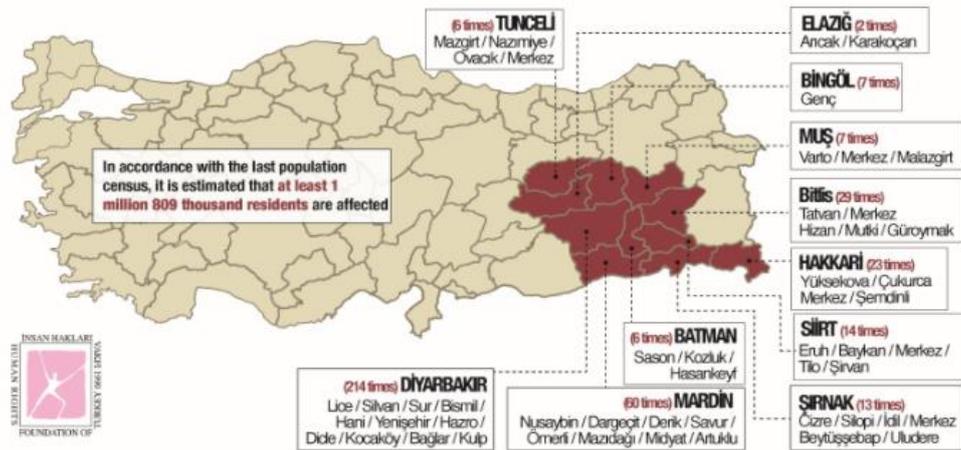
<sup>13</sup> İHD Special Report, “Bitlis İli Tatvan İlçesi Yukarıölek Köyü Yakınlarındaki Mezarlığın (279 Mezar) Ortadan Kaldırılmasına Dair Rapor.” 9 March 2018. < <https://www.ihd.org.tr/bitlis-ili-tatvan-ilcesi-yukariolek-koyu-yakinlarindaki-mezarligin-279-mezar-ortadan-kaldirilmasina-dair-rapor/> >

of 279 graves in Bitlis, Tatvan's Yukariölek graveyard site to be sent to the FMI in İstanbul have not been prevented. The current state of affairs goes on in the form of degrading treatment against Kurdish people that is unlawful within the framework of related legislation.

## MAP OF THE CURFEWS IN TURKEY 16 AUGUST 2015 - 1 JANUARY 2020

**There has been at least 381 round-the-clock and/or open-ended curfews in at least 51 districts of 11 cities in southeastern Turkey.**

Also there has been at least 23 curfews declared in various villages and flatlands of Hakkari and Bitlis with limitations on time.



HRFT. Curfews in Turkey between 16 August 2015 – 1 January 2020.

On a positive note, the results of 31 March 2019 local elections revealed that a great majority of the voters, especially in Western Turkey, were not affected by hate speech and rejected the official discriminatory language. Policies of war pursued by AKP and MHP of the “People’s Alliance” in the Kurdish issue were not met with consent which led to their loss of local elections in large cities. Voters in Turkey united at the polling stations and hit home their peace and democracy message. Although the political power was expected to accurately read the results of the local elections and take steps towards building a new peace process without further ado, it adopted major interventions implied before the elections. Immediately after the elections, 61 people -including elected co-mayors, provincial council members and municipal council members- were denied their election certificates on the grounds that they were dismissed from their posts through decree laws, while five municipal council members and two provincial council members from HDP were detained during this process. The Ministry of the Interior, moreover, issued a statement early in the morning on 19 August 2019 announcing that Diyarbakır, Mardin and Van greater municipality mayors from HDP had been removed from office and replaced by the respective governors of these cities.

According to the “Trustee Report”<sup>14</sup> of 20 November 2019 drafted by HDP, state trustees were appointed to a total of 24 HDP municipalities while 13 co-mayors were detained between 19 August and 16 November 2019. The number of trustees appointed to municipalities has risen to 32 while the number of detained co-mayors to 24 as of 30 December 2019. The first action that the state trustees took after being appointed proved to be a de facto dissolution of provincial councils giving way to the total disregard of voters’ will and the quashing of local democracy opportunities in their entirety. The detention of a great number of elected Kurdish politicians, notably former co-chairs of HDP Selahattin Demirtaş and Figen Yüksekdağ, or the attempts to punish them with imprisonment sentences and forced removals to distant prisons lead to violations of such fundamental rights and freedoms as the rights to a fair trial, political participation, freedoms of association, thought and expression, inter alia. According to HDP’s report of 30 December 2019, 4,567 HDP members were taken under custody while 769 of them were detained within the scope of political operations conducted only in 2019.

Detention orders based on irregular investigations and extrajudicial grounds failing to implement the ECtHR judgment for former HDP co-chairperson Selahattin Demirtaş reveal the fact that such a hostile attitude has been maintained against Kurdish politicians and HDP itself in the person of Mr. Demirtaş. In one of the latest instances, the fact that Diyarbakır Co-Mayor Adnan Selçuk Mızraklı was sentenced to 9 years 4 months and 15 days imprisonment by Diyarbakır 9<sup>th</sup> Heavy Penal Court on 9 March 2020 solely based on the statement of a single witness, which was riddled with contradictions showing up with downright slander, within the scope of criminal proceedings against him can be offered as a typical example of the enemy law practice against Kurdish politicians by the special adjudication order in Turkey.

Turkey launched a new and comprehensive military offensive into Northern and Eastern Syria in 2019. Amnesty International’s report of 1 November 2019<sup>15</sup> on Turkey’s military offensive in Northeast Syria has also underlined that the dimensions of the oppression within the scope of the military offensive amounted to the use of such offensive by the authorities as an excuse to further crush dissent and inflict fear. The examples offered in this report signify the fact that counter-terrorism laws have been abused to silence all kinds of critical talk on the military offensive and generally to leave no space for dissenting ideas on policies related to the rights of the Kurds, accordingly, the current climate of fear in the country has further deepened through the violation of the rights to a fair trial, freedoms of peaceful assembly and expression. İHD issued several statements on this issue.<sup>16</sup> İHD would like to reiterate that the political power should change its Middle Eastern policy to divert to peaceful policies and withdraw its military presence in Syria and

<sup>14</sup> HDP. “The Trustee Regime in Turkey and the Denial of the Right to Vote and the Right to be Elected.” 20 November 2019. <10.12.2019> <https://www.hdp.org.tr/en/english/news/news-from-hdp/our-kayyim-trustee-report-has-been-released/13739>

<sup>15</sup> Amnesty International. “Turkey’s Continuing Crackdown on Dissent over Its Military Operation ‘Peace Spring’ in Northeast Syria.” 1 November 2019. <<https://www.amnesty.org/download/Documents/EUR4413352019ENGLISH.pdf>>

<sup>16</sup> İHD-HRFT. “Joint Statement on the Military Offensive into Syria.” 10 October 2019. < <https://ihd.org.tr/en/ihd-hrft-joint-statement-on-the-military-offensive-into-syria/>>

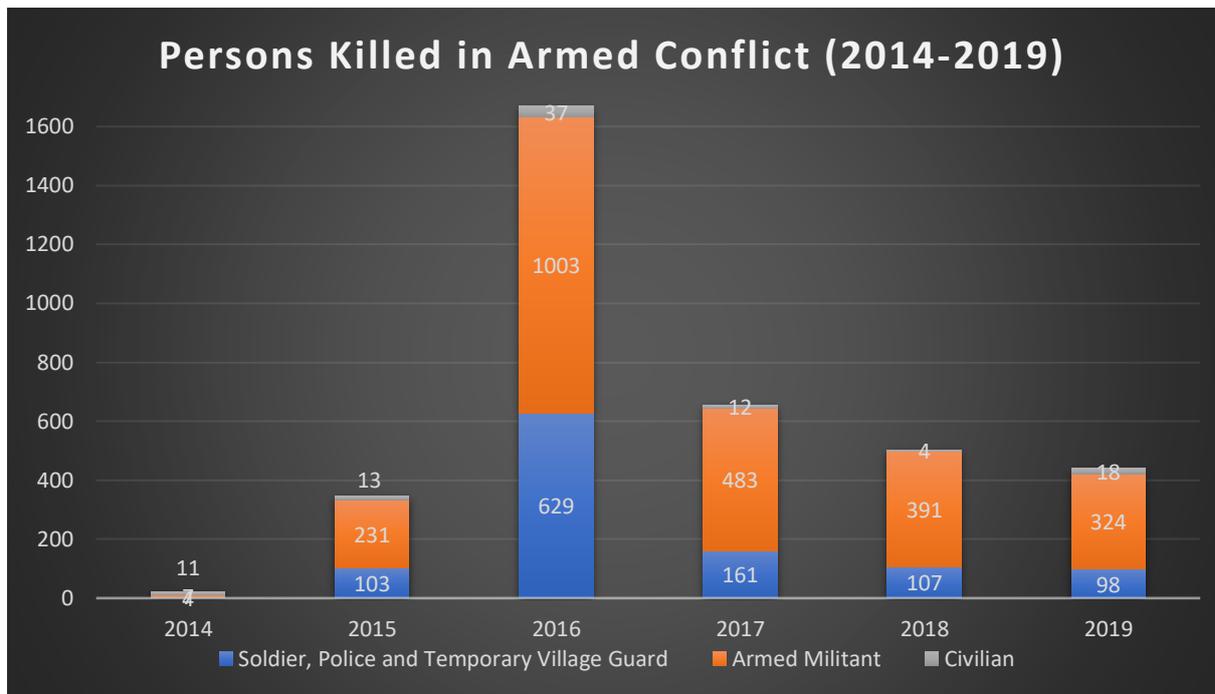
İHD. “On the Recent Attack in Syria.” 28 February 2020. < <https://ihd.org.tr/en/ihd-statement-on-the-recent-attack-in-syria/>>

HRJP. “War Is Not a Solution.” 4 March 2020. < <https://ihd.org.tr/en/human-rights-joint-platform-war-is-not-a-solution/>>

Iraq in order to end civil war in Syria and establish inner stability in Iraq respecting peoples' right to self-determination.

It is seen that the political power has been using policies of violence against the Kurdish issue in order to maintain its own power as well. İHD is, therefore, of the opinion that the resolution of this issue is a vital one for the development of democracy in Turkey.

**Figure 2.** Annual Change in Data Collected by İHD's Documentation Center on Persons Killed in Armed Conflict



## 6. VIOLATIONS OF THE RIGHT TO LIBERTY OF THE PERSON AND FREEDOM OF EXPRESSION

The alarmingly increasing oppression and control of the political power over the media, especially after the declaration of the state of emergency, has held out in 2019 as well. The rights to freedom of expression and thought have 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.

- According to a report drafted by the Platform for Solidarity with Detained Journalists issued on 20 January 2020, a total of 197 persons including journalists, reporters, publishers and editors were in prison in 2019.
- Turkey has ranked 157<sup>th</sup> among 180 countries in the 2019 World Press Freedom Index issued annually by Reporters Without Frontiers (RSF), going down an alarming 58 ranks.<sup>17</sup> The country had ranked 99<sup>th</sup> in the index in 2002.
- According to İHD's data, the number of persons investigated and subsequently taken under police custody because they exercised their rights to freedom of expression, association and peaceful assembly (including social media posts) was 8,803 in 2019. 831 of these persons were then detained.
- While the number of detained former deputies was 7, the number of detained co-mayors was 17 as of the end of 2019.
- According to İHD's data, there were 21 persons who were subjected to racist hate crimes. Şirin Tosun lost their life in such hate crimes.

An ample number of individuals, including 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.

Academic freedom in Turkey has also sustained heavy blows under such circumstances. 822 academics have been prosecuted because they signed the declaration "We Will Not Be a Party to This Crime!" made public on 11 January 2016. 139 of these lawsuits were finalized with prison sentences handed down to all for "making propaganda for an illegal organization" or "aiding an illegal organization" from 5 December 2017, the date when the trials started, to 17 July 2019.<sup>18</sup> In 35 of the finalized cases academics were not granted the suspension of the pronouncement of the judgment. Prof. Dr. Füsün Üstel of Academics for Peace was sentenced to 1 year 3 months in prison on 4 April 2018 by İstanbul 32<sup>nd</sup> Heavy Penal Court and this sentence was upheld by the 3<sup>rd</sup> Penal Circuit of İstanbul Regional Court of Justice on 25 February 2019. Professor Üstel was jailed on 8 May 2019 only to be released on 22 July 2019.

The Constitutional Court's General Secretariat, on the other hand, delivered an important judgment on 26 July 2019 in its *Zübeyde Füsün Üstel and others* judgment (App. no. 2018/17635)<sup>19</sup> on the applications by a group of Academics for Peace and ruled for violation of the right to freedom of expression in the academics' convictions for propaganda, sending a copy of its judgment to local courts to eliminate violations and initiate retrials, paying the applicants 9,000 TRY in compensation. Following this judgment, 599 academics have been acquitted with 75 acquitted following retrial while the number of ongoing trials was 94 as of May 2020.

The Ministry of Interior launched legal actions against about 500 persons because of their social media posts within two days between 9 October 2019, the date when the military offensive in

<sup>17</sup> RSF. "2019 World Press Freedom Index." <<https://rsf.org/en/ranking>>

<sup>18</sup> Academics for Peace. "Hearing Statistics." <<https://docs.google.com/spreadsheets/d/e/2PACX-1vT05GTWUQMDot1iPfmSieJsWLGborbNlJyLP5ldtvJVEcKRw8C8qMxFXPighYZkz7pf2ENP2bXZ3DMo/pubhtml?gid=1873917137&chrome=false&widget=false>>

<sup>19</sup> Constitutional Court. Judgement in the Case of *Zübeyde Füsün Üstel and others*. 26 June 2019. <<https://kararlarbilgibankasi.anayasa.gov.tr/BB/2018/17635>>

Northeast Syria was launched by the Turkish Armed Forces, and 11 October 2019. 121 of these persons have been arrested while these operations continued in the upcoming days. According to İHD's data, 296 persons were arrested while 57 of them were then detained between the onset of the military offensive and 24 October 2019. Most of those against whom legal action was taken were students, politicians or human rights defenders.

115 events were banned in 2019 on various grounds, while 6 books were pulled off the shelves within the same year. 2 newspaper and 1 journal offices were also raided by the police in 2019. Further, courts have ordered bans on numerous banners and posters printed by HDP before the 31 March local elections; banners, posters and stickers pertaining to HDP Hakkari deputy and Democratic Society Congress (DTK) co-chair Leyla Güven's hunger strike in prison and brochures printed within the scope of 25 November International Day for the Elimination of Violence Against Women. Moreover, on 14 March 2019, Siirt Criminal Peace Judgeship ruled to shelf the "Trustee Report" drafted by HDP.

According to a report by the Association for Freedom of Expression, 36,216 websites were denied access from Turkey in 2019 as of October 2019.

According to the data provided by the Ministry of Justice, 10,745 people were prosecuted in 2013 under Articles 6 and 7 § 2 of the ATC and this figure steadily rose each year only to reach 24,585 in 2017. 2018 statistics have also revealed that investigations were initiated into 46,220 persons with 17,077 lawsuits were brought against these persons.

The number of prosecuted persons under Article 314 § 2 of the TPC, which is a commonly referred article in such cases, has shown a dramatic increase and amounted to 136,795 in 2017 which was 8,110 in 2013 according to the data of the Ministry of Justice. The unbundled data of 2018 has not been issued yet. Instead collective data pertaining to "offenses against the constitutional order and the functioning of this order" covering Articles 309 to 316 have been provided. Accordingly, investigations have been initiated into 456,275 persons while civil lawsuits have been brought against 90,197 of them while non-prosecution decisions have been rendered for 149,680. It is observed that there has been a significant increase in the number of people charged with membership in a terrorist organization.

Alevis' demands for equal citizenship have not been met in 2019 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. Yet the Court of Cassation started to deliver judgments in favor of Alevis in 2018. Radical Sunni and racist groups, on the other hand, have continued to target Alevis, Christians and Jews with threats and hate speech in 2019 as well.

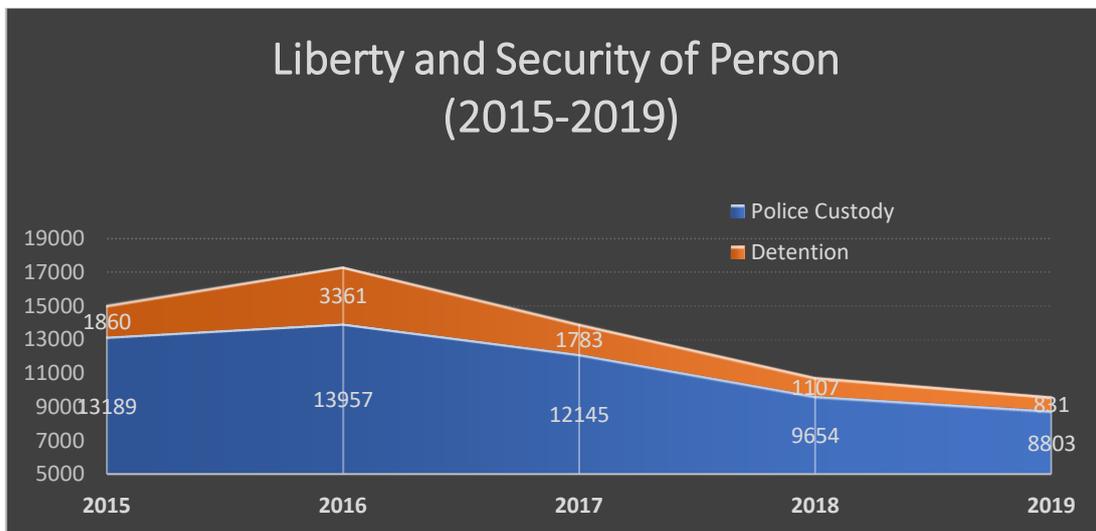
Further, investigations were initiated into a total of 36,664 persons under Article 299 of the TPC that proscribes "insulting the president" along with Article 301 of the TPC that proscribes "insulting Turkishness" both of which incorporate prohibitive and punitive provisions. Of these, criminal cases were filed against 6,131 and non-prosecution decisions have been handed down for 11,337.

The fact that the right to conscientious objection has not been accorded yet maintains its place as a significant violation of human rights. Military Service Law was thoroughly renewed in 2019 with reduction in compulsory military service terms, paid military services was rendered permanent but

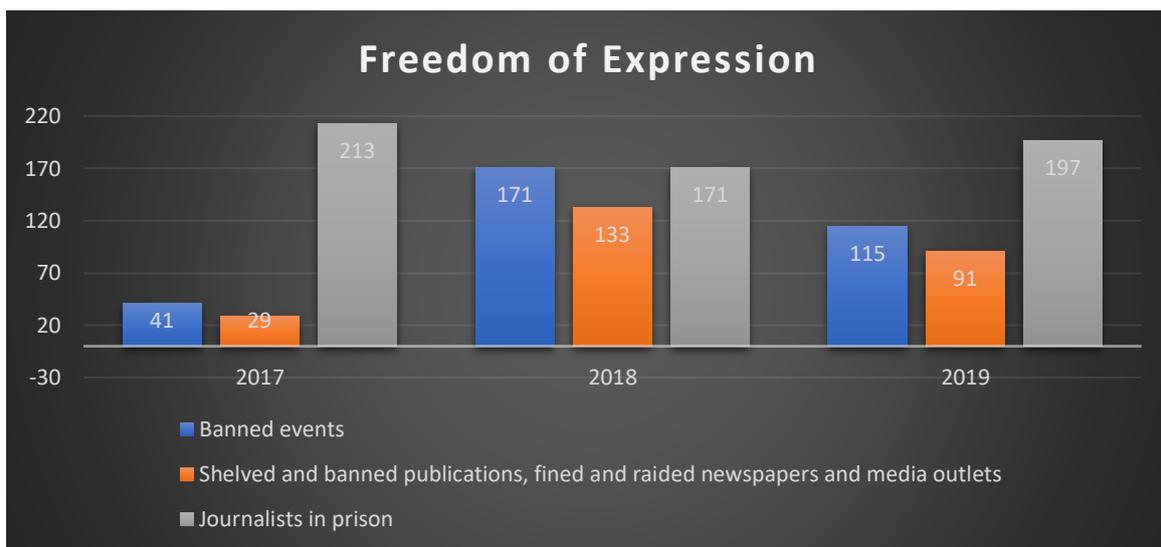
the right to conscientious objection was not granted yet again.

On an important note, only the Court of Cassation remedy has been made available for imprisonment sentences prescribed for articles punishing freedom of expression and these articles have maintained their statuses as offenses within the First Judicial Package of 24 October 2019 under the Judicial Reform Strategy Document<sup>20</sup> announced in May 2019 by the Ministry of Justice.

**Figure 3.** Annual Change in Data Collected by İHD’s Documentation Center on Liberty and Security of Person



**Figure 4.** Annual Change in Data Collected by İHD’s Documentation Center on Freedom of Expression



<sup>20</sup> İHD. “İHD Report and Recommendations on the Judicial Reform Strategy Document.” 4 October 2019.

<https://ihd.org.tr/en/ihd-report-and-recommendations-on-the-judicial-reform-strategy-document/>

ICJ-IHOP. “Briefing Paper on Turkey’s Judicial Reform Strategy and Judicial Independence.” 19 November 2019.

<https://ihd.org.tr/en/icj-ihop-briefing-paper-on-turkeys-judicial-reform-strategy-and-judicial-independence/>

## **7. FREEDOM OF ASSOCIATION AND REPRESSION OF HUMAN RIGHTS ORGANIZATIONS AND DEFENDERS**

2019 has also proven to be a year during which many lawyers and human rights defenders, including the executives, members and employees of human rights organizations, were arrested, detained and attacked in blatant infringement of the principles enshrined in the UN Declaration for the Protection of Human Rights Defenders.

### **Among the investigations and criminal proceedings initiated into İHD's legal personality and its executives and members;**

Ankara Chief Public Prosecutor's Office for the Press launched an investigation (No. 2017/8007) into İHD's Co-Chairperson Öztürk Türkdoğan, its executive board members and members that tabled motions including Sevim Salihoğlu, Hasan Anlar, İsmail Boyraz, Osman İşçi, Hüseyin Küçükbalaban, Osman Süzen, Adbüselam İncegören, Necla Şengül, M. Raci Bilici, Vetha Aydın, Serbay Köklü, Hüsnü Öndül, Medeni Aygül, Volkan Görendağ, Meral Çıldır, Hatice Can, Fatma Geyik, Mahmut Konuk, M. Ali Tosun, Avni Kalkan, Adnan Vural, Mustafa Yaşar, B. Hayrettin Yılmaz, Hüsamettin Özdem, Tayfun İşçi, Selma Güngör, Cengiz Mendillioğlu, H. İbrahim Özdemir, Zana Aksu, Serdar Batur, Gülay Koca Öztürkoğlu, Mihdi Perinçek, Veysel Ocak, Cihan Halıcı, Ali Gök, Adile Erkan, Cuma Gürsoy, Selman Günbay, Cüneyt Durnaoglu, Akın Birdal, Rıza Dalkılıç, Necla Şengül, Ömer Ayaz, Songül Erol Abdil, Fatma Geyik and asked the Ministry of Justice for its permission for an investigation under Article 301 of the TPC. However Ankara Chief Public Prosecutor's Office for the Investigation of Offenses Committed through the Press delivered a non-prosecution decision within the scope of its investigation of 27 January 2020 (investigation no. 2020/1447, decision no. 2020/11239) because the General Directorate of Penal Affairs of the Ministry of Justice did not permit an investigation with its decision of 15 November 2019.

Ankara Chief Public Prosecutor's Office for the Investigation of Terrorism Offenses initiated an investigation (No. 2019/106816) into only İHD Co-Chairperson Öztürk Türkdoğan for allegedly "making propaganda for a terrorist organization" under Article 7 § 2 of the ATC but a non-prosecution decision was delivered on 6 December 2019 on the grounds that the objective elements of the crime were not realized.

Ankara Chief Public Prosecutor's Office also initiated an investigation (No. 2019/105247) into İHD for opposing the Law of Associations but the investigation was closed with a non-prosecution decision on 30 September 2019 as the proposed pre-payment sum was paid.

The Ministry of Interior had filed a criminal lawsuit against İHD before Ankara 5<sup>th</sup> Civil Court of First Instance (Merits No. 2017/598) to annul the decisions taken at İHD's 17<sup>th</sup> General Assembly. The case was rejected under Article 83 of the Turkish Civil Code as it was established that the results of the ordinary general assembly had been notified to the governor's office within a month yet the governor's office and the members had not filed an annulment case within the designated 3-month term. The Ministry of Interior objected and appealed the decision while the file is now pending before Ankara Regional Court of Justice's related civil department for review.

There are, to the best of our knowledge, about 250 pending or recently finalized lawsuits against the executives of İHD's central office and branches. Over and above, this figure does not include about 150 cases against İHD's Co-Chairperson Eren Keskin on the grounds of her acting as the editor-in-chief of daily *Özgür Gündem* for solidarity between 2014 and 2015. Within the scope of finalized cases many İHD executives were sentenced. İHD's Ankara Branch Chairperson Halil İbrahim Vargün, former chairperson of İHD's Bitlis representative office Hasan Ceylan and İHD's Dersim Branch executive Özgür Ateş are still in prison.

İHD's Malatya Branch Chairperson, Gönül Öztürkoğlu, was detained on 30 November 2018 within the scope of Malatya Public Prosecutor's Office's investigation (No. 2018/8613) because she had participated in the association's press conferences. Malatya 5<sup>th</sup> Heavy Penal Court ruled for her release on 26 January 2019 (Merits No. 2019/19 E) pending trial. The court sentenced Ms. Öztürkoğlu to 6 years and 3 months in prison under Article 314 § 2 of the TPC at the final hearing of the trial on 18 December 2019 and her file was sent to the court of appeals.

İHD's Bitlis Representative Office former chairperson Hasan Ceylan was also charged with illegality for his activities affiliated with the association. Bitlis 2<sup>nd</sup> Heavy Penal Court sentenced Mr. Ceylan to 9 years in prison (Merits No. 2017/382 E) while his file is pending before the Regional Court of Justice. Hasan Ceylan is a prisoner on remand in Rize Kalkandere Prison.

İHD's Dersim Branch executive Özgür Ateş was sentenced to 6 years and 3 months in prison by Tunceli 2<sup>nd</sup> Heavy Penal Court (Merits No. 2017/270 E) that ruled for the continuation of his detention on 13 November 2018. Mr. Ateş's file is pending before Erzurum Regional Court of Justice for appeals review.

İHD's Ağrı Branch executive Olcay Öztürk was detained on 2 March 2018 within the scope of Ağrı Chief Public Prosecutor's Office's investigation (No. 2018/1686) and released on 22 June 2018 by Ağrı 2<sup>nd</sup> Heavy Penal Court (Merits No. 2018/279 E) at its second hearing. Mr. Öztürk was sentenced to 2 years and 15 days in prison under Article 220 § 7 of the TPC during the hearing held on 2 May 2019 and his file is pending before the Regional Court of Justice.

İHD's Central Executive Board Member M. Raci Bilici also stood trial before Diyarbakır 5<sup>th</sup> Heavy Penal Court (Merits No. 2017/453 E) on the grounds of his activities acting in the capacity of İHD's Diyarbakır Branch Chairperson and İHD Vice Chairperson. Despite acquittal rulings for others tried within the scope of similar files with similar charges, the prosecutor's office requested that Mr. Bilici be convicted. At the final hearing of the case held on 12 March 2020, Mr. Bilici was convicted and sentenced to 6 years and 3 months imprisonment for "membership in a terrorist organization."

İHD and HRFT's joint press release entitled "War Kills! No to War! We Want Peace!"<sup>21</sup> on the Turkish campaign into Afrin, was shared at press conferences or via social media by İHD's branches and members as well. Wide-scale operations were launched all over Turkey on the grounds of this and similar posts criticizing the military campaign into Afrin.

<sup>21</sup> İHD. "War Kills! No to War! We Want Peace!" 21 January 2018. <<https://ihd.org.tr/en/war-kills-no-to-war-we-want-peace/>>

For instance, İHD's central executive board member Nuray Çevirmen was taken into police custody on 22 January 2018 in Ankara and was subsequently released under judicial control after four days of custody on 26 January 2018. Ms. Çevirmen's case is pending before Ankara 15<sup>th</sup> Heavy Penal Court (Merits No. 2018/165 E.).

İHD's central executive board member Hayrettin Pişkin was taken under police custody on 23 January 2018 in Çanakkale, detained a day after on 24 January 2018 and was released at the first hearing of the case on 21 March 2018. Yet Mr. Pişkin was convicted and sentenced to 2 years and 6 months imprisonment under Article 7 § 2 of the ATC that proscribes "making propaganda for an illegal organization" by Çanakkale 2<sup>nd</sup> Heavy Penal Court on 7 May 2018 (Merits No. 2018/82 E.) for sharing a text that someone else had written. Mr. Pişkin's sentence was neither delayed nor reduced to a fine. Mr. Pişkin appealed the sentence at Bursa Regional Court of Justice and was subsequently acquitted.

İHD's Kars Branch Chairperson Ahmet Adıgüzel was also taken under police custody in Ardahan on 23 January 2018 for his social media posts critical of Afrin operation. Mr. Adıgüzel was detained on 25 January 2018 and was released after having been sentenced to 1 year and 6 months imprisonment at the first hearing of the trial on 15 March 2018 under the above-mentioned Article 7 § 2 of the ATC by Ardahan Heavy Penal Court on (Merits No. 2018/30 E.). Mr. Adıgüzel was imprisoned to serve the remainder of his sentence after his sentence was upheld.

İHD's Hatay Branch Chairperson Mithat Can was taken under police custody in Hatay on 13 February 2018 on the grounds of his social media posts on the Afrin operation as well. Mr. Can was released under judicial control following three days of custody on 16 February 2018. The investigation is still pending.

İHD's Kars Branch Chairperson, human rights defender Güldane Kılıç was taken under police custody on 23 July 2019 early in the morning following a police raid into her residence. A total of 12 persons, including 7 HDP provincial executives, were taken under custody within the scope of the same police operation. The evidence against Ms. Kılıç included the press conferences she attended, her social media posts along with her various legitimate political party work during the time when she was not an İHD executive. Ms. Kılıç was released on 19 December 2019 after being convicted.

İHD's central executive board member, Progressive Journalists Association's Rize Branch Chairperson and daily *Evrensel*'s Rize reporter, Genççağa Karafazlı, was shot and wounded in Rize on 17 September 2019.

At least 30 investigations and criminal proceedings are pending against the founders, the president, members of the executive committee, and volunteers of HRFT as well.

Moreover, both administrative and criminal investigations have been initiated into the legal personalities of human rights organizations like İHD and HRFT. Investigation processes under Article 301 of the TPC are pending about the report drafted after a visit to Cizre by HRFT, İHD, Agenda Child Association, Trade Union of Employees in Public Healthcare and Social Services, and Diyarbakır Bar Association within the scope of a mission to document gross human rights violations in settlements under curfew in Turkey's Southeast.

Criminal proceedings initiated following the arrest of eight human rights defenders including Amnesty International Turkey Director İdil Eser, Özlem Dalkıran and Nalan Erkem of Citizens Assembly, Günal Kurşun and Veli Acu of Human Rights Agenda Association, İlknur Üstün of Women's Coalition, Nejat Taştan of Association for Monitoring Equal Rights, Şeyhmus Özbekli of Rights Initiative along with two cyber security consultants, Ali Garawi (Swiss national) and Peter Steudtner (German national) on 5 July 2017 in İstanbul, Büyükdada during a workshop organized by Amnesty International Turkey are still pending.<sup>22</sup> The human rights defenders were arrested under Article 220 § 6 of the TPC for "committing an offense in the name of an organization as a non-member" and Article 314 § 2-3 for "membership in an armed terrorist organization."

Lawsuits were brought against the central council members of the Turkish Medical Association (TMA) and the central executive board members of Confederation of Public Employees' Trade Unions (KESK) for their public statements; these are still pending.

Turkish Medical Association's central council issued a public statement entitled "War is a public health problem!"<sup>23</sup> following the launch of "Afrin Operation" into Syria in January 2018. Following the statement the authorities took the following members of the association into custody on 30 January 2018: TMA Central Council Chairperson Raşit Tükel, Central Council Secretary General Sezai Berber, Central Council members Hande Arpat, Selma Güngör, Funda Obuz, Taner Gören, Yaşar Ulutaş, Bülent Nazım Yılmaz, Sinan Adıyaman, Ayfer Horasan and Şeyhmus Gökalg. While Sinan Adıyaman, Ayfer Horasan and Şeyhmus Gökalg were released on 2 February 2018, Raşit Tükel, General Sezai Berber, Hande Arpat, Selma Güngör, Funda Obuz, Taner Gören, Yaşar Ulutaş and Bülent Nazım Yılmaz were released on 5 February 2018 under judicial control.

The indictment drafted by Ankara Public Prosecutor's Office charged TMA executives with "making propaganda for a terrorist organization" on the grounds of the above-mentioned statement along with their statement issued on 1 September 2016 on the occasion of World Peace Day. The case was finalized on 3 May 2019 and Ankara 32<sup>nd</sup> Heavy Penal Court convicted and sentenced TMA executives to 1 year and 8 months imprisonment for committing the offense of inciting the public to hate and enmity *twice*. Further doctor Hande Arpat was also sentenced to 1 year 6 months and 22 days imprisonment for allegedly "making propaganda for a terrorist organization via social media posts." Doctor Şeyhmus Gökalg was acquitted from the charges based on his social media posts. This case is pending before the court of appeals.

KESK members, a significant constituent of social dissidence, are constantly subjected to judicial harassment, so to speak, by the political power and their economic and social rights, most prominently the right to work, are being continuously violated through an administrative repression

<sup>22</sup> Amnesty International Turkey. 26 November 2019. <<https://amnesty.org.tr/icerik/turkiye-uluslararasi-af-orgutunun-onursal-baskani-ve-eski-direktoru-akla-mantiga-sigmayan-teror-davasinda-beraat-etmeli>>

<sup>23</sup> Turkish Medical Association. "War is a public health problem!" 24 January 2018.

<[https://www.ttb.org.tr/haber\\_goster\\_eng.php?Guid=28de85da-00e5-11e8-a05f-429c499923e4](https://www.ttb.org.tr/haber_goster_eng.php?Guid=28de85da-00e5-11e8-a05f-429c499923e4)>

policy. The number of administrative investigations and prosecutions against the executives and members of KESK and its affiliated trade unions is quite high.<sup>24</sup>

Following the recent SoE process a total of 4,770 members of members of trade unions affiliated with KESK including 4,283 through decree laws while 487 through the decisions of higher disciplinary boards at individual institutions were dismissed from their jobs usurping their right to work using the SoE as an excuse. While 358 members were reinstated by the decision of the SoE commission as of December 2019, 1,023 was rejected and about 2,900 are pending before the commission.

The most concrete instance of such usurpation is the dismissals undertaken by the provisional Article 35 of decree law 375 that enables the continuation of dismissals. Through this provisional article a total of 18 trade union members including 10 from SES, 4 from Eğitim-Sen, 3 from Haber-Sen and 1 from BES were dismissed by the decisions of commissions established under ministries and the approval of the ministry itself. The common denominator among the dismissed trade union members is either they were trade union executives or active trade union members or their participation to protests and events organized by their trade unions.

The Chairperson of Progressive Lawyers Association (Çağdaş Hukukçular Derneği -ÇHD), Selçuk Kozagaçlı, and many other executives and lawyers of the association are still prisoners on remand. Many lawyers from the association, which was closed down through decree law 667, and from People's Law Office (Halkın Hukuk Bürosu) were taken under custody on 12 September 2017 and detained on 20 September 2017. The indictment drafted by İstanbul Public Prosecutor's Office charged 20 lawyers, with 17 of them already detained, with "leading an illegal organization" and "membership in an illegal organization." The detained lawyers were: Ahmet Mandacı, Aycan Çiçek, Ayşegül Çağatay, Aytaç Ünsal, Barkın Timtik, Behiç Aşçı, Didem Baydar Ünsal, Ebru Timtik, Engin Gökoğlu, Naciye Demir, Özgür Yılmaz, Selçuk Kozagaçlı, Süleyman Gökten, Şükriye Erden, Yağmur Ererken, Yaprak Türkmen, Zehra Özdemir; Ezgi Çakır (released pending trial) and Oya Aslan and Günay Dağ (wanted).

İstanbul 37<sup>th</sup> Heavy Penal Court ruled for the release of all 17 lawyers under judicial control at its hearing of 14 September 2018. Upon the objection of the prosecution to the release ruling, the court issued a warrant for the apprehension of Aytaç Ünsal, Aycan Çiçek, Engin Gökoğlu, Behiç Aşçı, Ahmet Mandacı, Barkın Timtik, Ebru Timtik, Naciye Demir, Özgür Yılmaz, Selçuk Kozagaçlı, Süleyman Gökten and Şükriye Erden merely a day after on 15 September 2018. It at the same time overruled the objection for Ayşegül Çağatay, Yağmur Ereren Evin, Didem Baydar Ünsal, Yaprak Türkmen and Zehra Özdemir.

Of the 12 lawyers, Aytaç Ünsal, Aycan Çiçek, Engin Gökoğlu and Behiç Aşçı were taken under custody in İstanbul while Ahmet Mandacı in Çanakkale on the same day. These five lawyers were detained on 16 September 2018. At the following hearing Aytaç Ünsal, Aycan Çiçek, Engin Gökoğlu and Behiç Aşçı asked for the removal of police officers from the court room but the panel of judges overruled this request although the prosecutor had acceded. The lawyers then recused the panel of judges and following the announcement of the detention order the lawyers in the courtroom were cleared out by the police using physical violence.

<sup>24</sup> See rights violations reports by KESK and its affiliated trade unions. "Sendikal Hak İhlalleri Raporu." 26 December 2019. <<https://kesk.org.tr/2019/12/26/sendikal-hak-ihlalleri-raporumuzu-acikladik/>>

While the procedure for the four lawyers was ongoing, it was observed that Atty. Selçuk Kozağaçlı was taken under custody violently by the police before he gave his statement in the courtroom and taken to İstanbul Police Station. Kozağaçlı was detained on 17 September 2018 as well. At the hearing when Kozağaçlı was detained the lawyers who objected to the limitation for three lawyers were also forcibly removed from the courtroom. Atty. İlknur Alcan was injured in the foot in the meantime. The court ruled for re-detention for Selçuk Kozağaçlı without his lawyers present.

At a hearing held on 5 December 2018 Atty. Ahmet Mandacı was released. Further Atty. Barkın Timtik was taken under custody during a raid into İdil Cultural Center on 26 February 2019 and detained on 2 March 2019.

The case was finalized on 20 March 2019. The court sentenced Barkın Timtik to 18 years and 9 months imprisonment for “establishing and leading an illegal organization,” Özgür Yılmaz and Ebru Timtik to 13 years and 6 months imprisonment for “membership in an illegal organization,” Behiç Aşçı and Şükriye Erden to 12 years, Selçuk Kozağaçlı 11 years and 3 months, Engin Gökoğlu, Aytaç Ünsal, Süleyman Gökten to 10 years and 6 months, Aycan Çiçek and Naciye Demir to 9 years, and Ezgi Çakır to 8 years imprisonment. Since Atty. Çakır has a young child, she will be in house detention. Those released pending trial -namely Aysegül Çağatay, Yağmur Ereren, Didem Baydar Ünsal and Yaprak Türkmen- were sentenced to 3 years and 9 months imprisonment while Ahmet Mandacı and Zehra Özdemir were sentenced to 3 years 1 month and 15 days for “aiding an illegal organization.” The files of suspects at large, Oya Aslan and Günay Dağ, were separated.

İstanbul Regional Court of Justice’s 2<sup>nd</sup> Penal Chamber overruled the objection raised against detention orders on 8 October 2019. The case file is now pending before the Court of Cassation’s 16<sup>th</sup> Penal Chamber.

Lawyer Selçuk Kozağaçlı and seven of his colleagues went on an indefinite and non-alternate hunger strike on 3 February 2020 in Silivri Prison No. 9 demanding fair trials both for their clients and themselves while four lawyers stopped their strike during the process due to health reasons on 10 March 2020 while Barkın Timtik, Ebru Timtik, Oya Arslan and Aytaç Ünsal are still on hunger strike.

Lawyers Ebru Timtik and Aytaç Ünsal decided to turn their hunger strikes to indefinite (death fast) on 5 April 2020, Lawyers’ Day in Turkey. Ebru Timtik has been on hunger strike for 124 days in Silivri Prison, while Aytaç Ünsal has been on hunger strike for 91 days in Bandırma Prison.

Osman Kavala, who has served as a founding member, executive board member, or advisory board member of many NGOs, was taken under custody on 18 October 2017 on charges of “attempting to overthrow the government” within the scope of İstanbul Gezi Park protests in 2013. He was subsequently detained on 1 November 2017 and sent to Silivri High Security Prison No. 9. While 12 out of 13 academics and rights defenders who were arrested on 16 November 2018 were released Mr. Yiğit Aksakoğlu was detained. Criminal proceedings were initiated against total of 16 persons, including Mr. Kavala and Mr. Aksakoğlu, within the scope of the case known by the public as the Gezi case on 24 June 2019. While Mr. Aksakoğlu was released on 26 June 2019, Osman Kavala is still in pre-trial detention.

The European Court of Human Rights (ECtHR) has ruled on 10 December 2019 that Mr. Kavala’s detention was in violation of Article 5 of the European Convention on Human Rights (ECHR), (the right to liberty and security), and Article 18 (limitation on use of restrictions on rights). Article 5 § 1 of the ECHR prescribes that detention should be lawful and based on reasonable suspicion, while

Article 18 proscribes the restriction of rights for ulterior purposes. The ECtHR has concluded that the detention of Mr. Kavala was not based on reasonable suspicion having been convinced that it was brought about by the authorities' discomfort with his activities, therefore, ruling for his "immediate release." While the ECtHR's ruling for Mr. Kavala's immediate release has not been implemented, on 18 February 2020, the local court has ruled for his acquittal and release at the verdict hearing of the "Gezi Case" within the scope of which he was standing trial. Yet İstanbul Chief Public Prosecutor's Office has issued an arrest warrant for Mr. Kavala on the same day preventing his release from prison on charges of attempting to overthrow the government within the failed coup d'état attempt of 15 July 2016 and İstanbul 8<sup>th</sup> Criminal Peace Judgeship ruled for his re-detention with *similar charges* at midnight on 20 February 2020. Mr. Kavala is held in jail as a political hostage because of his dissident views, just like Mr. Demirtaş, and the ECtHR judgments are not implemented.

Intervention through the judiciary, particularly against one political party (HDP), in the form of common and repetitive arrests and detentions all over the country are direct interventions to democratic politics. While the nonstop arrests and detentions of HDP executives and members have amounted to world record breaking levels, this state of affairs warrants a special report. Arrests and detentions of HDP executives and members have even further increased during the 24 June 2018 and 31 March 2019 election processes.

On another note, proceedings were initiated against four political parties for their closure in 2019 because their titles included "Kürdistan." These are Kurdistan Party of Turkey (Türkiye Kürdistan Partisi), Kurdistan Socialist Party (Kürdistan Sosyalist Partisi), Kurdistan Freedom Party (Kürdistan Özgürlük Partisi) and Kurdistan Communist Party (Kürdistan Komünist Partisi). Cases are pending before the Constitutional Court.

In 2019, the police launched 40 raids into political party offices, municipalities, trade unions, professional chambers and cultural centers, while 24 political party buildings were attacked.

## **8. FREEDOM OF PEACEFUL ASSEMBLY AND PROTEST**

2019 has proven to be year during which freedom of peaceful assembly and protest 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, 2019 has been a year during which violations and restrictions prevailed with regards to freedom of assembly and protest just like the previous one as well.

During the official SoE period governors' offices in many cities had been handing down one-off and specific day/protest bans 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 are maintained. These bans cover a wide spectrum of events ranging from a protest on the adverse impacts of geothermal power plants to high school and university festivals, from culture and arts, nature festivals to LGBTI+ events.

According to data collected by İHD's Documentation Center on the right to freedom of peaceful

assembly and protest in 2019: a total of 43 events were banned including 24 press conferences, 13 marches, 3 demonstrations, 2 festivals, and one political party congress. Governors' offices and limited number of district governors' offices have imposed at least 96 bans on all protests and events for periods ranging from two days to a month. Blanket bans on protests have reached 1,111 days in Van, 255 days in Hakkari as of 30 November 2019.

The law enforcement have intervened into assemblies and protests 1,344 times in 2019. At least 69 persons were injured while 3,741 persons were taken under custody during such attacks. While 35 persons were detained, 15 persons were sentenced to house detention and 120 persons were handed down judicial control decisions.

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. A case against the ban on Saturday Mothers' vigils is pending before the appeals court.

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.

According to the official figures released by the Ministry of Justice, investigations were launched into 8,728 persons on the grounds of violating Law No. 2911 on Assemblies and Rallies while criminal charges were filed against 4,837 of these persons in 2018. Although half of 2018 had gone under the state of emergency while the other half had gone under blanket bans granted to governors by Law No. 7145, the high number of prosecutions reveal the degree to which the oppressive practices has been implemented with such immense power.

## **8. THE RIGHT TO POLITICAL PARTICIPATION**

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 Parliamentary Assembly of the Council of Europe 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 such criticism. The post-election incidents have very much corroborated such concerns.

İHD issued its report on the local electoral process and elections of 31 March 2019 offering various observations and recommendations.<sup>25</sup> Accordingly, an anti-democratic electoral process was observed in Turkey according to OSCE criteria; attempts were made to alter the elections results in the political power's favor which led to the re-run of İstanbul greater municipality elections; five municipalities won by HDP were virtually seized after cancelling the election certificates of elected mayors on the trumped-up grounds that they had been dismissed from their posts by decree laws;

<sup>25</sup> İHD. "Report on the Local Electoral Process and 31 March Elections." 6 May 2019. < <https://ihd.org.tr/en/ihd-report-on-the-local-electoral-process-and-31-march-elections/>>

the elections certificates were again granted to runner-ups from AKP presenting the elections to them; and it was announced that runner-ups were now elected as the elections certificates of municipal council members and provincial council members were annulled. In a way the “trustee” practice of the state of emergency has been maintained at the hands of the Higher Board of Elections. Objections raised by opposition parties against such anti-democratic practices were overruled, yet the ruling party’s objections have been sustained.

## 9. VIOLENCE AGAINST WOMEN

Women have also faced many rights violations in 2019 yet again. Many rights and freedoms of women, particularly their right to life, have been violated.

Men and male violence killed at least 431 women and injured 359 others. At least 499 women were subjected to rape and harassment while 726 women were subjected to male violence. Official figures reveal that tens of thousands of women were subjected to violence, while the number of women killed by male violence was much higher.

Women who wanted to stage protests on the occasion of International Women’s Day on March 8 faced bans, obstructions and interventions in many a city. The 8 March Feminist Night March, which had been continuously held each year since 2003 in İstanbul, has been blocked off this year. Women have met before the French Cultural Institute in Beyoğlu, İstanbul for the 17<sup>th</sup> Feminist Night March. Women wanted to march along İstiklal Street, as they had been doing for years, but they encountered police barricades. The police failing to prevent women from walking by erecting barricades attacked protestors by using tear-gas. Women continued on with their protest in the by-streets of Taksim.

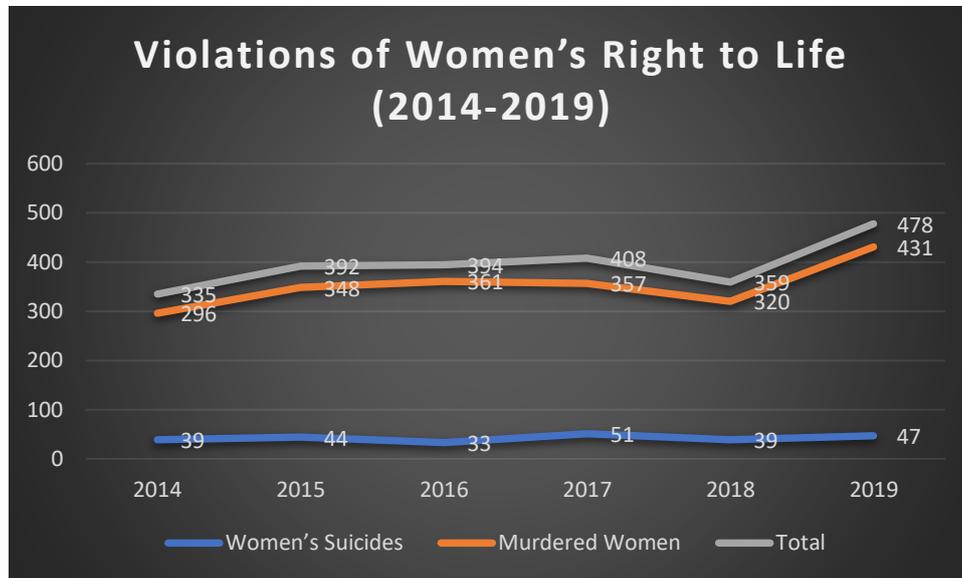
Police and private security intervened persons wanting to hold 8 March events at İzmir’s Ege University campus on 8 March 2019 and arrested 9 individuals.

İstanbul, Beyoğlu District Governor’s Office banned the march planned to be held on the occasion of 25 November International Day for the Elimination of Violence against Women in Tünel Square of Beyoğlu, İstanbul. Batman Municipality’s four purple public transportation vehicles with banners “We defend life against violence,” “We women are stronger together” and “Say no to gender-based violence” were prevented from traffic having been stopped by police officers on 21 November 2019 on the grounds that it was “political propaganda.”

Turkey was the first one to sign the İstanbul Convention (Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence) of 11 May 2011 and ratified it on 14 March 2014. The purposes of the Convention are to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence; contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women; design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence; promote international co-operation with a view to eliminating violence against women and domestic violence; provide support and assistance to organizations and law enforcement agencies to effectively co-operate in order to adopt and integrated approach to

eliminating violence against women and domestic violence. The alarming rate of violence against women reveals the ways in which how the provisions of the Convention are not being implemented, how they are infringed upon, and how they failed to be institutionalized.

**Figure 5.** Annual Change in Data Collected by İHD’s Documentation Center on Violations of Women’s Right to Life



## 10. REFUGEES/ASYLUM-SEEKERS/IMMIGRANTS

In Turkey there are only 28 persons who are legally recognized as refugees because Turkey has been maintaining its geographical limitation to the 1951 Geneva Convention. Outside the legal sense, the number of refugees in Turkey is 4.9 million as per the latest information provided by the Ministry of Interior. Of these, 3 million 634 thousand persons are under temporary protection, while 337,000 are under international protection.

Turkey’s stand on refugees<sup>26</sup> has not changed in 2019 either. No permanent solutions were offered to solve refugees’ problems while the policies implemented have been 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, the number of registered Syrians in Turkey, has now exceeded 3, 687,244 as of 2019. When the unregistered ones are included in these figures, the number is estimated at more than 4 million. Although these people have completed their eighth year in Turkey, they are legally recognized as being under “temporary protection status” and cannot access the right to seek asylum. Other rights and services mostly focus on those coming in from Syria, yet refugees from Afghanistan,

<sup>26</sup> 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.

Iran and African countries that make up for about 500,000 are disregarded. The state of precarity that all refugees are dwelling in in Turkey lead these people who were forced to leave their own homelands to seek other more secure countries.

Turkey became responsible for the “readmission” of refugees, who entered the EU through Turkey via irregular ways or those who subsequently became irregular after entering the EU through Turkey, with the “Readmission Agreement” signed with the EU on 16 December 2013. This agreement was based on the assumption that Turkey was a safe third country. Yet, we had stated our grave concerns about the protection of the rights of migrants and refugees originating from international law, EU standards and Turkey’s domestic legislation since they would be the ones who would be subjected to practices within the framework of this agreement. At this point we are saddened to see how pertinent our concerns were.

The EU and other countries in the world have become direct partners of this human tragedy by not accepting refugees into their countries, including the “Readmission Agreement.” Lives are at risk during unsafe sea or land crossings and are lost at the hands of brokers who traffic human beings. They survive in camps in poverty, torture and insults. They become the new targets of racism in cities.

Turkey’s refugee policies have been far from delivering permanent solutions based on social accord and have been short-term as a result of legal regulations that leave refugees in utter precarity and obscurity along with the government’s uncertain political conduct. We have been witnessing for the last couple of weeks that the pressure particularly on Syrian refugees has escalated and their living spaces have been further restricted as a consequence of such policies. It has also been reported that Syrian refugees were deported and some others were forced to sign voluntary return documents without their consent.

Istanbul Governor’s Office issued a statement called “Combatting Irregular Migration” on 22 July 2019 indicating that Syrian refugees not registered to the city of Istanbul (i.e. registered to other cities) were granted time until 20 August 2019 to return to their respective registered cities and those who were identified not to have returned to those cities at the end of the allocated time would be sent to their registered cities in accordance with the order of the Ministry of Interior. This statement corroborates news reports. Interior Minister, Süleyman Soylu, has also stated the following on the matter at hand: “If Turkey does not undertake this state of affairs resolutely, none of the governments in Europe can endure for six months. Let us try if they want.” The state’s approach instrumentalizing refugees both in its domestic and foreign policies paves the way to the violation of refugees’ rights to life and housing. Moreover, such statements consolidate refugees’ precarity and reveal that their fundamental rights and freedoms are being ignored. A perception has been created as if the refugees were responsible for the economic dire straits as the Interior Minister said “He came in from Africa selling watches for 10 liras, we will not allow it.” This is unacceptable. Individuals’ right to work to survive cannot be taken away. The necessary measure to be taken is to recognize refugees’ right to work and to create a safe space where they can receive a fair recompense for their labor.

Refugees are not allowed to leave the cities they reside and have to endure numerous restrictions but their problems are yet to be resolved. Bureaucratic red-tape to obtain work permits and the fact that only employers can apply for such permits are accompanied by the fact that refugees have been working for years as unregistered cheap workforce. Refugees who cannot enjoy this right in practice

try to open up working spaces for themselves. They work unregistered and without any security at construction sites, under the counter workshops, agricultural sector and small-scale industry. Their access to education is quite limited as well, they do not have the opportunity for healthy housing, their access to healthcare services is not on par with the level human dignity so requires, and most of them do not even know how to gain access to such limited means. They cannot socialize as they are exposed to racist and discriminatory practices in numerous fields. Young girls are forced to early marriage and become vulnerable to abuse. Child labor proves to be one of the most important problems as well.

It is significant to remember that Article 14 of the *Universal Declaration of Human Rights* enshrines: "Everyone has the right to seek and to enjoy in other countries asylum from persecution." The right to life and other inalienable rights of all members of the human family have been guaranteed by agreements that Turkey has also signed. The most fundamental protection as regards refugees and asylum seekers is the United Nations Geneva Convention Relating to the Status of Refugees that Turkey ratified in 1961. The prohibition of "Refoulement" prescribed in Article 33 of the Convention is of vital significance: "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." This principle was defined under Article 4, "Non-Refoulement," in the Law on Foreigners and International Protection as such: "No one within the scope of this Law shall be returned to a place where he or she may be subjected to torture, inhuman or degrading punishment or treatment or, where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political views." Refugees should not be returned unless the threat in their countries was proven to be eliminated in line with this principle.

The instrumentalization of refugees in domestic politics and as means of blackmail in the international arena by politicians cannot be accepted. Deportation and oppression of refugees should be stopped without delay since deportation of Syrian refugees along with those from Afghanistan, Iraq, Iran and various countries in Africa would lead to rights violations and loss of lives. Refugees' living spaces and inalienable rights should be protected and rights-based policies for co-existence should be developed. Discriminatory rhetoric and practices that manipulate the society should immediately be dropped and all practices other than refugees' own consent should promptly be put to an end.

One of the most important issues that refugees have to face are the repatriation or relocation 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. 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.

## **11. ECONOMIC AND SOCIAL RIGHTS**

About 200,000 workers, including 135,000 who were dismissed from their public posts through decree laws and those who lost their jobs in the private sector due to the state of emergency, have

been sentenced to starvation with their families amounting to about one million people. These dismissals, which we can qualify as *civil death*, account for a very grave violation of economic and social rights. It is impossible for the State of Emergency Procedures Inquiry 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 delivered by only investigating the coup attempt based on the grounds for the state of emergency.

Already limited workers' rights have sustained even worse setbacks under the state of emergency. Some possible strikes have been deferred and de facto strike bans have been imposed in Turkey. Judicial harassment against workers following the criminalization of 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 Health and Safety Labor Watch Turkey, at least 1,736 workers lost their lives in corporate murders in 2019 in Turkey. It should also be noted that only one of the workers who lost their lives was a member of their respective trade union. The number of workers who lose their lives in corporate murders has been continually rising. Suicide cases because of financial dire straits are also on a very significant rise. One of the most important reasons of suicide in Turkey has proven to be financial difficulty. When one looks into TurkStat's statistics on reasons of suicide on the "financial difficulty" criterion, it is seen that 4,481 persons have committed suicide between 2002 and 2018 when AKP was in power.

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. More than 400 newly graduated medical doctors have not been permitted to work in the healthcare sector. On 29 November 2019, the Constitutional Court repealed the "provision to conduct security investigations and archive search" for assignments set forth by decree law No. 676 of 29 October 2016 finding it unconstitutional. In the grounds for the judgment, the Constitutional Court held that the obtaining, recording and storing of private information within the scope of security clearance investigations and archive search was a restriction of the right to respect for private life. The judgment also said that the provision did not clearly set the limits for public authorities when taking measures and intervening into persons' private lives underlining that this power could be abused. İHD and HRFT, therefore, invite the authorities to implement the Constitutional Court's judgment without delay and offer relief to this end.

Unemployment has been on a dramatic rise due to economic crisis and poverty, accordingly, has become prevalent. The objective of human rights is to free humanity from fear and poverty. This state of affairs in the country, therefore, calls for more work in the field of economic and social rights in the following term.

**İHD's 2019 rights violations report demonstrates that the struggle for human rights and democracy will persevere.**