

Fahrettin Altun, İsmail Çağlar, Turgay Yerlikaya



PRESS FREEDOM

IN TURKEY

MYTHS AND TRUTHS

SETA

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LIST OF ABBREVIATIONS

AK Party:	Justice and Development Party
ANAP:	Motherland Party
CHP:	Republican People's Party
CPJ:	Committee to Protect Journalists
DHKP-C:	Revolutionary People's Liberation Party-Front
DP:	Democrat Party
DYP:	True Path Party
ECHR:	European Court of Human Rights
ECHR:	European Convention on Human Rights
EP:	European Parliament
EU:	European Union
FETÖ:	Fetullah Gülen Terror Organization
FH:	Freedom House
FP:	Virtue Party
HDP:	Peoples' Democratic Party
IPA:	International Publishers Association
İHD:	Human Rights Association
KCK:	Kurdistan Communities Union
MIT:	National Intelligence Organization
PDY:	Parallel State Structure
PKK:	Kurdistan Workers' Party
RP:	Welfare Party
RSF:	Reporters Without Borders
RTÜK:	Radio and Television Supreme Council
TCK:	Turkish Penal Code
TESEV:	Turkish Economic and Social Studies Foundation
TGDP:	Platform of Solidarity with Imprisoned Journalists
TGS:	Turkey Journalists' Union
TİB:	Telecommunication Communications Presidency
TMK:	Anti-Terror Law
TSK:	Turkish Armed Forces
UDHR:	Universal Declaration of Human Rights
WEF:	World Economic Forum
YSK:	Supreme Electoral Council

INTRODUCTION

One of the ancient quests of humans, freedom, is also one of the fundamental discourses of modernity. As an idea, and a system, as well as a mood, freedom came into existence as one of the main dynamics of a process through which the modern individual, society, and state emerged. In this age of modernity, which affects us all, freedom, from being merely an “existential ideal,” transformed into an “indispensable principle” that comprises part of a contract forged between the state, society, and the individual. While establishing freedom as a metanarrative, this contract also engages another “fundamental discourse”; a discourse of security, and the way in which freedom and security oppose one another is indicative of how people in authority regulate the living spaces of individuals, groups, and societies. The tension between these two discourses constitutes the framework of the principal texts that regulate modern governance practices. This age of modernity has witnessed a group of activists who maintain that freedom comes before security, as well as those who, with existential concerns, maintain that freedom may be curtailed to establish security. The differences between these two approaches have sparked off a number of political and social conflicts.

The contribution of the discourse of freedom to the foundations of modernity is not limited to this. Industrial society, where differentiation intensified and specialization became prominent as a value, became institutionalized through being partitioned into class-based and professional fields. During this institutionalization process, the discourse of freedom laid the groundwork for the emergence, orga-

nization, and the establishment of modern professions. The idea of individuals freely choosing and executing their professions was one of the most important elements in the foundation of modernity. Following the development of transportation and communication technologies, population mobility has gained speed to a degree not achieved by any of its historical precedents, and this has directed free individuals towards new professional fields.

However, the pertinence of the discourse of freedom to modernity goes even further. The freedom of thought and speech stand out as the starting points of the Enlightenment, which constitutes the main philosophical basis of modernity. Immanuel Kant famously defined the enlightened individual as one “who dares to know” without “self-incurred tutelage” and has the courage to use his or her own knowledge without guidance from another. When technological advancements enable an idea or a piece of information to reach larger segments of society, freedom of ideas and speech move beyond their philosophical confines and take on a political nature. The transformation of “demos” into political movements, and the viewing of the media as one of the principal participants in this process, brings out a new type of knowledge, produced by mass media, called “information.” Professionals in charge of producing, publishing or broadcasting, and distributing this new kind of knowledge have established their own autonomous regions, within the professional fields, which became institutionalized following the emergence of industrial capitalism. Media professionals thought it necessary to create a system, and a notion, of free media in order to preserve this new autonomous field. One of the fundamental elements of modern liberal democracies is this sense that freedom of the press is considered to be intrinsic to freedom of speech; this is how its legitimacy has been established.

“Freedom of the press” has also historically been a rhetoric engineered as part of the media’s desire to become an actor in modern power relations. It should be pointed out that the discourse of “press freedom,” in this sense, is frequently enlisted by media organizations as a tool of their quest for “power.” Debates about press freedom, however, cannot be said to be fully independent of the media’s demand for free publishing and broadcast. The elements brought up in the context of press freedom also involve a series of problems preventing the media from operating in a freer environment in the long run.

The discourse of press freedom feeds on the belief in *opinion publique* (public opinion) as well, with the assumption that the public’s ideas and reflexes are powerful enough to determine political, social, cultural, and economic situations and processes. This assumption has also paved the way for the emergence of a political will which is convinced that the media’s activities should be subject to certain rules and should be able to be restricted if deemed necessary. During this process, the powers that dominate the political scene tried to develop mechanisms in order to supervise the media’s activities while the actors operating in the media sector tried to build and expand their own respective autonomous areas. Although the discourse of press freedom has historically been instrumentalized in the media industry’s process of gaining autonomy and increasing its political influence, it has, over time, created a functional framework in the context of the media’s freedom of expression and organization.

Press freedom, in this regard, refers not only to journalists’ freedom of producing news articles or commentaries for the mass media without facing any restrictions, but also to the public’s freedom of accessing all available information and news. Restrictions imposed on press free-

dom, thus, cover not only freedom of expression, but they also restrict the public's right of accessing information on the events occurring in their own society and that therefore concern them directly or indirectly.

It would make sense, precisely at this point, to scrutinize the relationship between the media and individuals' right to information. The media in Turkey, as in the rest of the world, builds its discursive and cultural power on the claim that it operates for the benefit of society. So goes the rhetoric: members of the media, while practicing their profession, are also doing public work that is venerable and even sacred, under oftentimes difficult and dangerous circumstances; they work for the public's freedom of information. Valid as it may be to a certain extent, this claim prioritizes the media sector, as well as all its related professions, over so many other sectors and professions by arrogating to them undue venerability -to the point of calling their sector "sacred"- and immunity. Individuals are informed through the media about many of the matters, events and plans that affect the society they live in and their own private lives. The media sector, on the other hand, is a major industry and subject to market rules like all other industries and sectors; it engages in profit-loss and cost-benefit calculations, and in this sense, it is not sacred but quite secular and pragmatic.¹ Additionally, the media instrumentalizes its professional sanctity as it pursues its sectoral interests. It is possible to read into the media's relationship with political power and capital partly through this instrumentalization.²

¹ For more comprehensive information on this aspect of media-capital relations, see A. Raşit Kaya, *İktidar Yumağı: Medya-Sermaye-Devlet* (İmge Kitabevi, Ankara: 2009), pp. 137-142.

² Roya Akhavan-Majid, *American Mass Media and the Myth of Libertarianism: Toward an 'Elite Power Group' Theory*, Mass Communication Faculty Publications, Paper 10, (1991), p. 8.

The media is the main agent of socialization in modern society. Many events that occur in the world become public knowledge only through the media's efforts in generating news articles and commentaries, and those at the receiving end of these articles and commentaries are thus informed about parts of the world they have never visited.³ The media presents its followers with practical tools of interpretation in a large number of areas from daily life to politics, from social structures to economic developments, and from cultural heritages to historical narratives. These practical tools of interpretation construct 'a media reality' which exists alongside social, economic and cultural realities.

We cannot make sense of the modern world by leaving out this media reality. The same is true for Turkey's history of modernization. The media reality, generated through mass media, is extremely central to an accurate understanding of Turkey's history of modernization. The media emerged both as the main undertaker of the Westernization process and as a party in the relationships and conflicts between different political programs and actors.⁴ During the early Republican years, the media was kept under very tight state control, but it assumed active roles in times of crisis, deepening crises at times while proving efficient in clearing the way for democratization processes at others.⁵

³ Daniel Lerner, *The Passing of Traditional Society: Modernizing the Middle East*, (The Free Press, New York, London: 1966), pp. 53-54.

⁴ For the role played by the print media during the Ottoman-Turkish modernization process, its influence during the Westernization process and in shaping public opinion, see Şerif Mardin, *Yeni Osmanlı Düşüncesinin Doğuşu*, (İletişim Yayınları, İstanbul: 1998) pp. 281-307; Şerif Mardin, *Jön Türklerin Siyasi Fikirleri: 1895-1908*, (İletişim Yayınları, İstanbul: 1996) 5th edition, p. 53. For the influence of the press in the development of political thoughts and social movements, see Kemal Karpat, *İslam'ın Siyasallaşması: Osmanlı Devleti'nin Son Döneminde Kimlik, Devlet, İnanç ve Cemaatin Yeniden Yapılandırılması*, trans. Şiar Yalçın, (Bilgi Üniversitesi Yayınları, İstanbul: 2005), pp. 213-243.

⁵ Kemal Karpat, *Türk Demokrasi Tarihi*, (Timaş Yayınları, İstanbul: 2010), pp. 251-252; Fahrettin Altun, "Türkiye'de Medya Muhalefeti: Kavramsal Bir Analiz", *Türkiye'de Medya*, ed. Nabi Avcı (Meydan Yayıncılık, İstanbul: 2011), p. 127.

Media-government relations have so far moved in two directions. The media has catered to the fomentation of societal discontent through news and commentaries, thus paving the way for military coups, which it backed after they were staged; the media has also occasionally supported antidemocratic measures. Through these mediating efforts, illegal organizations that seek to pressure the legitimate political sphere become a topic of discussion on the public agenda.

Undoubtedly, certain structures that try to organize themselves within the state by prioritizing their own narrow group interests and those pursuing personal benefits by abusing public authority can be moved into the spotlight by a press that is able to freely engage in publishing and broadcasting. Press freedom and the public's right to information are of particular importance in court cases that are of special concern to the public, where significant claims are being investigated.

The media in Turkey should be able to produce news about issues of public benefit that pertain to the political destiny of societies within legal confines and the framework of conventional media ethics. Its freedom of expression, in this regard, should not be hampered.

Having survived four military coups in different decades and with its TV broadcasting entirely under state monopoly until the 1990s, Turkey's historical background has not yet come to light in a thorough and complete fashion. Standing before us as bitter reminders of realities in Turkey are episodes when important journalists, such as Uğur Mumcu, Çetin Emeç, and Hrant Dink were assassinated as a result of their ideas, and many others who languished in prison for similar reasons.

When the history of the Turkish press is analyzed, it can be observed that the mainstream Turkish media has executed its profession for the most part in support of the dominant power and regime of any given era.

In the days preceding the coup of May 27, 1960, for instance, numerous reports were published with a substantial amount of disinformation, such as, the news that hundreds of students were tortured to death and put through meat grinders to be made into chicken feed -a story that was later proved to be an out-and-out lie.⁶ These kinds of utterly false and twisted reports were not run in the mainstream media during and after the May 27 coup alone. Much more recently, a farcical plot -involving two impostors masquerading as Sufi sheikhs, Müslüm Gündüz and Ali Kalkancı, and their female victim, Fadime Şahin- staged by the media during the postmodern coup of February 28, 1997, can be discussed as an example of the media's preparatory role in laying the groundwork for military coups.⁷ The news reports published and broadcast during such processes became parts of schemes designed to do away with the democratic system in Turkey, laying down the psychological foundations of military coups. As a final example, the media adopted an editorial policy that pushed its limits of legitimacy during the Gezi Park Violent Protests in 2013. As part of a political agenda, conventional media spread the false reports specifically generated on social media during the demonstrations. The fact that the opposition front was not limited to the national media and that the foreign media was quick to provide serious respondents with a gradually rising momentum served to tarnish Turkey's international image. A serious opposition emerged in the Western media against Turkey particularly after the Gezi Park Violent Protests.⁸

⁶ İdris Gürsoy, *Medyadaki Darbe Geni*, (Kaynak Yayınları, İstanbul: 2013), pp. 58-60.

⁷ İsmail Çağlar, *Good and Bad Muslims, Fake and Real Seculars: Center-Periphery Relations and Hegemony in Turkey Through the February 28 and April 27 Processes*, Unpublished PhD Thesis, (Leiden University, Turkish Studies Department, 2013) pp. 56-57.

⁸ Turgay Yerlikaya, "Batı Basınında Türkiye Algısı", *SETA Analiz*, Issue 117, (February, 2015).

Periods when political crises deepened and social tensions intensified in the history of the Turkish Republic saw a sharp rise in media manipulations with profuse disinformation in the news reports and headlines, and during such periods law, democracy, and human rights suffered terrible violations. During such episodes that were rife with violations, the media is known to have followed an editorial policy targeting certain people and not showing sufficient sensitivity toward terrorism and violence in incidents such as the assassination attempt against Akin Birdal, the former president of the Human Rights Association (İHD); the assassination of journalist Hrant Dink, of Armenian origin; the murder of Father Santoro; the massacre at the Zirve Publishing House in the central Anatolian province of Malatya; the attack on the Council of State; and the killing of Prosecutor Mehmet Selim Kiraz. The full details of these grave events remain in the memory and conscience of our society as lively as on the days they occurred.

Given where Turkey stands now, it may be argued that we have been heading toward a relatively freer environment with the help of the changing world order; the transformations in our social structure; the Internet's role in making information ever more accessible; people's desire to express themselves with greater liberty in a democratic system; the particular efforts of official units in charge of protecting the law and safety in society; and also as a result of the European Union (EU) membership process. Certain subjects, considered taboos in the past which could not be publicly discussed, are today being openly discussed in different media environments.

Notwithstanding the change underway, the sphere of media has not yet been completely delivered from manipulation, interference and pressure. There are a number of different interpretations regard-

ing the main source of this pressure. According to some, this pressure stems from the elected government officials, while others argue that its source is the military and judicial bureaucracy that hold considerable leverage within the state. In particular, the fact that the members of the Fetullah Gülen Terror Organization (FETÖ) in the judicial bureaucracy handed down controversial verdicts indicates that the problem is not limited to politics. Systematic lawsuits filed by certain people against journalists apart from public prosecutions have recently become a significant source of pressure against the media and its members. It is stated that the number of the lawsuits filed by Fetullah Gülen alone against newspapers and columnists is around 1,500.⁹

Since 2000, Turkey has achieved a remarkable transformation as part of the EU harmonization laws and thus undergone a momentous process of democratization. The transformation process is not without its convulsions: since the 2000s, there has been a very critical ongoing struggle between the pro-status quo groups in Turkey and the exponents of change. The tensions in the media field and the attempts at restricting and controlling media activities are directly linked with the discontent felt toward this process of transformation. The evolution of this transformation into a healthy process will be possible only through the enforcement of a new constitution agreed on by all segments of society and drafted through the initiative of all the social partners involved.

⁹ Yasin Doğan, “Evrensel Hukuk Siyasetçiye Laf Yetiştirmez”, *Yeni Şafak*, April 9, 2014. The newspapers topping the list of lawsuits filed by Gülen are *Yeni Şafak*, *Sabah*, *Star*, and *Yeni Akit*; as for the journalists Gülen has sued, the following are the most notable: Abdulkadir Selvi, Yasin Aktay, Cem Küçük, Hilal Kaplan, Ömer Lekeşiz, Yusuf Kaplan, Mustafa Karaalioğlu, Yusuf Ziya Cömert, Elif Çakır, Sevilay Yükselir, Mehmet Barlas, Mehmet Ali Önel, Ahmet Keleş, Şeref Oğuz, Rasim Ozan Kütahyalı, Ergün Diler, Turgay Güler, Hasan Karakaya, Betül Dağüstün, and Akif Beki. “Özgür Basına Gülen Darbesi”, *Yeni Şafak*, January 4, 2015.

Today, when we look at the statistics about people and organizations accused of committing crimes related to the media and awaiting trial, we see that the newspapers that are viewed as “conservative” and “pro-government” rank among the top three on the list of motions filed requesting imprisonment.¹⁰ The Doğan Media Group, resisting change for fear of losing its recent gains and having adopted a pro-status quo approach, has, in this regard, assumed the identity of a political actor. Engaging in politics through the media, or taking up a particular political stance is not a problematic attitude per se. However, manipulating the media as a political tool motivated by self-interest is an ongoing reality in contrast with the ideals of the media. Any particular interest group taking non-political measures to prevent its sovereignty from being undermined and expanding its manipulative reach under the guise of “press freedom” is unacceptable. Press freedom is thus being instrumentalized for political ends and confined within a monolithic perception of freedom. That there are ongoing efforts to impose restrictions on different media groups through seemingly lawful means is clear evidence of this monolithic perception.¹¹ This situation clearly demonstrates that the problems experienced in the area of press freedom are beyond the control of the government with roots too deep to be easily decimated.

International and local actors that often bring up the topic of press freedom in Turkey, however, do not usually deal with the issue from an in-depth perspective, confining it to the political dimension, which constitutes a more appealing and hotter ground for debate.

¹⁰ For the lawsuits filed by Aydın Doğan against columnists working in the *Turkuvaz* and *Türkmedya* groups, see “Aydın Doğan’dan Gazetecilere Dava Yağmuru”, *Star*, October 9, 2015.

¹¹ Fahrettin Altun, “Aydın Doğan ve Partisi”, *Akşam*, March 9, 2014.

A factor that makes the current scene even more dramatic is that while the type of press freedom violations caused by the political will are more visible and thus easier to tackle, other types of press freedom violations are difficult to spot and therefore more difficult to confront. For example, it is easier to spot a series of lawsuits systematically filed by a politician; such lawsuits automatically trigger a social reaction given the nature of politics. But the kinds of systematic lawsuits filed against journalists, as in the cases of Aydın Doğan and Fetullah Gülen, are usually the result of Gülen's followers having infiltrated the judicial bureaucracy; such lawsuits do not attract as much attention as ones that are conspicuously political since they play out behind the scenes and are more difficult to detect.

Some examples that illustrate that the problem Turkey has experienced for a long time is clearly not limited to press freedom are the following: the Turkish Armed Forces' (TSK) memorandum to the government on April 27, 2007; the Supreme Court's lawsuit to close the Justice and Development Party (AK Party) in 2008; the controversial ruling of the Constitutional Court in 2007 that the AK Party needed 367 votes for its candidate, Abdullah Gül, to be elected president; the controversial step taken by the Supreme Electoral Council (YSK) regarding the independent Kurdish-origin candidates before the elections of June 2011; the Gezi Park Violent Protests in 2013; the coup attempt of December 17-25 of the same year staged by the judicial-police leg of FETÖ; and the interruption of the resolution process because of a joint declaration of autonomy by the terrorist Kurdistan Workers' Party (PKK) and the Peoples' Democratic Party (HDP), who called on people to participate in the revolutionary uprising and the resulting escalation of terrorist attacks. Therefore, it is very important for Turkey to have a clear-cut framework of its

press freedom problem and its democratization perspective. A sweeping democratization program, including the media, and the drafting of a new constitution stand before us as the two most concrete and necessary steps. The events that we have so far experienced obviously indicate that the EU reforms and the process of becoming more democratic and transparent must be accelerated.

This study intends to give a new context to the discussions of press freedom in Turkey, to present an alternative to the superficial but widespread attitude that instrumentalizes press freedom for political purposes, and to clarify the structural problems hampering press freedom. At the same time, the study aims to highlight the areas where there are particularly severe restrictions on press freedom and to bring attention to the government bodies that implement these restrictions. The study consists of three main chapters apart from the introduction and conclusion.

The first chapter discusses press freedom in a conceptual and theoretical framework, dealing with its political-ideological, economic, legal, and professional dimensions. The second chapter lays out the structural repercussions of the restrictions on press freedom in Turkey, scrutinizing the problem areas that have become ossified in a historical process. The third chapter tries to explain, through concrete examples, the restrictive policies encountered in the media today. The third chapter also looks at the problems experienced in Turkey in the field of press freedom, examines the allegations made in courts against journalists, and reveals, by providing statistics and examples, how judicial bodies and various mechanisms of tutelage have tried to subdue journalists. The last chapter also deals with the problems encountered by journalists, makes a general assessment, and offers suggestions.

It includes assessments of the claims of national and international organizations regarding “arrested journalists,” with a distinction drawn between those accused of crimes owing to press-related activities and those accused of crimes not related to any press activity. This distinction is based on the argument that discussing the second category under “press freedom” is ideologically motivated and thus undermines, in the most general sense, the discussion of press freedom.

The study’s most important objective is to draw attention to the problems experienced by journalists who engage in press activities in order to enlighten the public, to expose the kinds of pressure they face, and to provide guidelines for how press freedom may be safeguarded in the future. The framework of this study has been determined with the help of theoretical sources on press freedom, data obtained from official authorities, in-depth interviews with leading journalists, and international reports prepared on this particular subject.

Finally, it is necessary to draw attention to the research methodology followed in the interviews with journalists. Due to the nature of studies such as this, the identities of the journalists, from whose views this study greatly benefited, have been kept secret. In such an “accident-prone” discussion regarding press freedom, it would be placing an undue burden on journalists to anticipate that they voice their genuine opinions with their identities fully exposed. The authors of this study readily accept all criticism of their decision to conceal the identities of the contributing journalists.

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International and domestic actors questioning freedom of the press in Turkey do not adopt a comprehensive approach, instead confining the issue to the more attractive and popular sphere of daily political debates. The biggest obstacles before freedom of the press in Turkey, however, do not stem from the political will but from non-political power circles. The issue is exacerbated by the fact that violations of press freedom, caused by power instruments outside of politics, are cynical and difficult to resist in nature.

This book aims to discuss the freedom of the press in Turkey within a new context and propose an alternative to the instrumental yet widespread attitude adopted solely for political goals. At the same time, the authors intend to reveal the structural problems that freedom of the press experiences in Turkey, shed light on specific areas of restrictions on the press today, and expose the power centers behind these restrictions.

The crux of this study is to identify and draw attention to the problems journalists, who are devoted to the enlightenment of society, experience, and to offer guidance for protecting the freedom of the press in the future. The study is based on in-depth interviews with prominent journalists and international reports on the subject.

