

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 Lekesiz, 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.

ONE PRESS FREEDOM: CONCEPTUAL FRAMEWORK



A media organization that is transparent about its identity, political position, cultural background, ideological stance, political relations, and economic affiliations serves freedom of information and thus helps to strengthen press freedom.

Before we begin discussing the repression and restrictions on the media in Turkey, a conceptual analysis of press freedom would prove beneficial as the debate on “limits” that comes up when freedom is in question is also present regarding freedom of the press with issues such as what press freedom actually means, what it involves, and the limits of its boundaries taking on great importance.

The idea of freedom, which ensures the participation of individuals in public debates and paves the way for political-social participation, is of vital importance also for the tools of mass media, an environment where ideas are freely debated. Press freedom is regarded as a derivative of freedom of speech, and as such, enables individuals to express their ideas publicly in an organized manner. To this end, all the conducive structural conditions must be provided whereby the individual will be able to freely express his or her ideas, immune from external restrictions and whereby this same individual will be able to achieve full freedom.¹²

Owing its existence primarily to the paradigm of freedom of thought and expression, freedom of the press means, in the most general sense of the term, the free expression of any thought and the freedom to convey it to the masses through technological distribution devices. Since forming an idea firmly hinges on being able to receive and transfer information, the right to information is an integral part of freedom of thought. Freedom of expression is a very inclusive term that incorpo-

¹² Isaiah Berlin, *Four Essays on Liberty*, (Oxford University Press, London, Oxford, New York: 1969).

rates access to information, the unrestricted availability of news and ideas, thinking, and expressing one's thoughts and viewpoints -all in all, it contains all the processes regarding the expression of thought. Freedom of thought, in this context, means the expression of an idea, a belief, an opinion, an attitude or a feeling in a peaceful manner, or the freedom of its being expressed in the outside world.¹³ For an idea to serve any purpose at all, one should be able to express it. In this regard, access to news and ideas, having ideas and being able to reveal them are intertwined concepts.¹⁴ Therefore, freedom of expression should inherently contain immunity from being condemned because of one's thoughts and opinions. Press freedom, only one of a series of freedoms included in "freedom of expression," means the free formation of ideas and convictions, publishing one's thoughts and viewpoints, and distributing the resulting published work. Thus, press freedom is a derivative of freedom of expression and is guaranteed by legal regulations.¹⁵ For the press to be considered free and fully operational:

- The press should be independent.
- The press should be pluralistic.
- The independence of the press should include the economic

¹³ Mustafa Erdoğan, "Demokratik Toplumda İfade Özgürlüğü: Özgürlükçü Bir Perspektif", *Liberal Düşünce Dergisi*, Issue 24, (2001), p. 8.

¹⁴ ECHR Leander/Sweden ruling, March 26, 1987.

¹⁵ According to Article 10 of the European Convention on Human Rights, "Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent states from requiring the licensing of broadcasting, television or cinema enterprises." The second part of this article notes that the exercise of these freedoms may be subject to restrictions in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals and for the protection of the reputation or rights of others. For details, see Article 10 of the European Convention on Human Rights.

and administrative aspects as well as the free spread of ideas.

- A pluralistic media environment should be established in order to allow different segments of society to express themselves. Monopolistic structures should not be allowed to thrive.
- The press should be transparent and create an environment where information should be absolutely accessible.
- Journalists should be able to freely exercise their profession.¹⁶

Press freedom is undoubtedly not limited to freedom of expression. This study will explicitly address the intricacies of freedom of expression in relation to the mass media. In specific, freedom of expression is manifested in two forms in terms of the mass media. While press freedom gives visual and print media the freedom to establish media enterprises and be involved in printing, dissemination, and information activities, it also allows individuals, willing to obtain information, the freedom to access news and information.¹⁷ As a result, the freedom of providing and reaching information constitutes press freedom as a whole. This reality brings to question the nature of media organizations' relationship with information. In this regard, all the processes by which information is obtained, processed, formed, transmitted and distributed fall within the limits of press freedom.

¹⁶ Marina Guseva, Mounira Nakaa, Anne-Sophie Novel, Kirsi Pekkala, Bachir Souberou and Sami Stouli, *Press Freedom and Development: An Analysis of Correlations Between Freedom of the Press and the Different Dimensions of Development, Poverty, Governance and Peace*, (United Nations Educational Scientific and Cultural Organization Communication and Information Sector [UNESCO]: 2008), p. 14.

¹⁷ Freedom of expression means that a person can freely access ideas and information without being condemned for his or her ideas and opinions, and can state, defend, convey to others and disseminate these ideas and opinions in cooperation with others (associations, trade unions, meetings, etc.) and in various ways (speech, press, painting, cinema, theater, etc.). Bülent Tanör, *Türkiye'nin İnsan Hakları Sorunu*, (BDS Yayınları, İstanbul: 1990), p. 89.

In other words, press freedom, which appears to be an extension of freedom of expression, includes in its scope the freedom of reaching all kinds of news, ideas, and information as well as interpreting and criticizing them. Press freedom, declared as such in the Universal Declaration of Human Rights (UDHR) and the European Convention on Human Rights (ECHR), is a hot topic in many countries that have adopted it as a modern right; one of its aspects pertains to the individual's right to information. The right to information falls within the scope of press freedom and is separate from and broader in meaning than an individual's right to access information from public authorities. The right of a member of the press or an author to obtain information in order to disseminate it constitutes one of the essential foundations of press freedom.

Press freedom not only involves those who produce the news but also those who access and consume it. The freedom of the one producing the news and of the one consuming it are not mutually exclusive, and, more than that, the freedom of each is a prerequisite for that of the other. However, all recent debates in Turkey on press freedom focus solely on the freedom of the one producing the news while that of the consumer has been left out of the debate altogether. Press freedom, however, primarily concerns the consumer of the news. Consumers should ideally find news articles produced by a free media, not publications that have been distorted or manipulated. Press freedom is of utmost value in that the press brings all that is going on into the public sphere.

The fact that press freedom is addressed primarily from the perspective of a journalist's freedom is a topic of particular importance in the recent press freedom discussions occurring in Turkey's "political habitus." The discussions are being reduced, with an essentialist ap-

proach, to journalists' immunity rather than concentrating on their ability to exercise their profession in a free environment. But just as people from other professions cannot have immunity from legally defined crimes, journalists cannot establish themselves as unaccountable, either. At a time when Turkey partakes in an ongoing debate about whether legislative immunity should be limited, demanding "immunity" for journalists is a serious inconsistency.

Undoubtedly, what matters at this point is the nature of the crime with which a journalist has been charged. Reports on Turkey's press freedom, especially those prepared by Freedom House (FH) and the Committee to Protect Journalists (CPJ), constitute the main axis of the discourse employed both by the domestic and global opposition to Turkey.¹⁸ The reports in question, for example, provide the number of incarcerated Turkish journalists, claiming that they are in prison because of engaging in purely journalistic activities. These reports display great prejudice against Turkey, ignoring the specific details of each case. Putting aside the specifics of each case, it is an undisputed fact that journalists, normally, should never be tried for the news articles they write, for their commentaries, or their ideas.

When press freedom is discussed from the viewpoint of the consumer, the primary notion that comes to mind is the consumer's right to accurate information free from manipulation. "Accurate information" does not point to pre-established and eternally immutable absolute truths above all historical, social and cultural realities -it simply

¹⁸ We find that international reports have had a serious impact in terms of creating a significant ground for discussion, as in the example of Turkey. The reports in question, however, carry out event-based analyses which sometimes cause out-of-context commentaries and inconsistent assessments. In Chapter Three, the international reports on press freedom will be assessed in detail.

refers to “undistorted information.” This information can be invalidated upon the discovery of new information, and it can also be interpreted in different ways. But more importantly, the subjects that process and present the news item should present it without holding back the information they have or without distorting it for any commercial, political, or ideological interests.

Producing news may be compared to a translation process. There will be a loss of meaning, more or less, as with all translating efforts. This loss of meaning may stem from cultural, social or ideological differences in identities and experiences and, as such, it may be sociologically justifiable. What matters here is whether or not such losses of meaning are being voluntarily multiplied and whether or not an area of manipulation is being deliberately created. The transparency of a media organization that is involved in the news production processes and mechanisms takes on greater importance at this point in terms of guaranteeing press freedom. A media organization that is transparent about its identity, political position, cultural background, ideological stance, political relations, and economic affiliations serves freedom of information and thus helps to strengthen press freedom. A consumer who receives the news in full appreciation of who has presented it to him or her does not become passively involved in the cover-up of the losses of meaning that occur in the process of translating the reality into a news story under the guise of impartiality, and they may thus have a chance to freely compare the different news stories -or translations if you like- that are presented to them. It is crucial that the information should be conveyed to the final consumer from the original source without its authenticity compromised, and during this process, the press should not face any kind of pressure.

At this point, the impartiality of the press needs to be addressed. Defending press freedom on the grounds of the impartiality of the press is bound to become problematic. Press freedom cannot operate efficiently when based on the ideal of the “impartial press” because this notion is simply a myth. Impartiality is socially and culturally impossible. The problem does not lie with the nature of the definitive intellectual and ideological position designated by a media organization for itself; it rather occurs when it conceals this established position, presenting itself as “objective and neutral” and claiming “to reflect nothing but the truth.” The idea of “impartiality” that stands before us as an illusion corresponds to a problematic field in terms of economics and politics as well. There is also an ignored fact: market-related and sectoral factors as well as ideological stances erode impartiality when it is thought that this problem can be overcome with complete independence of the press from any state intervention. As pointed out by Keane, “communications media should not be at the whim of ‘market forces’.”¹⁹ Therefore, the ownership structures, financial programs, and operational procedures of media organs should have a minimum degree of guarantee but they should also be placed in a political and legal framework. When we look at the media system and the composition of the press in Turkey, we see that the tendency to become conglomerates appears to be the prevailing attitude and that groups with various political orientations possess media organs. Therefore, transparency is one of the most essential guarantees of the sustainability of media activities in a freer environment.

An important point that needs to be underlined at this juncture of the discussion is freedom of criticism, which comes up along with freedom of expression. The press is of central importance to society’s ability to exercise its right to criticism. Criticism, one of the foremost

¹⁹ John Keane, *The Media and Democracy*, (Polity Press, Cambridge: 1998), p. 154.

responsibilities of writers toward society, especially when the press is in question, deals with the state administration, social events, governmental policies -including economic ones-, or the behavior of those in possession of public power. Criticisms voiced through the press cannot escape being met with reactions from political parties, governments and an array of persons and bodies with public power. Therefore, authors should enjoy full security when directing their criticisms or interpreting political events and speeches. Ensuring a complete freedom of criticism and commentary is one of the most significant steps in the transition to a democratic society.

The legal perspective of press freedom is subject to various regulations. As previously stated, more than being a regulation that binds publishers and writers alone, press freedom includes the rights and freedoms of readers, listeners and viewers. What is ultimately meant by press freedom is to ensure a free flow of news and information. The right to information is a human right in the modern sense, and it is unacceptable for news content to be dictated by a central authority on the basis of any kind of concern.

There are four main components when speaking of the press that deserve mentioning: the organization or institution that carries out the press activity, the idea or message to be disseminated by the press, the distribution of the published material, and its consumption. Press freedom entails the ability to freely engage in all the activities that need to be carried out in these four areas. Additionally, the basic quality of press freedom is the ability to produce and disseminate news or ideas without facing any kind of restriction from the markets, the state, or any tool of the political power.²⁰ News stories produced by

²⁰ Ed. Andrea Czepek, Melanie Hellwig and Eva Nowak, *Press Freedom and Pluralism in Europe: Concepts & Conditions*, (Gutenberg Press, Bristol, UK, Chicago, USA: 2009), p. 9.

a media outlet should continue to be produced, disseminated and consumed freely as long as they comply with the standards of media ethics and do not violate legal regulations that can be considered legitimate within a democratic framework.

Many thinkers maintain that the limits of press freedom should be determined through social consensus, adding, however, that news stories that in any manner promote racism, child pornography and hate crimes cannot be considered a part of press freedom.²¹ A paradigm shift is being discussed in this light, one that promotes the notions of society and order instead of granting 'absolute freedom' to the field of media; the latter notion leads to all media output indiscreetly being considered legitimate.

Press freedom may sometimes clash with certain legally protected areas connected with the public or the lives of private persons, areas, such as the right to privacy, the confidentiality of criminal and administrative investigations, or the confidentiality of state secrets. The state, which is responsible for protecting rights and freedoms, is expected to oversee the balance of interests through the legislature and to bring in the necessary legal regulations in compliance with the principle of proportionality. As a matter of fact, freedoms of expression and the press, protected under international law and conventions, may be restricted for legitimate reasons, such as national security, public order, fight against terrorism, the preservation of public morality as well as the protection of the rights and liberties of others.

²¹ Through the "Child Pornography Prevention Act," adopted in 1996, the U.S. government imposed various legal restrictions on the Internet with the intention of protecting children from the harmful consequences of pornography. See John C. Merrill, Peter J. Gade, and Frederick R. Blevens, *Twilight of Press Freedom: The Rise of People's Journalism*, (Lawrence Erlbaum Associates, Mahwah, New Jersey, London: 2001), p. 179.

It is clear that expressions published in the press that attack personal rights cannot be assessed as part of press freedom, and that there is a strong need for a clear distinction between criticism and insult. In this respect, developing a press freedom concept in line with the universal standards of media ethics is the best solution among the options we have today; however, it is not a cure-all.

“People’s right to information” is the main reason press freedom is debated and discussed. In the modern era, the press is the main channel through which information is produced and transmitted. News, information and comments flowing through the media reach a great number of individuals and larger segments of society, exercising influence over them to various degrees and for varying durations. The media serves a function as one of the most important elements of socialization. The media’s production and dissemination of information in a free environment inescapably affects the lifelong process of socialization. However, attaching importance to press freedom solely owing to the effects of the media on the individual, society and other fields, such as culture and economics, is misleading as the knowledge and experience of media research have firmly established, contrary to claims, that media influence is not direct, absolute, continuous, or supracultural. The kind of indirect and short-term influence exercised by the media, in relationship with the codes of its corresponding culture, depends on the form, content and quality of the publication and broadcast in question.²²

²² It has been proved through a variety of empirical data that the media does not have a limitless effect on people, while a number of recent studies have shown that a set of variables such as religion, race, class and culture are decisive in the perception of media content. For a theoretical discussion of the impact of media on audiences, see Denis McQuail, *McQuail’s Mass Communication Theory*, (Sage Publications, London: 2010).

A common response given to why press freedom is needed is that the media in democratic societies is the “fourth power” after legislature, law enforcement, and the judiciary, thereby helping to inspect the government and serving to prevent the use of asymmetric power. Undoubtedly, in a state of law, various means of supervision are employed in order to ensure the adherence of the government apparatus to the rule of law. These are administrative, legal, political and public supervisions. Administrative supervision is conducted through the inner units of the government; political supervision is led by the legislature; and public supervision takes place by means of media organs. The press was referred to as “the guardian of political life”²³ for the first time by the European Court of Human Rights (ECHR), thereby setting an exemplary ruling and emphasizing the importance of the press for society and politics.²⁴ In a democratic society, the government’s operations, actions, and omissions should be subject to close supervision by the press and the public -the same holds true for the legislature and the judiciary.²⁵ But as political, administrative and public supervision is problematized, the media’s modus operandi and its institutional and structural problems should be taken into consideration, and the necessary regulations should be put into practice.

²³ ECHR *Lingens/Austria* ruling, July 8, 1986.

²⁴ The Court ruled that the intervention in *Lingens’s* freedom of expression was not a measure required for protecting the dignity of others in a democratic society and that it was disproportionate to this legitimate aim, and eventually that there was a violation in the context of Article 10 of the European Convention on Human Rights. The Court, in the *Lingens* case, emphasized the impact of the press on politics, its right to provide information, adding that people have the freedom to receive information regarding their freedom of political debate.

²⁵ ECHR *Castelles/Spain* ruling, April 23, 1992.

However, the fact that the press attributes this role to itself does not necessarily mean that it always acts in compliance with its claims. The press sometimes assumes the role of judge and jury and not that of an intermediary, fourth power -in these cases it acts like a new government apparatus against social and political actors, and furthers its own political and economic interests. In these situations, the press is not exercising its right to take a critical stance against the social and political reality. The privileged position given to the press is at odds with the power relations of the modern era and modern societies. That the press must not come under the yoke of the government does not require, as a consequence, that it be assessed through the metaphor of “a supragovernmental judge.” The role in question creates a new area of power, as we encounter in the behavior of the bureaucratic oligarchy in Turkey and causes the efforts of the parties seeking privileged positions in this area to be ignored. Defending the right of criticism of the press is not possible without criticizing the press’s overall performance.

The conceptual debate so far demonstrates that press freedom should be addressed essentially in four aspects. In this context, observing a distinction between the political-ideological, legal, economic, and professional dimensions of the freedom of the press will allow for a healthier discussion and a closer scrutiny of the problem areas, which in turn will enable the development of more accurate and relevant propositions for solutions. In the next chapter, we will focus on the subtopics of these four main aspects and discuss the structural problems encountered in the context of Turkey’s press freedom.

TWO PRESS FREEDOM IN TURKEY

- “ One of the greatest obstacles to press freedom in Turkey is the official ideology that has dominated the political culture of the country since the first years of the Republic.

Revealing the general picture of press freedom in Turkey, as indicated above, hinges on dealing with the political-ideological, legal, economic, and professional aspects of the issue. This chapter will briefly focus on the themes included in these aspects, and will proceed by discussing in detail the prominent problems emerging from these themes.

The political and ideological dimension of press freedom is formed in line with its political influence and ideological capital instead of, above all, the media's relations with the ruling elite. From this perspective and in order for press freedom to be understood correctly, the ongoing debate must include the roles played by the media in Turkey in the formulation of the official ideology and the process of its delivery to society; its role in the establishment of the bureaucratic oligarchy's field of power and influence; and its role in the formation of the political atmosphere, whose main characteristics are determined by a culture of fear and security reflexes. When discussing the political dimension of press freedom, we should dwell on the following topics:

- Editorial independence
- The diversity of sources of information and news
- Different types of censorship
- Different sections of society freely accessing news
- The detention of journalists
- The arrests' legal frameworks and the trials
- The political power's intervention in the content of the news and information produced by the media

- Access to official and unofficial news sources
- Different opinions being able to be expressed in the media

The legal dimension of press freedom includes, above all, the laws and regulations governing the production, dissemination and consumption processes of the messages delivered by the media as well as how these laws and regulations are implemented. At this point, the following issues in particular stand out:

- The current state of the legal and constitutional regulations; laws, rules and regulations, and criminal laws related to freedom of expression and press freedom; and of the laws that regulate the flow of information
- The operation of self-audit organizations that regulate media activities
- Laws regulating media workers' rights to work and assemble
- The position, before the state, of organizations that regulate media activities and issues pertaining to their autonomy

The following are also topics that need to be addressed: the content of the current laws and whether implementing them makes media organizations more vulnerable to state intervention; to what extent those exercising authority in the name of the state comply with the laws; and the state of the laws in an environment of securitization, formed along with certain social mobilizations, such as national security, religious fundamentalism, division, and so on.

The economic aspect of press freedom is as important as its political and legal ones. The economic dimension of press freedom most generally corresponds to the modus operandi of media-capital relations and the culture of media ownership. The most important themes encountered in this context are as follows:

- The stability of national economy and the transparency of media ownership
- The presence and nature of capital owners' influence on the content of the media
- The sources that fund media organizations and their subsequent print-distribution activities
- A just implementation of the state's advertising policy with a fair distribution of its ads and announcements, and the avoidance of privileging any one particular group
- The presence of the grey economy and its impact on the media content, and media capital as a related issue
- State control of news production and distribution tools
- Whether capital groups from various backgrounds are able to have access and representation in the media
- The monopolization and oligopolization of the media, and the existence of a polarized structure in the sector

The professional culture that encompasses and permeates the entire press and in which members of the media socialize is another dimension affecting press freedom. In this professional culture, the following parameters are factors that have an impact on whether the press is able to operate in a free or a dependent environment:

- The ways media professionals are trained
- The prevailing professional norms
- The standards and codes of media ethics
- The ways of social stratification and hierarchical structuring among media employees

The discussion of press freedom is unfortunately not free from ideological tensions and polarization. Political actors from various ideological backgrounds offer differing definitions of press freedom.

The fragmented nature of the media becomes apparent in the discussions of press freedom as well. Addressing, however, the structural sources of the problems related to press freedom and analyzing this issue in light of Turkey's political, legal and economic structure will present an opportunity to deal with the issue more calmly and from a broader perspective, and not through the prejudices offered by this fragmented structure. In this regard, it will be beneficial to offer a detailed analysis of the different aspects of press freedom, which have been summarized above under main headings, and to point out the areas of structural problems.

THE POLITICAL ASPECT OF PRESS FREEDOM²⁶

Press freedom is not a process or a situation independent of the political sphere in regards to both its sources and influences. The most fundamental prerequisite of press freedom is that the press should never be pressured by the ruling powers. The imposition of this kind of pressure, when it does happen, is encountered in two ways. The first kind of pressure is one directly exerted by civilian or military groups that possess the power tools, while the second is indirect pressure from ideological frameworks surrounding the powers in question, be they civilian or military. A closer look at the nature of the ruling power in Turkey in this regard and the chief characteristics of the official ideology surrounding it will allow us to better identify the obstacles to press freedom in the country.

Any discussion about the nature of political power in Turkey will enable the problems surrounding press freedom to be discussed on

²⁶ A portion of the views and theses discussed under this heading are discussed in greater detail in the article entitled "The Democratization of Media in Turkey", published by the authors Fahrettin Altun and İsmail Çağlar in *Insight Turkey*, Issue 18(2).

more accurate grounds. Power relations in Turkey bear no similarity to conventional power relations established in democratic regimes. The power relations that formed during the single party era (1923-1946) and its political reflexes continued into the multiparty era, with the armed forces and the supreme judiciary constituting actual obstacles to the establishment of a genuinely democratic regime. Political parties -the most important component of the political sphere in a democratic regime- have been subjected to closure attempts by the supreme judiciary while democratically elected governments, since the 1960s, have suffered military interventions (coups and memoranda) several times. The military and bureaucratic tutelage of the political system in Turkey has narrowed the sphere of politics, and accordingly that of political parties, civil society organizations, and the media. The areas where the political power has become concentrated in the history of modern Turkey are not those of political parties and governments, but rather those occupied by the oligarchy, mostly made up of the military and supreme judicial bureaucracy. Although it is a fact that military tutelage has been gradually eradicated from the 2000s onwards and despite the serious steps taken in a democratic direction, the bottleneck created by the parliamentary system in the bureaucracy prevents the political will from taking swift actions.

The bureaucratic oligarchy, which places itself above politics and sees itself as the regime's guarantor, has been the power holder in Turkey that for the most part has restricted the area of the press and drawn red lines for it -these restrictions have not come from those who have been democratically elected by the people. A large part of the press has not stepped outside these red lines, having no qualms about maintaining their editorial policy in line with the status quo.

In this respect, it is difficult to say that the media in Turkey has constituted an opposition to the status quo represented by the armed forces and the supreme judiciary. Moreover, when the pro-status quo powers and political powers favoring change defied one another, the press usually backed the former, thereby supporting military coups.²⁷ When the press found itself in conflict with a government, it urged the armed forces and the supreme judiciary to intervene in the ongoing opposition. The press in Turkey has preferred to favor appointed bureaucrats over elected ones, and military bureaucracy over politicians, and it has had the temerity to pass this behavior off as the “media’s opposition” and “press freedom.” In short, the mainstream media in Turkey has taken sides with the “historical bloc” formed by the trio of military-intelligentsia-bureaucracy, which has historically adopted an elitist ideology bent on modernizing Turkey. The press in Turkey has, thus, adopted a pro-status quo attitude throughout its history. The press, which has sided with modernist elitists,²⁸ has retained this position in the historical process and been part of the social engineering carried out in line with the Kemalist modernization project.

The historical reflexes acquired over time by the press played a big role in this attitude. Among the factors that contributed to the press not opposing those that it saw as representing the state’s official ideology are: the determinant role of the political power in the media-political power relations during the single-party era; the press being perceived as a structure that is supposed to support the regime

²⁷ For the supporting role of the press before and after coups (especially regarding the May 27, 1960 coup), see Davut Dursun, *Ertesi Gün: Demokrasi Krizlerinde Basın ve Aydınlar*, (İşaret Yayınları, İstanbul: 2000).

²⁸ Nilgün Gürkan, *Türkiye’de Demokrasiye Geçişte Basın: 1945-1950*, (İletişim Yayınları, İstanbul: 1998), p. 67.

ideologically; the state controlling the main channels of information; and the fact that press activities were kept tightly supervised by official institutions within a legal framework. The press sided with the state, and not with civil society during the turning points of Turkey's political history (May 27, 1960; March 12, 1971; September 12, 1980; February 28, 1997; and April 27, 2007). The journalistic performance by the mainstream media industry supporting the tutelage system in Turkey has been a natural extension of the state's ideological demands. As a result of the demands in question, the prevailing society model has been stripped of traditional patterns through a Jacobean program of change, one that is introverted, monolithic, classless, and nationalistic.

The Turkish press faced complete restrictions and very strict supervision during military coups; all news articles and op-eds were forcibly adapted to the conditions of the time. Yet, the official control of the media has not been limited to the single-party era or periods marked by military coups. For example, this pressure manifested itself during the Cold War era as "anti-communism," and as an extension of the anti-communist political atmosphere of the day, state pressure visibly mounted on the press on the grounds that "communist propaganda" was being spread. A journalist, consulted on the subject, described the situation as follows:

"Depending on the interpretation of prosecutors and judges, these interpretations were sometimes stretched, which resulted in, say, a phrase, such as 'steel production in the Soviets has increased by 10 percent' being considered communist propaganda. There have been such practices in Turkey. These are practices that may be witnessed when you move the boundaries from the objective sphere to the subjective one. You could not say, for example, 'poverty is on the rise'; this would be considered communist propaganda as well."

Another topic neglected in the discussion of press freedom in Turkey is the restrictions imposed for years in the field of book publishing. Seen as a medium of communication likely to convey “harmful ideas” in the political culture of Turkey, the state made efforts to keep the book publishing sector under constant supervision. During periods marked by extraordinary political interventions, burning books was the most radical of the state measures to eliminate “harmful ideas.”

A witness of such periods describes the situation thus:

“Book burning is not a phenomenon peculiar to Hitler’s Germany alone. Countless books have been burned in Turkey as well just because they were averse to the prevailing understanding promoted by the official ideology of the state.”

Publishers were obliged by law to send every book they published to the office of the attorney general where they were registered so that the books could be checked for malicious content detrimental to the “indivisible integrity between the state and its people.” The phobia of “harmful publications,” etched in the state’s memory, gives away its philosophy of propaganda. According to this philosophy, any idea conveyed to the people through a mass media tool influences public opinion and, therefore, the circulation of published materials harmful to the official ideology should be avoided. This practice turned into a reflex in the long run, and the resulting legal regulations served the purpose of hindering the sale and spread of harmful materials.²⁹ In the recent past, a number of legal changes have been introduced, and steps have been taken so that what used to be a classical state reflex has been transformed in favor of certain freedoms. For example, a long-standing ban on 453 books, in effect since 1949, includ-

²⁹ Buket Candan, “Matbaadan İnternete Türkiye’de Yayın Hayatı ve Kütüphaneler”, *Türk Kütüphaneciliği*, Vol. 25, Issue 4, (2011), pp. 470-493.

ing books by internationally or nationally renowned authors, such as Marx, Lenin, Said Nursi, Nazım Hikmet, Mahir Çayan and Aziz Nesin, was lifted in 2012.³⁰

Despite the restrictions on media activities, or perhaps because of these restrictions, mainstream Turkish media, in the aftermath of the periods marked by coups, did not take a political stance against the military interventions, and often placed emphasis on the military's self-proclaimed role as savior. It continued to cater to the military's portrayal as a power hub that is "the guardian of the regime," "the institution trusted most by the people," "one of the largest and most effective armies in the world," and as an institution that is "respectful of democracy." Another journalist consulted regarding these periods describes them as follows:

"The press failed to criticize any decision or plan of the army for many years. In addition, the press, and especially the mainstream media, had to implement the army's instructions. One of the most recent and striking examples of this took place on February 28, 1997. February 28 was to a large extent a media operation and the whole process was embarrassing for the press. The General Staff briefed universities and the media on the process from its own perspective though this was not incumbent upon it in any way. When the military gave a memorandum to the government, the media would support it. Media representatives would also receive instructions from the military."

One of the greatest obstacles to press freedom in Turkey is the official ideology that has dominated the political culture of the country since the first years of the Republic. The press in Turkey has never acted against the guidelines set out for it by the official ideology; it has even assumed an active role in spreading this ideology.

³⁰ "453 Kitap Artık Yasak Değil", *Sabah*, December 6, 2012.

Another major obstacle to press freedom in Turkey is the culture of fear that has formed over time. Taking shape in parallel with the official ideology, a culture of fear has influenced the language and content of the news stories appearing in the media, and the objective of keeping those fears alive has had an impact on many media activities. Meanwhile articles maintaining the groundlessness of such fears have encountered many difficulties along the publication process and their authors have faced prosecution.

The history of Turkey's press is replete with examples of the above. The journalist previously quoted described the situation as follows:

“İsmail Beşikçi was dismissed from the university he was working because he had written a book entitled *Doğu Anadolu'nun Düzeni* (The Order of the East Anatolia). He was facing charges that would result in tens of years of imprisonment. All he wrote, however, was that there are Kurdish people living in the East and that they have the right to live just like any other people. Religiously observant people were also in trouble for many years. Those who wanted to live their religion as they believed were branded as reactionary bigots and the system tried to suppress them. This received coverage in the media as well.”

“Separatism” and the Kurdish issue, aka “the Southeast problem,” are the primal fears that have been engineered in the political culture of Turkey. A journalist, who said that he served prison time in the 1970s simply because the word “Kurdish” appeared in one of his articles, noted that there were times when it was impossible to come across the words “Kurd” or “Kurdish” in the Turkish press apart from the term “Kurdist,” which was used as an insult, while judicial authorities prosecuted any writer who used the words “Kurd” or “Kurdish” in his or her work. Another journalist sheds light on the repressive atmosphere of the time:

“The legal system in Turkey is not autonomous; it is not a power in itself. It acts in accordance with the general policy of the state. Until the 1990s, saying that there was a Kurdish problem, a serious economic inequality, or that religion was being left out was sufficient reason to be taken to trial. More than being sufficient reason for a trial, you could get in serious trouble for saying so much as ‘Kurd’ or ‘Kurdish.’ The Kurdish population living in Iraq used to be referred to as ‘peshmergas’ so that one did not have to utter the word ‘Kurdish’.”

The culture of fear, generated through “religious fundamentalism” and separatism and acting as one of the obstacles to press freedom, was kept on the agenda as a hot topic by the press. The reason for this was the corrupt relationship of the press with the state and the military.

Turkey went through a relaxation in terms of press freedom during the first term of the Motherland Party (ANAP), which stood out for its liberal policies in practice, even though no real legal changes were introduced. Also during the first term of ANAP, Turkey made progress in terms of constitutional and personal freedoms. However, the struggle with the PKK, which broke out soon after the first ANAP government, gave rise to the introduction of a series of new red lines aimed at the press, and “terrorism charges” emerged as yet another obstacle to press freedom. In 1991, Articles 141, 142 and 163, which had caused very serious violations of freedom in the past, were abolished, and in the same year “communist propaganda” ceased to be a press offense. From this time onwards, the Kurdish issue became a priority, and the press was accordingly supposed to display due sensitivity. Furthermore, it was required to support the state policy of securitization, which relegated the Kurdish issue to one of mere security and terrorism.

Another significant development of the 1990s was that, for the first time in the history of the Republic, a political party that identified itself through Islamic references undertook the duty of establishing the government after a democratic election. The Welfare Party (RP), which established a coalition government with the True Path Party (DYP), was considered illegitimate by the pro-status quo powers that represented the official ideology, and the armed forces intervened. During that time, which came to be known as the “February 28 process,” supporters of the official ideology launched a political campaign based on the notion of “*irtica*” (religious fundamentalism), and the press became a chief catalyst in this process. The press catered to the construction of the “*irtica*” myth, and thereby it allowed itself to be used as a functional political apparatus in the overthrow of a democratically elected government by the pro-status quo powers.³¹ In such an environment the Refah-Yol government was overthrown, and the RP and the Virtue Party (FP), its continuation, were closed. However, a new political party founded by a break-away group from the same political tradition came to power in 2002 and accelerated the EU reforms, which softened the restrictive measures against the press. Due to the structural problems and the restrictive behavior of another group of players, however, as has been explained in this work, these stringent measures could not be completely eliminated.

³¹ For the role the press played in the overthrow of the government on February 28 in the so-called postmodern coup, see Abdurrahman Babacan, *Binyılın Sonu: 28 Şubat Süreklilik ve Kopuş*, (Pınar Yayınları, İstanbul: 2012). For a study examining in detail how the overall media rhetoric was shaped during the February 28 post-modern coup and the variables on which the myth of religious fundamentalism was constructed, see 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. 109-143.



Figure 2: *Hürriyet*, February 10, 2008. After the passage of a constitutional amendment for granting freedom to headscarved students and faculty members in higher education institutions - an amendment proposed by the AK Party and the Nationalist Movement Party (MHP) and approved in the General Assembly with 411 votes -, *Hürriyet* referred to the efforts of these MPs to expand freedoms as “chaos” and used the headline “411 hands raised for chaos.” The headline alluded to a clear regime problem in Turkey. Thus, when freedoms were in question, the press chose to side with the narrow clique that held the political power and governed the Turkish state.



Radikal

18 MAYIS 2006 PERŞEMBE - YIL: 10 - SAYI: 3505 - 40 YK (Kıbrıs fiyatı: 50 YK) <http://www.radikal.com.tr>

Radikal
KPSS
DENEME SERİLERİ
 Serular 18 ve 19'da... Cevap anahtar 22'de

Türban kararını veren Danıştay'a silahlı baskın

Yargıya Türk-İslam sentezci sađdırı



2. Daire üyeleri toplantıdayken bir avukat tekbir getirip kurşun yağdırdı. Bir ölü, dört yaralı

'Avukatım' dedi, üstünü aratmadı

Danıştay 2. Dairesi üyeleri rutin toplantılarından saat 10.00 sıralarında saldırıya uğradı. Aparıldan Aslan adlı saldırgan, biryaza girenken 8-ray cihazı silip vurdu ve avukat öldüğü için sustuğu aragladı. Aslan, 2. Daire Başkanı Mustafa Bırdem ile üyeler Mustafa Yücel Özbilgin, Ayfer Gevrek Özdemir, Ahmet Çobanoğlu ve Ayta Gevrek'e kurşun yağdırdı. Kafesından vurulan Özbilgin, kurtarılmış.

Güvenlik kamerası çalışmıyordu

Ağır yaralı Bırdem hayatı tehlikeliydi olduğu, diğer üç yaralının durumları iyi. Danıştay'daki güvenlik kamerasının çalışmadığı ortaya çıktı. Tekbir getirerek ateş eden Aslan, "Dairesinin kararın Allah'ın ahdlerine uygundur. Allah'ın gazalı Danıştay'ın önünde olmak" dedi. 2. Daire işe türbanla gelip giden öğretmenlerin anaokulu müdürlü olamayacağına hükmetmişti.



Beynel karışıklı ağır yaralı Bırdem Özbilgin, Hacettepe'de öldü.

Üniversitenin satırılı eylemci

Danıştay'ına kana bulayan Alman Aslan, 1994'te girdiği Marmara Üniversitesi Hukuk Fakültesi'nde, "sözcükler soldan satırılı ülkelerden" diye biliniyor. 1977'de doğmuş Aslan, "Büyük Ayşe" lakabıyla anılıyor. Aslan'ın yanında cihatçı arkadaşlar, "milliyetçilik" ne vurgu yapıyor. Babası: "Vatanımı seven bir çocukta, sızma kaçmazdı."

Tepki yağdı
'Saldırı rejimin temeline'

Cumhurbaşkanı Sezzer: "Saldırı, Cumhuriyetimizin onan temel ilkelere. Nefretle kışkırtıldı." Başbakan Erdoğan: "Aklı tam yerinde olmuyor." CHP Lideri Baykal: "Maalesef sızma: kan bulmuş." Başbakan YOK ve Gençlik Kurumu'nun yan sıra birçok sivil toplum kuruluşu saldırıya tepkiyle konuştu.

Saldırıya tepki vermek
 İŞİT BERKAN 37'E
 MURAT YETKİN 6'DA

Bayram öncesi cenaze...
 URUTULMAMASI
 gerekenler
 ALKAN ÖZDEMİR 9'DA

ISSN 1310-9224
 9771310922008

Çörtöğlü: En yetkililer saldırıya cesaret verdi



Erdoğan'ın karışlamadılar Çörtöğlü (ortada) Sever 1. Danıştay'ın kapısında karşıladı, Erdoğan ve Arıncı için dışarıya çıkmadı. Çörtöğlü, Sezer'e yarın saat, Erdoğan ve Arıncı'na ise yalnız beşer dakika gösterdi.

Arıncı'tan tuhaf sözler

'Türban yüzünden yapmışsa, akli ehliyeti olmayabilir'

'Bir kısım basın, yargıçları hedef gösterdi, en üst makamlar cesaret verdi'

Danıştay Başkanı Çörtöğlü, İstanbul açıkladı: "Danıştay'ın kurumsal yapısında işlevi etmiş tehlike, devlet yetkilileri kullanmış en üst makamlarda hıfızlı alındı. Yargıya sığınacakları devlet, büyük yara aldı." Çörtöğlü şöyle dedi: "Saldırı, bizzat sorumsuz basın ve yığın kuraldışı saldırıya hedef gösterme ve devlet adına yetki kullanmış makamlarca da cesaretlendirici, bütünsel be-yenliyle bulunulması sonucu gerçekleşti."

Arıncı'nın sözleri şöyle: Türban nedeniyle yapılmış, en ağır cezayı alır. Bu dışındaki birinin akli ve ceza ehliyetinden şüpheli değil. Yargı sürecinde hukuki ehliyeti olmadığı ortaya çıkabilir.

Vakit
İSTE O ÜYELER

'Vakit' gazetesi zan altına girdi

Erdoğan da kararı kinmişti

Başbakan Erdoğan, Danıştay'ın türban kararını, "Hukuk çerçevesinde tanımlayamıyorum. Başbakan olarak kararın sorumlusu" demedi. Danıştay Başkanı Çörtöğlü, 18 Mayıs'ta hedef gösterilmeden yapılmış, lakıllık uyarısına da, Erdoğan'dan "Bunları hep duyuyorum" yanıtı gelmişti.

Figure 3: *Radikal*, May 18, 2006. *Radikal*'s headline "Turkish-Islamic attack on Council of State" after an armed attack on the Council of State stands before us as an example of instrumentalizing the marginalized religious segments in Turkey for the perpetuation of the prevailing political paradigm. The headline also serves to highlight society's religious segments as targets.

In the era of the AK Party, which began in 2002, significant steps have been taken toward overcoming the hostile state attitude to society's religious segments and the Kurds, designated by the Kemalist ideology as the two enemies in Turkey. It is, however, clear that the distance covered toward an objective media coverage of this reality is simply not enough.

Undoubtedly, press freedom can find a place in a democratic society and political regime. In this context, Turkey's democratization process stands before us as the most important prerequisite for the press to continue its activities freely. The symbolic meaning of press freedom, apart from its actual implications, should not be overlooked. Press freedom in this regard is the most important measure of democratization, and it cannot be achieved without freedom of religion and conscience, freedom of association, and freedom of speech.

As we are dealing with the political dimension of press freedom in Turkey, we should also underline the "culture of threat" that targets journalists and can be described as an attempt at illegal intimidation. These attempts at intimidating members of the media are part of the institutionalized culture of fear in Turkey and are one of the most significant means by which the political power supervises the media. *Nokta* magazine, under the editorship of Alper Görmüş, who helped change the course of Turkish politics by publishing the journals about the coup plot being hatched against the AK Party government, was closed down when the military prosecutor issued an instruction for the magazine's headquarters to be searched. Following this, the editor declared that he had lost the power to publish the magazine as a result of the ongoing smear campaign. Journalists are often threatened by people who claim to be part of the 'deep state,' an occurrence that can lead to self-censorship. Those with insufficient information about Turkey's atmosphere of

political tensions and struggles, and who are unaware of the roles of certain political actors, readily assume that these threats come from the government. They also frequently ignore the leading role played in this process by the groups that have hatched the anti-government coup plots after 2002. In addition, Turkey is confronted by historical realities such as the various cliques embedded in the state that have reorganized themselves after 2002 in accordance with the changing alliances and circumstances, and have hatched up coup plans with the help of assassinations and unsolved murders, as well as the creation of the perception that there is a regime crisis in Turkey by actively using and peddling the myth of “religious fundamentalism.”

The Armenian journalist Hrant Dink, who was prosecuted under Article 301 and then later assassinated, presents an important and illuminating example. The Grand Association of Lawyers, under the chairmanship of Kemal Kerinçsiz, tried to manipulate public opinion when Hrant Dink was being tried -as was the case with the trials of Elif Şafak and Orhan Pamuk. The efforts to create a nationalistic atmosphere were backed by mainstream media. The discovery of ties between Dink, the organization in question and other like-minded bodies -who mobilized the nationalistic segments of society during the hearings in order to pave the way for a variety of anti-government activities-, as well as other groups hatching plots to topple the political power demonstrate the extent to which non-political actors in Turkey can exercise, in this case negative, influence in an already gloomy political atmosphere.

Various groups that advocate similar stances and move in a kind of conjectural alliance have rhetoric and discourses about Turkey that change in nature depending on the changing circumstances.

Milliyet www.milliyet.com.tr **VAKİT İŞTE O ÜYELER** **İŞTE KATILIN ÇEBİNDEKİ SAYFA**

18 Mayıs 2006 Perşembe 30 YK

DİNÇİ İsmail 2. Daire'nin tartışılmalı kararı nedeniyle çok sert yorumlar yaptı. Vakit, 13 Şubat 2006 tarihinde manşetin diğer saldırgan üyelerin fotoğraflarını koydu ve "İşte o üyeler" başlığıyla hedef gösterdi. Dinçisi saldırgan gerçekleştiren avukatı hakkında da 13 Şubat tarihli bir gazete çıktı. >>22'de

HÜKÜMETE DÜŞEN GÖREV

Yüksek yargının en önemli kurumlarından biri olan Danıştay, İnan'la ilgili bir terörist barına sahne olmuştur. Saldırıyı nefrette kiminiz.

Çokları hayatını kaybeden ikinci Daire Üyesi Mustafa Yücel Özbilgin'in barınası terör saldırısına uğradı; yakalanarak ve Türk yargısına bağışlanğı dillendirildi. Saldırıda yaralanan diğer dört Danıştay mensubunun en kısa zamanda bağışına kavuşması için çalışılmaktadır.

Terörün bir yoksak yapı kuramaması Türkiye'de olduğu bir iktidar. Hedef olanak olarak zamanda Türkiye için önemli bir iktidar geliştirilen Danıştay'ın ikinci Dairesi'nin seçilmiş olması, kurulanları Cumhuriyet'in laiklik ilkesi ve laiklik ilkesi konusunda dıyarak köleleştirme yönünde olduğu gösteriyor.

GÖZ AÇICI OLMALI

Ölüm sorumluluğunu hükümetin atması hukukta olağın da Danıştay'a düşüyor (çatırma içinde olması, kaçaklızı Adalat ve Kalkınma Partisi hükümeti) açısından büyük bir soruşturmalıdır. Hükümetin Danıştay ve diğer yoksak yapı organlarına ilişkin, geçen üç buçuk yıl boyunca özellikle laikliğin yoruma konulduğu iddia edilmiştir.

Son saldırı, yüksek yargı karşısında kulandığı olumsuz daha da dikildiği olmasın ve öngörülen uzak bir çözüm yönünde gerektirdiği konusunda hükümet açısından götün aygıt bir işlev görmeye başlamıştır.

Unutulmalıdır ki, çatışma olumsuz olayı algılamak zorunda da yargıdır.

GERİLİM ÜRETMEK YANLIŞ

Laikliği tebliğ ve kamusal alan gibi bakıldığında sivil ve toplum içindeki görüş ayrılıklarını köleleştirme, gidilmesi beklenen gerçeğe değildir.

Anakı bundan önceki gerçeğe değirmek yerine hiç olmazsa bir süre için perileme aşığı olacak bir sivilizasyon yönetmekte hükümetin de görev vardır.

Hükümetlerin anlayışında yazık olmayan çok husus bir görev vardır. Yürütme, ilkeye hakim olan paktokluk ilkesinin denetimindedir ve sorumludur.

Bu ilkesinin bir önceki saklıdırılması, bugün itibarıyla Türkiye'nin en vefatı niteliğinde, salkıyıcı ve istikrarın gereğidir.

"Yakın tarihten itibaren yasadışı aygıt olay bize yeterli kadar yol göstermiş olmalıdır."

LAİKLIĞE KURŞUN

Başkan Mustafa Bîden **Karmandan vurduldu, sağlıđ daumarı yıldı.**

Hâkim Ahmet Çobanođlu **Agama kursunu girdi.**

Üye Ayla Gönenc **Sokk koluunda bir kurşun yarayı var.**

Üye Ayfer Özdemir **Hayatı yaralandı.**

Üye M. Yücel Özbilgin **Kurşun barınasına girdi ve kurşunlandı.**

Alparslan Arslan adlı avukat, Danıştay 2. Dairesi'nin toplantısını basarak "Allahın askeriyiz" diye bağırdı ve tam 11 el ateş etti. Saldırıda üye Yücel Özbilgin öldü, 4 kişi yaralandı. 2. Daire, türben kararı yüzünden hedefteydi

OKULA İrtibada giden bir anaokulu öğretmenini müdavimliği yarıpazayacağına hükümetin işin aygırları diki çevrelerinde olduğu olan Danıştay 2. Dairesi'nin üyeleri, dün sabah saat 09:30'da Ankara'daki Danıştay binasında toplanmıştı. İktidari Barın'a na kayıtlı 28 yarıpazadı avukat Alparslan Arslan, sıray dışarı basarak Danıştay'ın kapısından girişte marka salkıyıcı peçle.

TOPlantının yapıldığı 5. katın çıkan Arslan salkıyıcı okula, "Allahın askeriyiz" diye bağırdığı il işi işi etti. Başbakanlık Bakanlık, Üyeler Özbilgin, Gönenc, Özdemir ve Çobanođlu'na salkıyıcı etti. Mevlevilerden kaçan saldırgan çıkan yoksaklılar polise karşıladı. "Allahın askeriyiz" diye bağıran Arslan, son kurşununda da ateşoldükten sonra yakalandı. >>18'de

Başbakan'ın tavrı, bakanlara protesto

SALDIRI nitirisi Danıştay Bakanlar Cereğeli, işin vürdenme hükümeti eleştirisi, tadıyıcı gelen Bakanlık Erdoğan'ın karamlaması. Hatanıy giden bakanlar da Danıştay üyeleri, "bu işi istemiyoruz" diye tepki gösterdi. >>21'de

Erdogan cenazeye katılacak mı?

BUGÜN öğrele vürdenme Özbilgin için ilk işleri saat 14:30'da. Başbakan Erdoğan da dün gece yarın kavak açılış için Antalya'ya gitti. Erdoğan programını son dakikada deđiştirmece, cenazeye katılmayacak. >>20'de

İçişleri yakın koruma vermedi

2. DAİRE Bakanlık Mustafa Bîden, ölüm tehlikesi altında İçişleri'nden yakın koruma istedi. İçişleri yakın korumaya gerek olmadığını. Danıştay'ın polise karamlaması ve güvenlik karamlamaları anında olduğı ortaya çıktı. >>20'de

Saldırıyı tüm dünya kinadı

ABD Dışişleri, "Dinçilerimiz, bu saldırgan kurbanlarımızın yanında" salkıyıcıları yaptı. AB üyeleri, saldırgan işi "Kabul edilemez" dedi. Fransız meclisi, "Türkiye'de laikliğin bir kalesi hedef seçildi" ifadesindeki karamlaması. >>20'de

MİLLİYET YAZARLARI OLAYI YORUMLUYOR

Güneri Cevreli
Eski bir yarıpazıcı yarıpazıcı "Çobanođlu başkanı" salkıyıcı dahi da bu kurşunlandı. >>18'de

Hasan Cemal
Özdemir öyünme hedefi Türkiye'yi barınasına deđiştirerek demokrasiyi rata kaldırmaktadır. >>18'de

Taha Akşel
Çobanođlu'nun meclise gelmesi salkıyıcı deđiştirilmiştir. En çok da bu kurşunlandı. >>18'de

Melih Akp
Siz bir öyünme hedefi salkıyıcı parlatınız, ç karamlaması habut mikraların çar. >>19'de

Fikret Billa
Cumhuriyet'e karşı öyünme karamlaması gıdirmenim ne kadar hatırlı olduğı ortaya çıktı. >>20'de

Değeri Sarak
İle işi bir hükümet, yarıpazıcı gelen işi vürdenme karamlaması vermedi. Kurşunlan oldu. >>19'de

Can Dündar
Danıştay Bakanlık'ın işi karamlaması dikkatli İktidari, salkıyıcıları bağışlandı. >>19'de

Erdogan: Bunu başörtüsüyle ilişkilendirmeyin

Sezer: Tarihte kara bir leke

Cumhurbaşkanı Sezer, "Bu saldırgan işi deđiştir, laik Cumhuriyet'e salkıyıcı ve tarihte kara bir leke olarak geçecektir" dedi.

Başbakan'ın rahatsızlığı

Erdogan, "Bu öyünme başörtüsü, benim seçtiğim en önemli konularımızdır. Bu öyünme çok yakın bir yaklaşımdır" diye konuştu.

Başbakan Siyasete kan bağıladı

CHP İktidari Başkanlık, "Herkes aklını başına almalsın. Maaşle siyasete kan bağıladı" yorumunu yaptı.

Org Özalık: Akakın bir saldıran

Genelkurmay Başkanı Orgeneral Özalık, "Birçok tarafa doğrudan. Bu alıyıcı saldırganı nefrette karamlaması" mesajını verdi. >>Meşur sayfa 27'de

Tanyeri anlatıyor: 28 yaşında dindar, ülkücü

"Yalnızdım" dedi, ama...

Saldırgan Arslan, bu ifadesinde "Allahın askeriyiz" dedi. Ancak hükümet karamlamaları taklan işi bağışlama salkıyıcı salkıyıcı Arslan'ın yanında işi salkıyıcı karamlaması. >>18'de

ARKADAŞLARI saldırgan Arslan'ın "ülkesini ve saadeti" bir kişi olarak tanımlıyor. 1977'de Bîden'in bir köyünde doğan Arslan'ın babası ilköğretim müdiresi, Marmara Üniversitesi Hukuk Fakültesi'nin bîdresi Arslan, 2001'de İktidari Barın'a na kayıtlı oldu. Kadıköy'deki Yeditepe Hukuk Barın'ın üyesi. >>Sayfa 18'de

Şampiyonun öyküsü **Fransa'ya son dakika uyarısı** **Tatlıses için 18 yıl hapis cezası istendi** **Cannes'da "Da Vinci Şifresi" hısranı**

Sarı Kızıncı karamlaması, ortayda Galatasaray'ın en önemli yarıpazıcı oldu. Meşur 18 sayfa. **Alkan Vürdenme** karamlaması.

Başbakan'ın şampiyonluğunda öyküsü MİLLİYET için Hakan Şükür yarıpazıcı. **YAKIN DÖNEM** salkıyıcıları MİLLİYET'te

ANKARA'DA ortaya çıkan Sakınca salkıyıcı işi salkıyıcı tamamladı. Örgüte yardım ettiği öne sürülen İbrahim Tatlıses hakkında 18 yıl 6 ay kadar hapis cezası istendi. >>16'de

DAN Brown'ın satıcı rekortan kararı "Da Vinci Şifresi" adlı romanında salkıyıcı salkıyıcı İsmail Çimen Erdoğan, salkıyıcıları bağışlandı. >>16'de

Allen Topayın Cannes'dan yarıpazıcı >>16'de

Abbas Güllü yarıpazıcı MİLLİYET'te **MEŞUR** salkıyıcıları **MİLLİYET'te** **MEŞUR**

Figure 4: *Milliyet*, May 18, 2006. *Milliyet* informed its readers of the attack on the Council of State with the headline "Bullet to Secularism," thus enhancing the resuscitated rhetoric of "religious fundamentalism." The headline helped the efforts to revitalize the myth of religious fundamentalism, long abused for the purpose of restricting religious freedoms in Turkey.

Dr. ENDER SARAC'tan
ÖZEL DIYET
REÇETELERİ

DÖRT TAM SAYFA
BULMACA
GAZETESİ

OKAN YALABIK
VE VALİN
POSTERLERİ

POSTA'NIN
CUMARTESİ
İLAVESİ

Türkiye'yi ve insanları çok seviyoruz

POSTA

13 NİSAN 2007 CUMARTESİ SADECE HAFTA SONU 30 YKR (Kıbrıs'ta 75 YKR)

Cumhurbaşkanlığı
seciminin
gecesinde
Genelkurmay
son yılların en sert
açıklamasını yaptı



Laiklik muhtırası

"Cumhurbaşkanlığı seçimi laikliğin tartışılmasına odaklandı. Bu durum Türk Silahlı Kuvvetleri tarafından endişe ile izlenmektedir. Türk Silahlı Kuvvetleri tartışmalara taraftar, laikliğin kesin savunucusudur ve gerektiğinde tavını net bir şekilde ortaya koyacaktır. Bundan kimsenin şüphesi olmamalıdır"

Cumhuriyet aşınırdılıyor
Bölücülükten farkı yok
Sözde değil öze laik
Türkiye'nin düşmanları

Meclis mahkeme mi

Türkiye'nin 11. cumhurbaşkanını seçmek amacıyla dün Meclis Genel Kurulu'nda yapılan oylamaya 361 milletvekili katıldı. Abdullah Gül'ü ilk turda seçilmek için gerekli olan 367 oyu alamayıp 357'de kalınca seçilm için ikinci tura kaldı

CHP oylamaya üçte iki çoğunluk olan 367 milletvekilinin katılımıyla gerekçesiyle seçimin iptali için Anayasa Mahkemesi'ne başvurdu. Mahkeme 2 Mayıs'taki ikinci tura kadar davayı sonlandıracaktır. Oylama iptal olursa Türkiye 45 gün içinde erken seçime gidecek

CHP yoklama istedi
Türkiye'nin 11. cumhurbaşkanlığı seçiminin tarihi için de en kritik cumhurbaşkanlığı seçimi yapıldı. TBMM Başkanı Bülent Arınç, toplantı yerleri sayısı bulunduğu sınırlı olan 15.000 kişi sınırlı sayıda Genel Kurul salonuna giren CHP'lilerin Anadolü seçimine gelmesini için 367 milletvekilinin buluşmasını gerektirdi. Şüphesiz yoklama yapılmasını istedi.

AKP 1 fire verdi
Bülent Arınç, iç tüzük gereği yoklamaya gerek olmasın diye seçimi iptal etmeye çalıştı. Buna sadık Kemal Anadolü ise çaya verdi. İktidarda da oylamaya geçildi. Oylama geçildiğinde Meclis Genel Kurulu'nda 361 milletvekili vardı. 367 sandalyeli olan AKP'den 1 milletvekili de oylamaya katılmadı.

Mehmet Ali Birand Kendi kendinize sorun çıkarttı...
ANKARA - Hürriyet...
3 büyük gazetesinin önceki gündü (13 Nisan) net satışları
POSTA 630 bin 305
Hürriyet 498 bin 769
MARABTA 400 bin 666

Hemen basyurdular
DİP den 2, ANAP tan ve ÇİP den 7'er milletvekili oylamada hazır bulundu. 5 bağımsız milletvekili de oylamaya katıldı. Seçimin sonunda Abdullah Gül'e 357 oyu, 3 boş oyu, 3'ü de geçersiz sayıldı. CHP, ilk tura Meclis'in içinde bir çoğunluğu olan 367 milletvekilinin katılmasını beklerken seçimin iptali için Anayasa Mahkemesi'ne başvurdu.

İlk kez yaşanıyor
Böylece cumhuriyet tarihinde ilk kez bir cumhurbaşkanlığı seçimi mahkeme ile oldu. Anayasa Mahkemesi'nin 11 oyda seçimin iptal edilip edilmediğine karar verecek. Eğer iptal kararı olursa cumhurbaşkanlığı seçimi olmayacağı için Türkiye erken seçime gidecek. İptal karar olmasa Gül, en geç 9 Mayıs'taki oylama turunda seçilecek. 8 Ayarın kutuldu' 16 ve 17. sayılarda

Arınç'ın taktiği
7 CHP'li sandalye
Oylamaya geçildiği sırada Bülent Arınç, Meclis Genel Kurulu'nda Cumhurbaşkanlığı seçiminin iptali için Anayasa Mahkemesi'ne başvurdu. Mahkeme 2 Mayıs'taki ikinci tura kadar davayı sonlandıracaktır. Oylama iptal olursa Türkiye 45 gün içinde erken seçime gidecek.

İşte ilk tur sonucu
KABUL BOŞ GEÇERSİZ
357 1 3

'CUMHURİYET İÇİN ÇAĞLAYAN'

Ankara Tandoğdu Mevlevihane'sinde 14 Nisan'da yaklaşık 1 milyon 400 bin kişiye katıldığı mitingde İstanbul'da düzenlenen 'CUMHURİYET İÇİN ÇAĞLAYAN' mitingine katılan Başbakan Erdoğan, Cumhurbaşkanı Abdullah Gül'e destek verdiğini söyledi. Erdoğan, Cumhurbaşkanı Abdullah Gül'e destek verdiğini söyledi. Erdoğan, Cumhurbaşkanı Abdullah Gül'e destek verdiğini söyledi.

Baykal uyardı
CHP lideri Bülent Arınç'ın cumhurbaşkanlığı seçiminin iptali için Anayasa Mahkemesi'ne başvurdu. Mahkeme 2 Mayıs'taki ikinci tura kadar davayı sonlandıracaktır. Oylama iptal olursa Türkiye 45 gün içinde erken seçime gidecek.

Rauf Taşer Dünkü Meclis
Cumhurbaşkanlığı seçiminin iptali için Anayasa Mahkemesi'ne başvurdu. Mahkeme 2 Mayıs'taki ikinci tura kadar davayı sonlandıracaktır. Oylama iptal olursa Türkiye 45 gün içinde erken seçime gidecek.

Figure 5: *Posta*, April 28, 2007. Abdullah Gül's presidential nomination in the 2007 presidential elections was perceived as a threat to the "secular values" of the Republic because his wife wore a headscarf, thereby placing the secularism-religious fundamentalism debates back in the spotlight. Written by the then Chief of Staff, Gen. Yaşar Büyükanıt, a military memorandum was posted online after midnight on the website of the Turkish Armed Forces (TSK), which became known in Turkey's political history as "the e-memorandum of April 27." The media in Turkey not only did not criticize the military intervention in politics, but used the military's statements in its headlines; the prevailing editorial policy was in open favor of reinvigorating military tutelage.

The segments that laid the groundwork for the rise of the nationalistic wave in and after 2007 and who tried to generate an atmosphere of political instability in Turkey with the help of the press, ended up themselves having to advocate press freedom and political freedoms. Today, the organizations in question and the new developments unfolding in the Hrant Dink murder are revealing more clearly what kind of actors and which media organizations played a part in the murder.³² Jumping to hasty analyses on political and social developments in Turkey and getting carried away by abstract speculations that lack any depth make it difficult to make sense of chains of events that may later evolve and take on a concrete character.

The press, in this context, took up stances in accordance with the changing circumstances and was used as a means of publicizing rhetoric and myths against Turkey and aimed specifically at the country's political power. A superficial consideration of the events in Turkey's recent history has led to a number of inadequate assessments, causing various dimensions of the issue to be omitted.

The banning of access to certain websites is one of the issues that routinely come up when press freedom in Turkey is discussed. Debates around Internet access bans first began in 2007 when Act No. 5651 was passed and YouTube was banned for the first time for the posting of videos that insulted Atatürk. The posting of these videos on YouTube in March 2007 sparked off heated debates. The incident was taken to Turkish courts, and the lawsuit in question resulted in a two-and-a-half-year ban on YouTube. A copyright agency eventually bought the broadcasting rights of the aforementioned videos and removed them from YouTube, thus ending the longstanding ban.³³ In the subsequent process, decisions

³² "Dink Cinayetinin Kamera Kayıtlarını Paralel Gizlemiş", *Yeni Şafak*, June 6, 2015.

³³ "YouTube Yayın Yasağı Kalktı", *CNN Türk*, October 30, 2010.

to block access to YouTube and some other social networking sites led to a new series of debates, and these examples came to be considered as threats against press freedom. Insults to the founder of the Turkish Republic, Atatürk, and senior state officials, national security violations, and the posting of videos that intrude on people's privacy are among the chief reasons why later access bans were imposed. The fact that the social networking sites in question have no offices in Turkey further complicates the communication difficulties between the respective officials and hampers the process. Focusing only on the blocking of access to certain websites causes all other variables to be ignored. And this, in turn, causes the reasons for the bans in question to be ignored most of the time, with the matter being reduced to one exclusively of press freedom, while the situations constituting the ground for the bans are disregarded.

After Prosecutor Mehmet Selim Kiraz was murdered at the İstanbul Court of Justice on March 31, 2015, access to Twitter and Facebook was banned in order to prevent the spread of videos and images that could constitute support for terrorism on social media, which is yet another recent practice that needs to be considered in this context.³⁴ However, bans imposed in situations when public security and the pro-

³⁴ İstanbul Magistrates' Court ruled on April 1 that all the photographs taken and video footage recorded during the murder of Prosecutor Mehmet Selim Kiraz must be removed from Twitter, Facebook and YouTube on the grounds that they contained the propaganda of a terrorist organization. Facebook did not face any sanctions because it acted in compliance with the court order and removed the related content. However, as regards Twitter and YouTube, they did not remove the content in question and because a URL block did not work, İstanbul 8th Magistrates' Court imposed a complete access ban on Twitter and YouTube on April 3. Following the complete access ban, Twitter and YouTube complied with the court order and removed the content in question, and as a result the ban was also removed. Content removal and access bans are legitimate practices that are witnessed in democratic countries on the grounds of public safety and the protection of personal rights. For detailed information about the legal procedures regarding access ban and content removal in Law 5651, which entered into force to prevent crimes committed on websites, such as YouTube, Facebook, and Twitter; see Murat Tumay, "Denetim ve Özgürlük İkileminde İnternet Erişimi", *SETA Analiz*, Issue 133, (July 2015).

tection of personal rights must be ensured are assessed solely from the perspective of freedom, which causes other essential dimensions of the matter, such as “security” and “privacy” to be ignored. Press freedom in Turkey, in this respect, is perceived as an absolute freedom and manipulated as a discourse that provides legitimacy for terrorism and violence.

Some recent amendments to Act No. 5651 enable the removal of harmful content rather than a blanket ban on a website, with the access to the website blocked only when the content in question is not removed. This is an example of a positive development achieved in the area of Internet access in Turkey. Moreover, there have been cases where social networking sites such as Twitter and Facebook are known to have removed some of their content at the request of countries other than Turkey. This is by no means a situation unique to Turkey.³⁵

During discussions of the political dimension of press freedom, criticisms are sometimes directed at the AK Party government’s positions since 2002, when the party first came to power. Although it is primarily “the mindset of the state” itself that is the biggest obstacle to press freedom in Turkey, the AK Party is also criticized for failing to develop a successful press policy and for paving the way for the groups backing it to become newspaper owners. The reason for the latter criticism stems from the fact that a number of daily papers, such as *Sabah* and *Star*, have editorial policies favorable to the AK Party. Presented

³⁵ Social networking sites, such as Facebook and Twitter, becoming public topics of discussion is not a phenomenon peculiar to Turkey. In the transparency reports issued by Twitter, it is noted that requests for content removal are increasing by the day. When considered with factors such as the lack of supervision on digital media and the fact that emerging Internet technologies are making it easier to perpetrate cybercrimes, requests for content removal may be better appreciated. For some figures related to content removal requests made by countries and also their requests for access to certain data, see “Şeffaflık Raporu-İçerik Kaldırma Talepleri”, Twitter, <https://transparency.twitter.com/tr/removal-requests/2015/jan-jun>, (Accessed February 2, 2016).

as an anti-democratic development, this situation has actually eliminated the “monophony” in the press and produced an effect that has given birth to pluralism in the sector. Meanwhile, the fact that a large portion of the visual and print media is owned by figures opposed to the AK Party indicates the existence, if you like, of a “polyphonic environment” contrary to such claims. This can be better appreciated with the sales figures of the newspapers known to have an editorial policy opposed to the AK Party and those who support the AK Party.³⁶

Table 1: Weekly newspaper circulations in February 2010 and February-March 2016		
NEWSPAPERS	February 29-March 6, 2016	February 8-14, 2010
<i>Hürriyet</i>	354,958	455,727
<i>Cumhuriyet</i>	54,873	51,637
<i>Sözcü</i>	280,000	150,875
<i>Sabah</i>	321,283	379,276
<i>Star</i>	104,882	103,084
<i>Yeni Şafak</i>	108,886	100,751

When we compare the sales statistics of the newspapers opposed to the AK Party in 2010 and 2016, the *Sözcü* daily, for example, which has so far displayed its anti-AK Party stance in a radically outspoken manner, has increased its sales by almost 100 percent. In contrast,

³⁶ Through an index developed by Salih Bayram, we can easily note political attitudes toward the AK Party. According to Bayram, the abbreviation of the party’s name as “AKP” or “AK Party” helps us to understand people’s political approach to the party. AK Party supporters mostly prefer “AK Party” to refer to the party, eschewing the abbreviation “AKP” as much as possible. On the other hand, newspapers opposed to the party mostly use “AKP” and develop a discourse in this direction. Bayram conducted a survey where he prepared a table showing which newspapers refer to the ruling party as “AKP” and which refer to as “AK Party,” and revealed through statistics each particular newspaper’s political approach to the party. According to this survey, *Cumhuriyet* uses “AKP” most often. See Salih Bayram, *Türkiye’de Başkanlık Sistemi Tartışmaları: Algılar, Argümanlar ve Tezler*, (SETA Rapor, İstanbul: April 2016), pp. 30-31.

the newspapers that are seen by some to support the AK Party have generally maintained their sales figures with a small decrease in numbers. This fact may be considered an indication that the newspapers opposed to the AK Party have largely maintained their existence and leverage throughout AK Party governments and that the AK Party has succeeded in preserving a pluralistic media environment. During the AK Party era, different views and ideas have been represented in the press and the diversity of the press sector has increased. Those directing criticisms to this recent, increasing diversity perceive it as a threat to their existence, rather than an opportunity to further promote a pluralistic environment in the press. This, in turn, causes the issue to be assessed from a unidirectional perspective and the rift in the media to grow, eventually leading to extreme politicization.

Another issue that merits special attention is the tension between President Recep Tayyip Erdoğan and Aydın Doğan, the owner of the Doğan Media Group. Erdoğan's criticism of Aydın Doğan has been excoriated, especially in the media of the Doğan Media Group, and a president's open criticism of a media mogul in party rallies has been interpreted as an instance of the asymmetric use of power. Under normal circumstances, the confrontation between politics and the media may be evaluated as an asymmetrical equation as the media lacks many of the power instruments at the disposal of politics. But, unfortunately the situation in Turkey is far from this ideal picture. Aydın Doğan has taken on the role of a political actor through his media group and his sizeable economic power, and has thus been creating asymmetric power relations to the detriment of ideal politics. The Doğan Media Group, which became a political actor during Turkey's transformation, assumed the role of an institutional opposition, allowing itself to be turned into a propaganda center at times of so-

cial violence that aimed at eradicating all political mechanisms.³⁷ This particular media group maintained the status quo of “monophony” in its field for a long time, abusing it as a political tool, and adopted a negative attitude toward any kind of innovation that might turn the tables against the status quo. Indeed, Erdoğan’s criticisms of Aydın Doğan serve as an example of criticism that targets the oligarchic media system in Turkey. Throughout his political career, Recep Tayyip Erdoğan has been the target of criticisms, presented in a partisan manner, by the Doğan Group. Politicians publicly blaming journalists may be regarded as a use of asymmetric power in a system where media-politics relations operate within legitimate boundaries. This has to do with the way politicians view the media. Politicians should regard the media not as a political opponent, but rather as an actor participating in the democratic order and delineating its own path. However, the media in Turkey because of its antidemocratic structure and attitude, as has been discussed above, oversteps its boundaries and has taken on the qualities of an “opposition party” that politicians feel compelled to continually talk back to. For the creation of a free media, the media must respect the limits of its legitimacy set out by democracy, and, in return, politicians must stop considering it a political opponent.

The political and ideological dimensions that have been analyzed thus far in order to better appreciate the obstacles to press freedom in Turkey are not enough to explain the problem. The legal framework should be included in the discussion, along with the advantages and disadvantages posed by Turkey’s legal structure during the formative process of the establishment of press freedom.

³⁷ Fahrettin Altun, “Aydın Doğan ve Partisi”, *Akşam*, March 9, 2014.

LEGAL ASPECTS OF PRESS FREEDOM

Although the existing legal regulations regarding the press and the constitutional structure in Turkey may sometimes create opportunities for press freedom to thrive, at the same time, they constitute a basis for the restrictions of press freedom.

The state's attitude towards the press manifests itself on two levels: the first is the administrative regulations about the press, and the second is punitive regulations. The level of administrative regulations lays out the framework of the press activities of the actors that hold the state power while the level of punitive regulations creates a set of sanctions in order to govern offenses committed through the press.

In order to elucidate the legal aspect of press freedom in Turkey, it would be beneficial to briefly delve into the historical course of the field's legal regulations. The framework laid down right after the foundation of the Republic regarding press freedom was shaped in line with the thought that "the press is free within the scope of law." Article 77 of the Constitution dating from 1924 gave the picture of a relatively free press: "The press is free within the scope of law and is not subject to inspection and examination prior to any publication." However, the legal basis for inspecting the press was formed following the introduction, a year later, of the Law on the Maintenance of Order (*Takrîr-i Sükûn*), which became the source of many repressive practices during the single-party era. The law dictated, "The government, with the approval of the president, is authorized to single-handedly and administratively ban any organization, incitement, encouragement, attempts, and publications aimed at promoting religious fundamentalism and rebellion, and violating the country's social order, peace, security, and safety. The government may refer the perpetrators of such offenses to the Independence Court."

These restrictions, introduced in 1924, intensified in 1938, making the conditions of founding a press outlet more difficult. While it was previously possible for a newspaper or a magazine to begin publishing simply with a written statement presented to the concerned state office, this practice was abolished and instead a system of permission was introduced that made it mandatory to put up an economic asset as collateral, and laid down the condition that every newspaper owner must have a university degree. In this period, the government was vested with the authority to close down a newspaper on such vague grounds as a publication posing a threat to the “general political atmosphere of the country.”

With the coming to power of the Democrat Party (DP), Press Law 5680 entered into force. The law aimed at softening the state’s pressure on the press in order to symbolize Turkey’s unity with the “free world.” However, this law was made harsher through new laws (Articles 6334, 6732, 6733) during the ten-year rule of the DP.

Although it is generally agreed upon that an atmosphere of freedom was generated by the military coup of May 27, 1960, the regime of tutelage created through the 1961 Constitution constituted a great obstacle to press freedom. After the introduction of the new regulation, the message that “free expression is the main rule whereas its restriction is an exception and entails legal clarity” was publicized via the press,³⁸ thereby emphasizing that the state would play a passive role in the process of establishing press freedom. However, the active supervision by the judiciary, initiated after May 27 (1960), created an environment in which journalists could be punished for failure to comply with the concept of “national security.”

³⁸ Ahmet Danişman, *Basın Özgürlüğünün Sağlanması Önlemleri: Devletin Basın Karşısındaki Aktif Tutumu*, (Ankara Üniversitesi Basın-Yayın Yüksekokulu Yayınları, Ankara: 1982), p. 9.

Put into effect in the aftermath of the 1980 coup and drafted under the putschists' supervision, the "Constitution of September 12" further deepened this process, giving the limits imposed on the press a more pronounced character.

Following this brief historical background, we can move on to the content of the existing legal texts that regulate the position of the press and the scope of its freedom and engage in a more detailed analysis on the legal aspects of press freedom. The first basic regulation as regards press freedom is based on the "freedom of expressing and disseminating one's ideas," which is clearly explained in Article 26 of the Constitution of the Turkish Republic. Article 26 states the following:

- Everybody has the right to express and disseminate their ideas and opinions individually or collectively by means of speech, writing, drawing, or any other way. Within the scope of this freedom is also giving and receiving news and opinions with no intervention from public authorities. This provision, on the other hand, constitutes no obstacle to placing broadcasts through radio, television, cinema or any similar platform under an obligation to receive state permission.
- The use of these freedoms may be restricted in cases when they are found likely to harm the following: national security, public order, public safety, the fundamental characteristics of the Republic, the protection of the state's indivisible integrity with its territory and nation, the prevention of crimes, the punishing of offenders, the protection of information duly classified as a state secret, the protection of people's reputation and rights and their private and family lives, the protection of trade secrets as designated by law, or the due fulfillment of a trial process.

- The regulatory provisions as regards the tools of disseminating news and opinions cannot be considered as restricting the freedom of expressing and disseminating one's opinions provided that these provisions do not prevent their dissemination.³⁹

We find the second amendment in the Constitution in the context of Article 27, which relates to the freedom of “science and arts and the freedom of disclosing and disseminating such information.” This article purports to regulate the guarantee of the free movement of products of science and arts. According to this article:

- Everyone has the right to freely learn and teach, explain and disseminate science and arts, and is entitled to conduct any kind of research in these fields.
- The right to dissemination cannot be exercised for the purpose of having the first three articles of the Constitution amended.
- The provision in this article does not preclude the entry of foreign publications into the country and the regulation of their dissemination by law.⁴⁰

Another amendment worth mentioning in this regard is an article aimed at regulating press freedom. Dealing with press freedom directly, the article is composed of the following sentences:

- The press is free, and shall not be censored. The establishment of a printing house shall not be subject to prior permission or the deposit of a financial guarantee.
- The state shall take the necessary measures to ensure freedom of the press and information.
- In the limitation of freedom of the press, the provisions of Articles 26 and 27 of the Constitution shall apply.

³⁹ Article 26 of the 1982 Turkish Constitution.

⁴⁰ Article 27 of the 1982 Turkish Constitution.

- Anyone who writes any news or articles which threaten the internal or external security of the state or the indivisible integrity of the state with its territory and nation, which tend to incite offence, riot or insurrection, or which refer to classified state secrets or has them printed, and anyone who prints or transmits such news or articles to others for the purposes above, shall be held responsible under the law relevant to these offences. Distribution may be prevented as a precautionary measure by the decision of a judge, or in case delay is deemed prejudicial, by the competent authority explicitly designated by law. The authority preventing the distribution shall notify a competent judge of its decision within twenty-four hours at the latest. The order preventing distribution shall become null and void unless upheld by a competent judge within forty-eight hours at the latest.
- No ban shall be placed on the reporting of events, except by the decision of a judge issued within the limits specified by law, to ensure proper functioning of the judiciary.
- Periodical and non-periodical publications may be seized by a decision of a judge in cases of ongoing investigation or prosecution of crimes specified by law; or by order of the competent authority explicitly designated by law, in situations where delay may constitute a prejudice with respect to the protection of the indivisible integrity of the state with its territory and nation, national security, public order or public morals and for the prevention of crime. The competent authority issuing the order to seize shall notify a competent judge of its decision within twenty-four hours at the latest; the order to seize shall become null and void unless upheld by a judge within forty-eight hours at the latest.

- General provisions shall apply when seizing and confiscating periodicals and non-periodicals for reasons of criminal investigation and prosecution.
- Periodicals published in Turkey may be temporarily suspended by court ruling if found to contain material which contravenes the indivisible integrity of the state with its territory and nation, the fundamental principles of the Republic, national security and public morals. Any publication which clearly bears the characteristics of being a continuation of a suspended periodical is prohibited; and shall be seized by decision of a judge.⁴¹

In addition to these article, Article 29 of the Constitution that regulates the publication rights of periodicals and non-periodicals is one of the articles that complement the legal framework relating to press freedom. The content of this article is formulated as follows:

- Publication of periodicals or non-periodicals shall not be subject to prior authorization or the deposit of a financial guarantee.
- Submission of the information and documents specified by law to the competent authority designated by law is sufficient to publish a periodical. If the information and documents are found to contravene the laws, the competent authority shall apply to the court for suspension of publication.
- The principles regarding the publication, the conditions of publication and the financial resources of periodicals, and the profession of journalism shall be regulated by law. The law shall not impose any political, economic, financial, and

⁴¹ Article 28 of the 1982 Turkish Constitution.

technical conditions obstructing or making difficult the free dissemination of news, thoughts, or opinions.

- Periodicals shall have equal access to the means and facilities of the state, other public corporate bodies, and their agencies.⁴²

Article 30 of the Constitution is concerned with the protection of printing facilities. “A printing house and its annexes, duly established as a press enterprise under law, and press equipment shall not be seized, confiscated, or barred from operation on the grounds of having been used in a crime.”⁴³ Article 31 also regards the protection of press organizations by referencing the right to use mass media other than the press owned by public corporations. In specific:

- Individuals and political parties have the right to use mass media and means of communication other than the press owned by public corporations. The conditions and procedures for such use shall be regulated by law.
- The law shall not impose restrictions preventing the public from receiving information or accessing ideas and opinions through these media, or preventing public opinion from being freely formed, on grounds other than national security, public order, or the protection of public morals and health.⁴⁴

One of the major issues that affect press freedom is how one is supposed to respond to the news in the press, and under what conditions news articles should be rectified. This issue is dealt with in Article 32 of the Constitution:

- The right of rectification and reply shall be accorded only in cases where personal reputation and honor is injured or

⁴² Article 29 of the 1982 Turkish Constitution.

⁴³ Article 30 of the 1982 Turkish Constitution.

⁴⁴ Article 31 of the 1982 Turkish Constitution.

in case of publications of unfounded allegation and shall be regulated by law.

- If a rectification or reply is not published, the judge decides, within seven days of appeal by the individual involved, whether or not this publication is required.⁴⁵

The legal field regarding the press has been regulated by special laws as a result of the press being considered a special area and of the aforementioned explicit provisions of the Constitution. Press Law No. 5187 was passed by the legislator on June 9, 2004, and was published in the *Official Gazette* on June 26, 2004. The texts of these laws, which serve to guarantee press freedom, have also tried to identify under what conditions press freedom can be restricted.

According to the provisions in the Turkish Constitution that pertain to the restriction of freedoms and rights, the restriction of press freedom can only be regulated through law. When we examine the investigations and prosecutions launched against journalists for press activities, a number of laws and articles that introduce restrictions and criminal liabilities regarding press freedom can be discussed under three main headings:

- The articles in the Turkish Penal Code (TCK) No. 5237 that entered into force on June 1, 2005 after being published in the *Official Gazette* on October 12, 2004
- The articles in the Anti-Terror Law (TMK) No. 3713, published in the *Official Gazette* on April 12, 1991
- The articles in the Press Law No. 5187, published in the *Official Gazette* on June 26, 2004

⁴⁵ Article 32 of the 1982 Turkish Constitution.

The first category includes the Turkish Penal Code's Article 125, which addresses the issue of "defamation";⁴⁶ Article 132 that addresses the "violation of communicational secrecy"⁴⁷; Article 133 that regulates "tapping and recording of conversations between individuals"⁴⁸; Articles 135 to 138 that contain regulations about protecting personal information⁴⁹; Article 134 whose heading is "Violation of Privacy"⁵⁰; Article 267 that addresses the offense of "aspersion"⁵¹; Article 277 that regulates "influencing judicial bodies"⁵²; Article 285 that addresses the issue of "violation of secrecy"⁵³; Article 288 that deals with the problem of "attempt to influence a just trial"⁵⁴; and Article 329 that deals with the "exploitation of governmental secrets and disloyalty in government services."⁵⁵

The second category, that is, the Anti-Terror Law 3713, which entered into force in 1991, still retains Article 6, which deals with the issues of "disclosure and publication" regarding the restriction of press activities⁵⁶; Article 7 about a "terrorist organization"⁵⁷; and Article 14 about "keeping the identities of informants secret."⁵⁸

⁴⁶ Turkish Penal Code Article 125. For the full text of the article, see Appendix.

⁴⁷ Turkish Penal Code Article 132.

⁴⁸ Turkish Penal Code Article 133.

⁴⁹ Turkish Penal Code Article 135; Turkish Penal Code Article 136; Turkish Penal Code Article 137; Turkish Penal Code Article 138.

⁵⁰ Turkish Penal Code Article 134.

⁵¹ Turkish Penal Code Article 267.

⁵² Turkish Penal Code Article 277.

⁵³ Turkish Penal Code Article 285.

⁵⁴ Turkish Penal Code Article 288.

⁵⁵ Turkish Penal Code Article 329.

⁵⁶ Turkish Anti-Terror Law, Article 6.

⁵⁷ Turkish Anti-Terror Law, Article 7.

⁵⁸ Turkish Anti-Terror Law, Article 14.

The articles in Press Law No. 5187 are another category where we see legal regulations regarding the restriction of press activities. More specifically these are Article 11 relating to “criminal liability”⁵⁹; Article 13 relating to “legal liability”⁶⁰; Article 14 relating to “the right of rectification and reply”⁶¹; Article 19 relating to “influencing a trial”⁶²; Article 21 relating to “not disclosing identities”⁶³; and Article 26 relating to “duration of lawsuits.”⁶⁴

When investigations and criminal suits launched against journalists and managing directors are examined, we find that journalists face investigations and prosecutions mostly because of the following articles, which are also frequently cited as the grounds for the efforts to restrict press freedom: the Turkish Penal Code’s (TCK) Article 125 which regulates the issue of “defamation”; Article 132 which regulates the issue of “violation of communicational secrecy”; Article 133 which regulates the issue of “tapping and recording of conversations between individuals”; Article 134 which regulates the issue of “violation of privacy”; Article 266 which regulates the issue of “aspersion”; Article 276 which regulates the issue of “influencing judicial bodies”; Article 285 which regulates the issue of “violation of secrecy”; Article 288 which regulates the issue of “attempting to influence a just trial”; and Article 329 which regulates the issue of “exploitation of governmental secrets and disloyalty in government services.” Besides these articles of the Turkish Penal Code, two other articles are often cited

⁵⁹ Press Law, Article 11.

⁶⁰ Press Law, Article 13.

⁶¹ Press Law, Article 14.

⁶² Press Law, Article 19.

⁶³ Press Law, Article 20.

⁶⁴ Press Law, Article 26.

by judges and prosecutors as grounds for restricting press activities: Article 6 of the Anti-Terror Law entitled “Disclosure and Publication,” and Article 11 of the Press Law entitled “Criminal Liability.”

Protected by the 1954 European Convention on Human Rights (ECHR), to which Turkey is a party, and the aforementioned articles of the 1982 Constitution, press freedom has still not reached a desired level in Turkey in spite of many rulings by the European Court of Human Rights (ECHR), all the protective articles mentioned thus far, and all the amendments the government of the Turkish Republic has made to expand fundamental rights and freedoms as part of the EU harmonization laws. The protective articles hardly exercise any real impact, and in practice, a large number of lawsuits are brought against journalists with the threat of criminal sanctions.

Some of the investigations against journalists by the public prosecution office result in rulings that state that there are no grounds for prosecution, and others end with a demand that a criminal case be opened against journalists. Indictments prepared by public prosecutors are accepted by courts, and as a result, journalists are prosecuted in dozens of lawsuits opened against them as a result of their press activities. These lawsuits are either dropped as they become invalid with the passage of time, or the journalists are acquitted because the offenses they were charged with never occurred or there was insufficient evidence. In some cases, however, they are convicted. Regardless of their outcome, when the nature and impact of such lawsuits are examined, it becomes evident that their large number and the resulting immense moral pressure hamper journalists’ efforts to do their job. These series of court cases have turned into a kind of tool to restrict the press; as for the journalists caught in these cases, they are unable

to do their job properly as they are forced to shuttle between prosecutors' offices at the stage of investigation and courts at the stage of prosecution for their testimonies.

Lawsuits brought against journalists are not limited to those filed by politicians. The lawsuits brought against journalists by Fetullah Gülen and Aydın Doğan have reached a substantial number. As was pointed out in Chapter One, the lawsuits by Fetullah Gülen alone reportedly reached 1,500 as of April 2014.⁶⁵ As is the case with Gülen, the lawsuits against journalists by Aydın Doğan also spark criticisms that press freedom is subjected to one-sided interpretation.⁶⁶ Journalists also face lawsuits from other members of the public, an added disruption to their journalistic activities. These cases give rise to a very negative image in terms of press freedom and call for legal measures to minimize the bureaucratic reflexes of the courts involved while also urging the legislators to bring forth new regulations to this end.

The problems encountered regarding press freedom in Turkey largely stem from the country's judicial structure and the resulting bureaucratic oligarchy whose existence and attitudes evolve in line with the latter. Those vested with judicial power find encouragement sometimes in the laws and sometimes in the loopholes in order to bring lawsuits against those who produce ideas or news in the press. The ideological backgrounds of those who possess the judicial power and their understanding of power are the biggest practical threats against press freedom. According to the statement of one of the journalists interviewed for this study, it is difficult in Turkey for journalists to criticize the Supreme Court of Appeals, because the judicial

⁶⁵ "Özgür Basına Gülen Darbesi", *Yeni Şafak*, January 4, 2015; "Fetullah Gülen Gazetecilere 1500 Dava Açtı", *Star*, April 9, 2014.

⁶⁶ "Aydın Doğan'dan Medya'ya Dava Yağmuru", *Sabah*, October 10, 2015.

bureaucracy has many articles at its disposal to bring lawsuits against them, and even when there is no conviction at the end, the overall judicial process gives journalists a lot of trouble. Additionally, a member of the press who is under trial can sometimes be perceived as a burden by his or her employers.

When we talk about the legal aspect of press freedom, we are faced with the restrictive articles of the Turkish Penal Code and the Anti-Terror Law that ostensibly do not promote freedom but rather are based on an understanding of security shaped by a military perspective, one that has been fed on reflexes of the Cold War type. These articles, whose content has already been provided above, can be easily observed to contradict so many articles in the Constitution that were instituted with the claim of guaranteeing press freedom. A number of articles that contained restrictions to varying degrees in accordance with security reflexes have been relatively improved through recent amendments. To this end, the amendments made in 2002 to Articles 7 and 8 of the Anti-Terror Law No. 3713, mitigated restrictions on freedom of thought and expression along with several other significant steps taken towards the expansion of freedoms. Additionally, Article 8 of the Anti-Terror Law entitled “Propaganda against the state’s indivisibility,” which constituted an obstacle to freedom of expression and caused Turkey to be sentenced by the European Court of Human Rights (ECHR), was abrogated in order to eliminate all the lawsuits that had a negative impact on Turkey’s international standing (Law 4928, Article 19/b).⁶⁷ Along with these developments, long-term broadcast bans, also based on the Anti-Terror Law, were frequently

⁶⁷ *Sessiz Devrim: Türkiye'nin Demokratik Değişim ve Dönüşüm Envanteri 2002-2012*, (Kamu Düzeni ve Güvenliği Müsteşarlığı Yayınları, Ankara: 4, 2013), pp. 167-168.

criticized, emphasizing that this area also required amendments. The amendments introduced in July 2012, known as “The Third Judicial Package,” overturned the long-term broadcast bans as part of freedom of expression and media freedom.⁶⁸ Press crimes were narrowed in scope as a result of the amendments made to the Press Law, and the duration of suspension for publications that published articles with criminal elements was lowered to “1 to 15 days” from “3 days to 1 month.” The prison terms set forth by the law for those responsible were also reduced to “1 to 3 months” from “1 to 6 months.”⁶⁹

The notorious Article 301 deserves special reference. This article has been one of the greatest obstacles to freedom of expression and media freedom. Although the AK Party government, with an amendment introduced in 2008, stipulated that no lawsuit could be opened based on this article without prior permission of the minister of justice, its persisting existence in the Turkish Penal Code has been hindering efforts to allow press freedom to be fully operational.⁷⁰ Under Article 301, 254 people were prosecuted in 2007, 435 in 2008, and 425 people in the first three quarters of 2009. Prosecutors demanded approval from the Ministry of Justice for 425 lawsuits -especially after the amendments were introduced-, of which 358 lawsuits were dropped, while the Ministry gave authorization for only four. In 2008, the wording of the article was also changed, with the “Republic of Turkey” replacing the “State of the Turkish Republic” and “Turkish nation” replacing

⁶⁸ Ibid., p. 95.

⁶⁹ Ibid., p. 168.

⁷⁰ Article 301 of the Turkish Penal Code was amended in order to strengthen freedom of expression, while launching an investigation was made subject to the Justice Minister’s prior permission and the upper limit of the sentence was reduced. [Law 5759 dated April 30, 2008, *Official Gazette*: 8/5 (2008, 26870)].

“Turkishness.” Bringing a lawsuit against a person based on this article became subject to the prior permission of the Ministry of Justice, and the upper limit of the penalty was also reduced. This amendment to Article 301 largely solved the problem and thwarted arbitrary efforts to instigate similar lawsuits in subsequent years.

Article 216 of the Turkish Penal Code is also often used as grounds for lawsuits against journalists. Formulated around a vague phrase, such as “provoking people to be rancorous and hostile,” this article emerges as one of the serious threats against press freedom. Its existence makes it difficult to write news reports about issues such as the mandatory military service and the Kurdish issue.

It is necessary to point out that members of the judiciary are not limited solely by laws, but also by their ideological prejudices that lead them to restrict press activities. A survey conducted by the Turkish Economic and Social Studies Foundation (TESEV) on judges in Turkey is very revealing. Asked, “If you had to make a decision, would you rule in favor of the state or the people?” more than 60 percent of the participants replied that they would rule in favor of the state.⁷¹ It thus becomes clear that judges in Turkey may adopt an ideological stance in certain critical matters, which in turn indicates that freedoms can be restricted arbitrarily and as a result of ideological interpretations.

Although press freedom in Turkey is under the guarantee of the Constitution, current practices clearly show that this guarantee is

⁷¹ Mithat Sancar, Eylem Ümit Atılgan, Algılar and Zihniyet Yapıları, *Adalet Biraz Es Geçiliyor... Demokratikleşme Sürecinde Hakimler ve Savcılar*, (TESEV, İstanbul: 2009). For a critical work on how the judiciary in Turkey remains under the heavy influence of the statist ideology and how it prioritizes the state over the protection of individual rights and freedoms, see Vahap Coşkun, “Yargının Çıkmazı: Devlet mi Adalet mi?”, *SETA Analiz*, Issue 19, (April 2010).

being ignored. The judiciary's current mindset is set on preventing anybody from overstepping the red lines set by the official ideology, rather than viewing the press as a mechanism of generating ideas and news articles for the public benefit.

Judicial institutions should exercise a narrow interpretation of the provisions regarding the restriction of press freedom in the disputes brought before them, and use, in a limited way, the broad discretion allowed by law. Obstruction of freedoms in the name of perpetuating the archaic official ideology and the status quo undoubtedly contradict the *raison d'être* of the judiciary as well as expose Turkey to hostile rulings by the ECHR regarding freedoms and restrictions.⁷²

The legislature articulating legal regulations in accordance with the balance of benefits and the principle of proportionality is never sufficient on its own since during the application of abstract legal regulations to concrete events in order to ensure justice, there is a lot incumbent on the judicial organs applying the regulations. Indeed, even the most impeccable legal regulations require the interpretation of the members of the judiciary who will be applying them and thus inadvertently may cause the system to function in a way that does not reflect the will of the legislature. The fundamental problem in the judicial practice in Turkey, in general, and in the way the Press Law is applied, in particular, is that those implementing the laws do not have perspectives mature enough to think that freedoms are essential and restrictions are exceptional. No doubt, this situation may

⁷² The European Court of Human Rights (ECHR) narrowly interprets the reasons for restriction cited in Article 10/2 of the European Human Rights Convention since these reasons involve vague and wide discretionary powers, strongly emphasizing that press freedom is the norm whereas restrictions are exceptions. See *Sunday Times* and The United Kingdom, Application No. 6538/74.

change when other factors positively affecting press freedom take hold, while the improvement of the political and economic structure and the construction of a healthier professional media culture, will prevent judges with a restrictive mindset from carrying on their negative behavior. Having briefly discussed the political, ideological and legal aspects of press freedom, we will now address the economic and professional aspects.

ECONOMIC PROCESSES HAMPERING PRESS FREEDOM

The freedom of the press ensures that a press organization is able to operate immune from any restrictive effect that may come from the establishment. Press freedom is gravely threatened when the actors that finance the press organizations utilize the press for their own economic interests. Therefore, “press freedom cannot be anything more than an assumption unless its legal guarantee is complemented by economic assurance.”⁷³

The principle of “transparency” applies particularly when the press organization has relations with its investor, fund owner, or the financial magnate providing it with the necessary capital. In order to secure itself a platform on which to thrive, any media product requires economic capital. If an unhealthy relationship is established between the capital and any media product it is as a direct result of funding, which narrows down the area of those producing content for the media, severely hampering press freedom as a result. A media establishment where the content-producing members operate based on the interests of the capital owners means that the content and rhetoric produced

⁷³ Ahmed Danişman, *Basın Özgürlüğünün Sağlanması Önlemleri: Devletin Basın Karşısındaki Aktif Tutumu*, (Ankara Üniversitesi Basın-Yayın Yüksekokulu Yayınları, Ankara: 1982), p. 3.

will not be able to undergo an untrammled development. One of the most important conditions for ensuring press freedom is that a media product should be able to be produced without being instrumentalized for the economic interests of the capital owners.

The media in Turkey was economically dependent on the state for a very long time, with the state's advertisements and subsidies acting as the press' main economic source. In the era called "the era of families," when the newspapers in Turkey were owned by only a handful of families, the state's relationship with the press was not limited to ideological supervision alone as the state made significant contributions to the financing of the press. With the influence of the neo-liberal economic structure that was introduced after 1980, new financial actors entered the media world, and this time economic actors operating in various fields became media moguls.⁷⁴ This resulted in the Turkish media's oligopolization in an increasing manner after the 1990s. Those who exercise influence in the media sector have been investing in a number of different commercial sectors and thus strengthening their positions through cross-investments. These actors enter the media sector in order to maximize their profits, and tacitly view press organs as nothing but mere instruments. This undue mission assigned to the media envisages it as a power that will open up new fields for other economic activities and secure lucrative deals for these businessmen-turned-media moguls instead of profiting from media activities alone. This does not mean that the

⁷⁴ The prevailing trend in the Turkish media until the 1980s was for families to own media outlets. The İlicak, Karacan, Nadi and Simavi families were the most significant families that owned newspapers. In the 1990s, with the development of private TV channels in the Turkish media, where commercialization was the dominant trend, the conglomeration trend started to become stronger with the era of family ownership being replaced by the monopolistic media market that exists today.

nature of the relationship between media and the state established after 1980 has changed. Media owners maintained their expectations of receiving subsidies from the state after 1980 as well.⁷⁵ The economic actors with media power became the chief benefactors of shares from the privatizations in the 1990s in addition to receiving shares in the competition for state tenders; and when they failed to secure shares from privatizations, they mounted an effective opposition to the political power, which they held responsible for their failure to secure the shares.

After 2002, new actors became involved in the media sector and they positioned themselves against the portion of the media that labeled itself “mainstream media.” The existence of different capital groups in the media is surely beneficial in terms of preventing monopolization and oligopolization.

Although the existence of these new actors shook up the dominant ideology of the media sector, it has failed to sufficiently contribute to the resolution of the traditional problems experienced in the media-capital relations. It is not possible to state that the media-capital relations in Turkey have been operating in a transparent manner. This stands before us as a theme that needs to be considered in press freedom discussions. A journalist, consulted on the subject, stated that the problem of a capital owner dominating a press organization can be resolved if capital-press relations are regulated transparently and if the media is supervised by civil society.

⁷⁵ For a work on the beginning of conglomeration in the Turkish media, which gained momentum in the 1990s, and the economics-politics of the media in general, see Ceren Sözeri and Zeynep Güney, *Türkiye’de Medyanın Ekonomi Politikği: Sektör Analizi*, (TESEV Rapor, İstanbul: 2001); for a work on business tycoons owning newspapers, state subsidies for media ownership and the conglomeration trend, see Hıfzı Topuz, *2. Mahmut’tan Holdinglere Türk Basın Tarihi*, (Remzi Kitabevi, İstanbul: 2003).

The revelation of the economic sources that were involved in the foundation of a press organization and that continue to fund its printing-distributing activities to the present is an important step that needs to be taken in this direction. In addition, the state must execute its advertisement policy justly by distributing ads and official declarations equitably, a move that will prevent the formation of a privileged class. Furthermore, the role of the shadow economy in the world of media capital must not be ignored. Although a number of positive steps have been taken in this direction since 2002, it is true that there is still a considerable distance that needs to be covered. We also need to point out that, apart from all of these factors, economic stability is a very significant component when we are talking about press freedom. A country that is economically problem-free will enjoy greater press freedom compared to one that is economically unstable. This is to say, Turkey's economic stability in recent years has positively contributed to its press freedom. The aforementioned observations and suggestions can help establish a "polyphonic" structure in the Turkish press.

THE RELATIONSHIP BETWEEN PRESS FREEDOM AND PROFESSIONAL CULTURE

Another important aspect of press freedom is the structure of the professional culture in which media products are produced, published, broadcast, and distributed. The professional culture affecting the activities of members of the press in Turkey consists of the dominant norms that regulate professional activities, the standards of media ethics, the hierarchical structure of the media and the training of media professionals.

When we look at the standards of media ethics formulated in writing, it becomes evident that the written standards would enable the creation of an ideal professional culture. Many media organizations declare their media ethics standards and stipulate the standards they will uphold in their editorial and broadcasting policies. For example, the Professional Principles of the Press (*Basın Meslek İlkeleri*) released by the Press Council contain a number of normative frameworks such as the following:

- In print and broadcast media, nobody can be condemned or humiliated because of their race, gender, age, health condition, physical disability, social status, and religious beliefs.
- Nothing can be published or broadcast that would confine freedoms of thought, conscience and expression, or undermine or offend public morals, religious sentiments, and the basic foundations of the family.
- Being a public profession, journalism cannot be abused for immoral ulterior goals or interests.
- In a publication or broadcast no phrases can be used that go beyond criticism and humiliate, insult, or slander people and organizations.
- No publication or broadcast can intrude on people's privacy unless necessitated by public benefit.
- News reports whose sources are well within the limits of legitimate journalistic scrutiny cannot be published or broadcast unless thoroughly investigated or affirmed.
- Information provided to be kept confidential cannot be published or broadcast unless seriously required by public benefit.
- No media outlet can present to the public a media product produced by another outlet unless the distribution process of that

product has finished as doing otherwise would give the false impression that it was produced by the one presenting it first.

- Special attention must be paid to clearly stating the sources of special products purchased from agencies.
- Unless openly declared an offender by judicial organs, nobody can be declared so in any publication or broadcast.
- No action considered a crime by laws can be attributed to people unless there are convincing and reasonable grounds to do so.
- Journalists must protect the confidentiality of their sources.
- Journalists must shy away from resorting to methods and attitudes that would cast a shadow on the prestige of their profession.
- Journalists must avoid publishing or broadcasting news that would encourage violence and bullying and hurt human values.
- Journalists should respect the time and date set for the publication or broadcast of a news story.
- Media organs should respect others' rights to reply and their right of rectification if a report these organs published or broadcast contained inaccurate information.⁷⁶

However, when we examine the history of the press in Turkey, we can clearly see glaring contradictions between the standards and the actual publications and broadcasts. Most of the time there is a large gap between the professional practices in the media and the written standards allegedly informing them.

Common practices of gathering information, turning it into a news story, choosing which pieces to publish or broadcast, establishing a hierarchy between the published/broadcast stories, and distrib-

⁷⁶ "Basın Meslek İlkeleri", Basın Konseyi, <http://basinkonseyi.org.tr/basin-meslek-ilkeleri>, (Accessed January 25, 2016).

uting them are decided by established givens of the field. The most important factor in this process is the expectations of the journalist regarding the purpose and effect of the news he or she is reporting. News is primarily conceived as a means of attracting widespread attention and even stimulating sensation rather than as translating a reality into the language of the press. In this regard, there is a prevailing sense in the press that a reporter may tamper with the language and content of a news article and that it is acceptable to “spice it up” so that it may create a greater impact. Political, ideological, economic and cultural biases can become involved in this “operation.”

Producing news fast is of the utmost value in dominant journalistic practices, while the ever-growing global reach of the Internet makes this demand continuously more urgent. The main goal of news writing now is for it to be available in media outlets as quickly as possible. These dominant journalistic practices narrow, from the inside, the range of motion for reporters directly working in the press sector, causing journalists who try to stay clear of these conventions to be considered unsuccessful.

Another internal factor making it difficult for journalists to freely engage in their profession is the vertical and sharp hierarchical organizational structure in the press, and, as a result, the great transformation that a news report -after being written by the reporter- is sure to undergo until it is published by the editor. The reporter knows very well that the news he or she has written may be changed and cannot do anything about this; therefore, he or she writes the story in a way that will require the least amount of editing while the editor, managing editor or editor in chief, when editing a text, consider -besides their own perspectives- the political stance of the media outlet’s owner.

The pressure and restrictions on the press caused by this professional culture have the greatest impact on headlines, subheadings and the texts of news stories and captions. A journalist we interviewed noted that this pressure is most felt in the newspapers' first pages. According to him, columnists -columns, as is known, are on the inner pages- are pressured neither by the state nor by their media outlets.

“There are exceptions to this; some writers want to have close relations with the state, that’s why they establish relationships with certain people and institutions. And these relationships can restrict them. If you are far from the state, it will not want anything from you because it knows that it cannot use you. What I mean by pressure here takes the form of demanding that you write certain things in your columns with no pressure involved.”

All these factors that permeate the professional field of the media constitute the reasons why the sector’s professionals are censored at the most basic level and why most of them engage in self-censorship. George Orwell said that censorship is something that is done “voluntarily” most of the time.⁷⁷ Operating side by side with the state’s censorship, self-censorship -or in Orwell’s words “voluntary self-censorship”- is imposed by media organizations on their staff or is something journalists impose on themselves and has, to a great extent, to do with the impositions of the professional culture. When press freedom is being discussed in this regard, we should not ignore the aspect of professional culture, which is most often neglected.

Following this chapter, which has discussed the overall progress and various aspects of press freedom in Turkey, the next chapter will

⁷⁷ George Orwell, “The Freedom of the Press Orwell’s Proposed Preface to ‘Animal Farm’”, http://orwell.ru/library/novels/animal_farm/english/efp_go, (Accessed January 25, 2016).

examine how problems related to press freedom become manifest based on concrete examples and current debates. The chapter will also discuss reviews on Turkey in international reports regarding press freedom, since these reports are highly controversial. The chapter will go into detail regarding the criticisms in these reports and the various aspects of their suggestions. This will shed light on the extent to which the content of these reports is reflected in the reality on the ground, helping us thus conduct more rational analyses.

THREE CURRENT PROBLEMS & TURKEY'S PRESS FREEDOM ISSUE IN INTERNATIONAL REPORTS

- “ The most fundamental issue with these reports is that they are produced without a sufficient level of familiarity with Turkey's modernization and democratization process, power relations, and media culture, and hence they try to identify the sources of the press freedom problems in the wrong places.

When the political-ideological, legal, economic and professional sources of the problems in the field of press freedom in Turkey are considered, it will become apparent that attempts at limiting and restricting the activities of the press should not be seen as isolated events. Besides this, for a better understanding of the structural problems, individual cases should be considered from a thematic perspective. Acting on this, in the current chapter, we will deal with the most notable topics in the press freedom debate. The primary objective of this chapter is to point out how the structural problems laid out above turn into actual, concrete problems as part of the daily operating of the press. Another benefit of focusing on the current problems in addition to the structural ones is that doing so exposes the drawbacks of approaching the issue of press freedom through the narrow viewpoint of political competition. In accordance with this objective, we will discuss examples of violations and threats, which have so far not been brought to the fore as part of the press freedom debates since it is thought that their political returns are paltry.

The chapter has two sections: the first will discuss how international organizations approach Turkey's press freedom issues with a detailed evaluation of the issues contained in these reports, and the second will address the impact of certain structural problems on the press freedom in Turkey. These problems will be analyzed in light of up-to-date examples.

PRESS FREEDOM IN TURKEY ACCORDING TO INTERNATIONAL REPORTS

Here, we will briefly touch upon the main arguments in the international reports that contribute to the formation of the prevalent and dominant images when press freedom in Turkey is discussed. This will be followed by an analysis of the structural sources of the problems experienced in the field of press freedom.

Examples such as the following have been used in assessments of Turkey in international reports: the claim that Erdoğan took on dictatorial traits during the Gezi Park Violent Protests of 2013; the widening scope of the dissemination of this “dictatorship” rhetoric after the local elections of 2014 and the presidential elections of August 2014; and news reports and statements that attempted to portray another kind of relationship between DAESH and Turkey. Such assessments reveal the necessity for the existence of a normative legal framework, on the one hand, and, on the other, demonstrate how these reports on Turkey have been turned into a political tool to put pressure on the country.

There are many international reports that deal with the limitations and interventions faced by the press in an array of countries. Prepared by various international non-governmental organizations, these reports also address Turkey's record of press freedom. In these reports, Turkey has been listed under various categories over the years and placed side by side with countries where, for instance, press freedom is “not developed enough,” where the press is “partly free,” or simply “not free.” It is a well-known and criticized fact that organizations such as FH, CPJ, Reporters Without Borders (RSF) and some other global organizations are riddled with major problems regarding the methodology they employ while assessing Turkey. Topping the list

of criticisms, just to name a few, are issues such as the following: the titles of the chapters reserved for Turkey for the most part do not reflect their true content, thereby taking on a political outlook rather than being analytical assessments; individual cases rather than general contexts are under the spotlight; and the institutions and people who allegedly have been interviewed are not accurately cited, which poses a serious problem in terms of transparency.

Although the cited examples may be negligible in light of the structural problems to be brought forth in detail below, the fact that the reports in question, in cases that are presented as obstacles to press freedom, directly launch into analyzing a case, taking it at face value, without trying to probe into the true nature of the situation, makes it impossible to carry out a truly analytic assessment of the problems in addition to blocking the way to real solutions. Therefore, the failure to identify the problem's real sources means seeking solutions in the wrong places. The most fundamental issue with these reports is that they are produced without a sufficient level of familiarity with Turkey's modernization and democratization process, its power relations, and media culture, and hence they try to identify the sources of the problems facing press freedom in the wrong places.

International organizations bring up the issue of press freedom in the world at certain intervals and carry out assessments within the framework of certain parameters created as part of a certain methodology. Countries' press freedom performances are then discussed in light of this framework, and the situations that expand or restrict this freedom are analyzed. According to the World Economic Forum's (WEF) *Global Competitiveness Report*, dated October 8, 2008, the countries topping the list of press freedom are the United States,

Switzerland, Denmark, and Sweden, whereas Turkey ranks 63rd after Mauritius, Panama, Costa Rica, Mexico, and Croatia.⁷⁸ Turkey ranked 61st among 131 countries in the 2009-2010 report.⁷⁹ Turkey maintained its rank in the next year's report, but this time among 139 countries.⁸⁰

According to the *Global Information Technology Report* issued on March 26, 2009 and prepared by the WEF to determine countries' level of readiness for the emerging network society, Turkey again ranked 61st in the overall assessment.⁸¹ In this same report, it is worth noting that the top three countries again were Denmark, Sweden, and the United States. In the 2009-2010 report, where Sweden ranked first, Turkey went back eight places and ranked 69th.⁸² However, in another assessment made by the WEF, Turkey ranked 106th in press freedom after countries like Albania, Cameroon, Tanzania and Senegal. Denmark has the most extensive press freedom according to the assessments. In subsequent years, reports issued by the WEF did not make any press freedom assessments and instead provided statistics regarding other sets of development criteria.

In a study by Reporters Without Borders (RSF) in 2014, where 180 countries were examined, North European countries, Finland, the

⁷⁸ *The Global Competitiveness Report, 2008-2009*, <https://members.weforum.org/pdf/GCR08/GCR08.pdf>, (Accessed January 30, 2016).

⁷⁹ *The Global Competitiveness Report, 2009-2010*, <https://members.weforum.org/pdf/GCR09/GCR20092010fullreport.pdf>, (Accessed January 30, 2016).

⁸⁰ *The Global Competitiveness Report, 2010-2011*, http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2010-11.pdf, (Accessed January 30, 2016).

⁸¹ *The Global Information Technology Report, 2008-2009*, <https://members.weforum.org/pdf/gitr/2009/gitr09fullreport.pdf>, (Accessed January 30, 2016).

⁸² *The Global Information Technology Report, 2009-2010*, http://www3.weforum.org/docs/WEF_GITR_Report_2010.pdf, (Accessed January 30, 2016).

Netherlands, Norway, Andorra and Luxembourg take the lead in press freedom while Turkey ranked 154th. In another ranking by the same institution in 2015, Turkey took 149th place among 180 countries. In the relevant chapter on Turkey, the primary issues were lawsuits filed against journalists, imprisoned journalists, and censorship.⁸³

FH is the international organization with the biggest impact on Turkey's socio-political environment in terms of its publicized data. The reports of FH are intensely debated in Turkey and are among the essential elements of the opposition to Turkey in the international arena. Releasing press freedom reports every year on a regular basis, the organization sometimes publishes studies exclusively discussing Turkey and other countries.

In FH's report entitled *Global Press Freedom 2007*, Turkey ranks 105th in the world. In the report, it is pointed out that the primary factor restricting press freedom in Turkey is Article 301 of the Turkish Penal Code (TCK) and the lawsuits brought against journalists as a consequence of this article. It is noted that press freedom is constitutionally guaranteed, but in practice, this guarantee has no bearing. The report also mentions that there is no openly imposed censorship, but many publishers and journalists engage in self-censorship.

In the report released by FH on May 3, 2009, of the 195 countries examined and divided into three categories, the press was free in 70 countries, comprising 35 percent; it was partly free in 61 countries, comprising 31 percent; it was not free in 64 countries, comprising 33 percent. Turkey was placed in the second category with its press considered "partly free." The chapter of the 2010 report of the organiza-

⁸³ "2010 World Press Freedom Index", Reporters Without Borders, October 20, 2010, http://www.rsf.org/IMG/CLASSEMENT_2011/GB/C_GENERAL (Accessed January 29, 2016).

tion on Turkey, entitled *Freedom of the Press 2010*, contains comments on how Article 301 restricts press freedom and comments that seem to point to the problem in a more direct manner. The report points out that many lawsuits were filed against the writers of critical news articles regarding the Armenian issue, the Cyprus issue, and the security forces, all based on the same article of the Turkish Penal Code, according to which these writers had insulted “Turkishness.”⁸⁴

On March 14, 2011, the organization released a statement entitled, “Arrest of Journalists in Turkey Signaling Regress in Press Freedom,” which stated that the pressure against journalists is an alarming threat to press freedom in Turkey. The statement claimed that Turkey, with 50 journalists in prison, was one of the countries with the largest number of imprisoned journalists, and that there were more than 4,000 ongoing investigations against journalists.⁸⁵ In subsequent years, FH’s reports claimed that Turkey’s performance level was heading in a negative direction and that the press was relegated to the category of “not free” from “partly free.”⁸⁶

On March 9, 2011, a few days before the release of this report, the European Parliament (EP) released a statement in parallel with FH’s report, approving the addition of a draft to the EU Progress Report on Turkey. The statement said, “We are concerned about the

⁸⁴ *Freedom of the Press: 2010*, Freedom House, <http://www.freedomhouse.org/uploads/fop10/TurkeyFOTP2010.pdf> (Accessed January 30, 2016).

⁸⁵ Andrew Finkel claims that the fourth power in Turkey has become “a blind eye.” According to Finkel, Turkey is the country with the biggest number of imprisoned journalists with 57 journalists currently in prison. Andrew Finkel, “Turkey’s Muzzled Muckrakers”, *The New York Times*, <http://www.nytimes.com/2011/05/06/opinion/06iht-ed-finkel06.html>, (Accessed January 30, 2016).

⁸⁶ “Turkey”, Freedom House, <https://freedomhouse.org/report/freedom-press/2014/turkey>, (Accessed January 30, 2016).

deterioration in the field of press freedom, including the Internet, the censorship in the press, and the growing amount of self-censorship,” thereby attracting attention to press freedom restrictions in Turkey, highlighting the need for a new press law and the need to promote an environment where it would be possible to eliminate all censorship attempts and the increasing amount of self-censorship.

In FH’s *Freedom of the Press 2011* report, Turkey was back in the “partly free” category. The report categorized 35 percent of the countries as “free” and 32 percent as “not free.” Of the 196 countries assessed, Turkey was given 52 points out of 100.⁸⁷ Considered a “partly free” country in terms of press freedom until 2013, Turkey was categorized as “not free” in 2014 and 2015.⁸⁸ Despite this, Turkey ranks as a “partly free” country on the world freedom index of the same organization.

FH calls on Turkish leaders to institute “corporate policies that will protect media freedom” and “release the detained journalists.” FH regards the number of the detained journalists in Turkey as a significant statistical value, and based on a report by CPJ, cites the number of journalists in prison as seven as of December 1, 2014. In addition, according to another report, prepared with data from Bianet, 22 journalists and 10 publishers were in prison as of the end of 2014.⁸⁹

“Media freedom in Turkey deteriorated at an alarming rate in 2015” was the first sentence of the chapter on Turkey in FH’s

⁸⁷ *Freedom of the Press: 2011*, Freedom House, <https://freedomhouse.org/sites/default/files/FOTP%202011%20Full%20Release%20Booklet.pdf>, (Accessed January 30, 2016).

⁸⁸ “Turkey”, Freedom House, <https://freedomhouse.org/report/freedom-press/2015/turkey>, (Accessed January 30, 2016).

⁸⁹ “Türkiye”, Freedom House, https://freedomhouse.org/sites/default/files/Turkey%20FOTP%202015%20final_translated.pdf, (Accessed January 30, 2016).

Freedom of the Press 2016 report, where it is claimed that Turkey went backward in press freedom compared to the previous year. The 2016 report shows that Turkey is down by 22 places, ranking 156th, and is in the “not free” category in terms of press freedom. Some of the issues addressed in the chapter of the report on Turkey were “the judicial proceedings against journalists”; “the deportation of foreign journalists”; “the developments in media legislation”; “attacks on the *Hürriyet* daily”; “publication and broadcast bans”; “accreditation”; and “placing some media outlets under government trusteeship.” The chapter assessed that press freedom in Turkey is under political, economic, and legal threats.

The inaccurate and biased evaluations that we find in FH’s reports in the previous years are repeated in the 2016 report.⁹⁰ For example, the continuation of the prosecution of the journalists who published or broadcast the photographs of Prosecutor Mehmet Selim Kiraz, murdered by DHKP-C (Revolutionary People’s Liberation Party-Front) militants, is presented as a problem regarding press freedom where the ethical dimension of the matter is left out of the discussion, turning a blind eye to journalistic practices that may be supporting terrorism.

Another striking point about the report is that the events in Turkey are reported unilaterally. For example, FH regarded the attack on the *Hürriyet* daily’s building as a development threatening press freedom while ignoring the bombing attack on the building of the Star Media Group, the attacks on the Turkuvaz Group and the *Yeni Şafak* daily, as well as the assassination attempt against Murat Sancak. As a result, the 2016 FH report, just like its previous reports, is

⁹⁰ “Turkey”, Freedom House, (2016), <https://freedomhouse.org/report/freedom-press/2016/turkey>, (Accessed April 29, 2016).

riddled with several problems, such as inaccuracies, biased and ideological perspectives, and ignoring the context through event-based assessments.

Another report worth mentioning in this regard is that of the International Publishers Association (IPA). This report also notes that Turkey, despite its many successful political reforms, has failed to take the necessary steps in the field of press freedom and journalists are still restricted, adding that Turkey has still not caught up with the EU standards in terms of press freedom. The prosecution of journalists, writers and publishers is presented as Turkey's most fundamental problem in terms of press freedom. The association has made several suggestions, remarking that Turkey's structural and conjunctural problems must be eliminated through urgent legal and legislative reforms.⁹¹

The reports released by international organizations about press freedom in Turkey make serious methodological errors and are sometimes used as instruments of political pressure. The chief problem of such reports is that they are written without adequate knowledge of Turkey's modernization and democratization process, power relations and media culture, and as a result they look in the wrong places for the sources of the problems in the field of press freedom. Depending on the fundamental shortcomings they contain, we may categorize the errors of such reports into two categories: the lack of transparency regarding their local and global information sources, and the fact that they conduct event-based analyses independent of the socio-political contexts in which they occur.

⁹¹ "Annual Report", International Publishers Association, (October 2013-October 2014), <http://www.internationalpublishers.org/images/reports/2014/IPA-annual-report-2014.pdf>, (Accessed January 30, 2016).

Information Sources

They criticized the government for ignoring the public's right to information and for censorship of the press. The sources used in reporting on press freedom include among others analysts, academics, domestic and foreign news sources, NGOs, think tanks, and human rights activists that provide information on regional developments.⁹² Research and scoring are conducted in light of the information obtained from these sources, and countries' performances regarding freedoms in general and press freedom in particular are subject to categorical regulations. Opinions from regional sources about the country, partial or insufficient assessment of news sources, and speculative reports on legal proceedings against journalists have on occasion had a negative effect on the integrity and impartiality of the reports.

Information about the individuals interviewed in Turkey, who conducts these interviews, what kinds of questions are asked and what problems are reviewed constitute another aspect of the discussion. The deficient and biased guidance on the subject is provided by a number of "independent" communication channels in Turkey that are occasionally referenced in the international reports; the data in question is collected through a unidirectional flow of information. For instance, in FH's exclusive report on Turkey, *The Struggle for Turkey's Internet*,⁹³ it is clear that the report had a flawed

⁹² For Freedom House's notification on "methodology," a hot topic of debate in Turkey, see "Methodology", Freedom House, <https://freedomhouse.org/report/freedom-world-2012/methodology>, (Accessed February 2, 2016).

⁹³ "The Struggle for Turkey's Internet", Freedom House, <https://freedomhouse.org/sites/default/files/the%20struggle%20for%20turkey%27s%20internet.pdf>, (Accessed February 2, 2016).

principle of objectivity since one of the three writers was the former CHP (Republican People's Party) Deputy Osman Coşkunoglu, and another was Aslı Tunç, who is known for her staunch opposition to the current government.

These institutions provide a one-way flow of information and view the judicial proceedings of journalists as speculative events, while ignoring a series of aspects related to the issue. It needs to be emphasized that these reports are the source of the arguments put forth by opposition groups that claim and peddle the rhetoric that the journalists who have been detained or subjected to judicial proceedings on various legal grounds were detained solely because of journalistic activities. For example, the Ministry of Justice, in order to prevent any speculations regarding the issue of imprisoned journalists, has occasionally issued official statements, which are not reviewed by these international reports. These statements are important in terms of revealing significant and overseen aspects of this issue.⁹⁴

Event Analysis Independent of Historical Processes and Circumstances

In the reports prepared by international organizations, the subject of press freedom in Turkey is covered independently of any historical and political background, and we find that they limit the subject to "government opposition." Reports cover the issue of press freedom unilaterally and do not include its various repercussions. They are thus riddled with a series of fundamental methodological problems.

⁹⁴ The statements made by the Ministry of Justice will be discussed later in the report, and the elements that constituted the grounds for the arrests will be assessed in light of the data provided by the ministry.

In some of these reports, Turkey is regarded as an almost one-dimensional environment and evaluated through a set of generic stereotypes, while developments in the country are ignored and local dynamics are not taken into consideration. These reports appear to mostly agree on the point that anti-government journalists are oppressed because of their views and that the “opposition press” is unable to operate freely. In the reports, there is no discussion as to why journalists were arrested during the Ergenekon and other trials. The “detention of the journalists” and that some of them have been “held in prison for two years without being tried” are perceived as “an alarming threat to freedom of the press.”⁹⁵ The fairness of some of the criticism that called for new regulation on the issue was heard by those in power and resulted in a series of concrete steps. As a result of the regulations introduced by the government, the cases of certain individuals who had been tried in the KCK (Kurdistan Communities Union) and Ergenekon cases were reassessed, and unjust treatments suffered in the process were largely corrected. In addition, the Parallel State Structure (PDY) that had embedded itself in the judicial and police bureaucracy is today cited as a cause of major problems that have occurred in these cases. The presence of this structure in Turkey’s political and judicial mechanisms has been manifesting itself for a long time and has led to major problems. A number of arrests made as a result of the implementation of a plan to undermine Turkey’s political stability -a plan implemented by embedded PDY units in the police and the

⁹⁵ Mary McGuire, “Journalists’ Arrests Signal Growing Press Freedom Backslide in Turkey”, Freedom House, <http://www.freedomhouse.org/template.cfm?page=70&release=1357>, (Accessed January 30, 2016).

judicial bureaucracy- have been portrayed as actions of the political authority, and the variables related to the issue have been completely ignored. As a result of a series of steps taken by the political authorities, the group behind the arrests in question has been exposed and the arrested people, victims of a conspiracy, have been released. International reports on Turkey carry out case-based analyses as opposed to considering all of the components, and, as a result, many aspects of the issue are ignored; a reductionist approach is displayed by presenting the matter as one that pertains to only politics and law enforcement.

All these issues overshadow the content of the reports and seriously undermine the principles of impartiality and transparency. Reports on the events presented as obstacles to press freedom hastily launch into case analyses instead of gathering as much information as possible about every aspect of the issue, rendering an analytical review of the issues impossible, and blocking any pathways to a solution. Failure to accurately identify the sources of the problem means that the solution is being sought in the wrong places.

CURRENT ISSUES

In this part of the study, we will conduct a comparative analysis of some current issues pertaining to press freedom. The aim of this analysis is to show that the problem is not merely a political one, and to reveal that it runs much deeper contrary to popular belief that sees it simply as a political dichotomy between the political authority and the press. Major themes to be addressed in this chapter regarding the current problems are the following:

- Different accreditation practices observed over time
- Attacks on press organizations and members of the press
- Access bans
- Arrested journalists whose cases are publicized in the press freedom reports of national and international institutions
- Sanctions imposed on media organizations by the YSK and the Radio and Television Supreme Council (RTÜK), which exist as autonomous authorities within the parliamentary system.

Journalists in Turkey face the discretionary application of accreditation as a restriction and an obstacle to doing their jobs. For example, during the February 28 period in 1997, also dubbed a postmodern coup, press organizations known for their conservative identity were denied accreditation to follow any meetings or activities of the Turkish Armed Forces (TSK) -this is the most comprehensive and improper accreditation instance in Turkey's recent history.

We can find a more recent example of this practice in the events that took place after Prosecutor Mehmet Selim Kiraz was taken hostage and murdered by two terrorist members of the DHKP-C on March 31, 2015. The dailies *Hürriyet*, *Bugün*, *Sözcü*, *Posta*, and *Cumhuriyet* covered the terror attack in their issue on April 1, 2016 with photos of Prosecutor Mehmet Selim Kiraz being taken hostage. The photos also showed the emblem and flag of the terrorist organization. These newspapers that reported the terror attack on Kiraz did not comply with the guidelines on accurately reporting terror attacks and displayed an ethically questionable editorial policy with their indirect support of terrorism. The implementation of accreditation to media organizations with a poor performance of media

ethics and accused of promoting terrorism in their news coverage, and the fact that they were denied access to Kiraz's funeral sparked intense debate.

The coverage of the hostage situation with disregard to ethical principles, brought into question the position of the media in such acts of terrorism.⁹⁶ The denial of accreditation to Samanyolu TV, Bugün TV, Kanaltürk, Kanal D, the Doğan News Agency, CNN Türk, the Cihan News Agency, *Hürriyet*, *Cumhuriyet* and İMC TV⁹⁷ for publishing and broadcasting photos of Prosecutor Kiraz showing him being taken hostage and with a gun to his head was interpreted as a clear interference against press freedom and people's right to information. The denial of accreditation was intensely criticized by the media that were not allowed to attend the funeral. In addition, professional organizations, such as the Association of Journalists and the Press Council, addressed the issue in terms of accreditation and claimed that it was a political decision. They criticized the government for ignoring the public's right to information and for censorship of the press.⁹⁸

⁹⁶ "2015'te Türkiye", *SETA Yıllık*, (December 2015).

⁹⁷ "O Gazete ve TV'ler Savcının Cenazesine Alınmadı", *Yeni Şafak*, April 1, 2015.

⁹⁸ "Savcı Kiraz Uğurlandı", *Sözcü*, April 1, 2015; "Davutoğlu: Basına Akreditasyon Talimatını Ben Verdim", *Zaman*, April 1, 2015.

Cumhuriyetçi Halkın Partisi
CHP'nin seçime için tek adayından, büyük partilerinin bir kocaına bağlı olduğu ANP'ye demirbaş gözü em.
Uğur DUNDAR yazdı. 4'te

Elek var, trik yoktu...
BEN'le bir kez dedim: "Bilimsel" dediği şeyler. Sulfanurum müla-temi 13 yıldır... Anadolun son halidir.
Bekir COŞKUN yazdı. 3'te

Ampul notu
ÜLKEYİ Adalet ve Kalkınma Partisi yö-nergesi. Adalet sarıya sarıya rehlin al-dılar. Kalkınma sarıya sarıya sarıya.
Yılmaz ÖZDİL yazdı. 20'de

Tayıp yarılanabilir
AYM'deki Başbakan'ın, Çiğdem Ço-ğulu, vatana ihanet suçlaması. Tayyip'in geleceği açısından ne olacak?
Emin GÖLŞAN yazdı. 8'te

BALYOZ'DA BERAAAT

KARANLIK GÜN!

Adalet yerini buldu ama ölen ölüğüyle Silivri zindanında yatan yattığıyla kaldı

İktidar yüzünden sonunda Türkiye'nin ampülü patladı

YIL: 8 SAYI: 2836

1 NISAN 2015 CARSAMBA

75 kuruş

SÖZCÜ

ÇAĞLAYAN ADLİYESİ'NDE KANLI BASKIN

DEVLET SAVCISINI KORUYAMADI!

Teröristler elini kolunu sallayarak girdikleri adliyeye Berkin Elvan savcısını rehlin alıp şehit etti. İki terörist operasyonla öldürüldü

PEŞ PEŞE PATLAMA SESLERİ DUYULDU
Polisin teröristlerle telefonla iletişim kurduğu anda savcının odasından peş peşe patlama sesleri geldi. Otel Harekat polisi operasyon için odaya girdi. Çıkan çatışma sonucu iki terörist ölü ele geçirildi.

Kafasına silah dayadılar

Ağzını bantla kapattılar

Ellerini kelepçeye bağladılar

MIT VAZİFESİ OLMAYAN İŞLERLE UĞRAŞIRSA, SAVCININ ODASI DAVALLA ZURNAYLA BASILIR!

Yunan işgali Meclis'te!
Büyük emir çıktı milli şaylarda bir duvar ka-deri ağır okunur ne sepe-ri? Ya sığınat bavaşa voleybolun-ya da "Kara bahadır, kör balık" diye otuzup eğlenem!
Büyükli durumumuz buna beğenir!
Yunanlar, Ege Denizi'ndeki 10 Tiki adanın üçüne gire-riğini etti. Cemalbarma, okuyan Devlet Bakanlığı'na soruldu na-por ediyor ama...
ANP'li liderimiz "İnan" dedi. Ne bir ses, ne bir nefes!
Kıyıda korumaya, şifrelenmiş ya-raz!
Hani büyük devletçi?
Büyük bir devletçi soruların işleri estelidir mi!

TOKMAK Rahmi TURAN
TOKMAK'ın...
Yunanistan, Türkiye'yi bir-çok sevak, hareket ediyor!
Onu, kütür telofonunda bir araba mı var!
Ege'de askereleme veyahut bir-ken birileri büyük veyahut iç-erde olmasın baskıcı!
Dini, orada bir ses veyahut CHP'li İsmail Mikeli'dir. Ege Ay-tun Çeng, legal olayın Meclis'i temsilci Millî Savunma Bakan-ı Mehmet Vâkıf'ın "Eki ağabeyi-nden gideceğim" dedi.
"Aydın Çeng" ve Media Ba-kanlığı'na soruldu sonu soruşun TOKMAK'ın...
Tokmak 2 kışesi
11'inci sayfa'da

YASAKLI DİŞİP-C ağıntı iyisi 2 terörist. Arıza için en büyük adliye sayılarından biri olan İstambul'daki Çağlayan Adliyesi'ne talanca ve ağır baskıyla girdi. Teröristler po-lisin gas kaplıyla ölen Berkin El-va soruşturması yarınca sarı Mehmet Selim Kiraz'ı odasında ba-sma silahları derinleştirdi.

TERÖRİSTLERE ÇATIŞMA ÇIKTI
POLİSİN teröristlerle telefonla İlet-işim kurduğu anda, savcının odasın-dan silah sesleri gelince operasyon başlatıldı. Çıkan çatışmada 2 terörist ölü olarak ele geçirildi. Teröristlerin başında ve komandanı yarıyağı Cumhurîyet Savcısı Mehmet Selim Kiraz hastaneye kaldırıldı. Yaratan-layan Kiraz şehit oldu. S. 11

SAVCININ rehlin alınması
na bağlandı bu-çüdele ediyor. CHP'li İsmail Kılıç-ıncı, "O silah adli-ye ne işi geldi... Birlik his için mi kullandı?" dedi. İstifadını sorup bekleniyor. S. 4

Türkiye Allah'ın emretti

Ne olur doğru şu **Mehmet TURAN** 11

Kaybedecek **O kimes neyin sembolü?** **Ömer KARACAN** 10

Siz hiç ESEY'i duyduz mu? **Ömer KARACAN** 10

Büyme dediler **Büyüdü** **Ömer KARACAN** 10

SAVCI KIRAZ ŞEHİT OLDU

Teröristler, rehlin alırken 14 yıllık savcı Mehmet Selim Kiraz'ı odasından dışarıya atıp öldürdüler. Hain saldırı sonucu şehit olan Mehmet Selim Kiraz'ın cenazesi, Hain saldırı sonucu şehit olan Mehmet Selim Kiraz'ın cenazesi, Hain saldırı sonucu şehit olan Mehmet Selim Kiraz'ın cenazesi...

Figure 9: *Sözcü*, April 1, 2015. *Sözcü*'s front page showing the banner and emblem of a terrorist organization - a clear propaganda of the murderers - in the context of a hostage crisis proves that the media-terrorism relationship must be reexamined [The photo showing Prosecutor Mehmet Selim Kiraz as a hostage has been blurred in line with our editorial principles].



Special Adviser to UN Secretary-General on Cyprus to travel to Cyprus amid renewed hope for peace talks



The Thunder's Turkish center Kanter ready for national basketball team as he continues to hit double-doubles



Sana's release...
The Thunder's Turkish center Kanter ready for national basketball team as he continues to hit double-doubles

TODAY'S ZAMAN

THE WAY OF UNDERSTANDING TURKEY

WEDNESDAY, APRIL 1, 2015 1.50 TL

page03 Turkey's seizure of illegal drugs falls by half in 2014



MAJOR POWER OUTAGE PLUNGES TURKEY INTO CHAOS FOR HOURS

Workers evacuated coal mines after fears that a major electricity outage might have damaged the mines' underground ventilation systems.

A major power outage hit cities and provinces across Turkey on Tuesday, including metropolitan areas such as Istanbul, Ankara and Izmir, paralyzing daily life with subway and train systems shutting down and shopping malls closing down across the country. Electricity was reportedly cut in 79 of Turkey's 81 provinces. Power transmission company the Turkish Electricity Production Company (TEIAS) could not immediately be reached. The eastern provinces of Van and Hakkari were the only two cities that did not see an outage on Tuesday. TEIAS later cited a problem with the electricity power transmission network as the cause of the worst blackout in Turkey in several years.

PROSECUTING PROSECUTOR

Prosecutor in teen Gezi victim case taken hostage at Istanbul Courthouse

An outlawed leftist group stormed the Istanbul Courthouse, taking a prosecutor hostage, on Tuesday. The group claimed to be seeking justice for 14-year-old Gezi victim Berkin Elvan, whose murder case is being overseen by the prosecutor




A photo issued by the DHKP-C terrorist organization shows a militant pouring gas on Mehmet Selim Kiraz, the prosecutor in the Berkin Elvan case.

COUP TRIAL

ISTANBUL COURT RULES FOR ACQUITTAL OF BALYOZ COUP PLOT SUSPECTS

After a prosecutor asked the Anadoluhisari High Court to acquit the suspects in the infamous Balyoz (Shotglasses) coup plot case during their trial on the grounds that the digital documents submitted in the case cannot be accepted as evidence, the court has ruled in line with the prosecutor's request. Thus all 236 suspects in the coup plot case were acquitted.

After the Constitutional Court ruled for retrial of the Shotglasses suspects on the grounds that a lower court had violated the defense rights of all 236 suspects in June of 2014, the 4th High Court started hearing the retrial of the coup plot case last year.

POLITICS

HOPES FOR ELECTION ALLIANCE ON THE RIGHT SHATTERED BY MHP

AYDIN ALBAYRAK, ANKARA

Efforts to create an election alliance between several right-wing political parties that could have dealt with the ruling party has been shattered by the refusal of the Nationalist Movement Party (MHP) to be involved in an alliance ahead of the upcoming general election.

In a written statement early on Tuesday, MHP Deputy Chairman Semih Yalçın dismissed claims about a possible coalition, saying: "We are once again announcing that the MHP is not open to an alliance. The MHP will not run in an alliance ahead of the upcoming general election."

Top officials from the Grand Unity Party (BYP) and the Felicity Party (SP) have announced on several occasions that they are ready to form an election coalition with the MHP, which is the only party of the three that is currently represented in Parliament. Recent public surveys have revealed that a coalition with the BHP, a nationalist party with a religious bent, would significantly boost the MHP's share of the vote.

ECONOMY

TURKISH GROWTH MISSES TARGET, GDP PER CAPITA MELTS IN 2014

Turkey's economic growth fell short of the government's target in 2014, while the country's gross domestic product (GDP) per capita fell, official data showed on Tuesday.

Turkish GDP growth slowed to 2.9 percent in 2014 from 4.2 percent the preceding year, data from the Turkish Statistical Institute (TUIK) showed on Tuesday, signaling a major headache for the ruling Justice and Development Party (AK Party), which has had a solid record on the economy since coming to power in 2002 and is aiming for a sweeping victory in this year's elections. Economic growth in 2014 exceeded the 2.7 percent expected by economists but missed the government's target of 3.3 percent, the data showed.

Latest KPSS detentions to be based on "strong opinion"

A second wave of detentions may be on the way regarding the case into alleged cheating in a centralized exam in 2010, according to a Turkish daily, citing "strong opinion" as a basis for the planned operations.

Governor blocks director from shooting Soma disaster film

The director of a movie covering a mining disaster that killed 302 miners in the western town of Soma in May 2014 has accused the Manisa Governor's Office of working vigorously to prevent him from shooting the movie.

'Parallel' paranoia reaches Parliament's kitchen

In the latest example of the AK Party "parallel" paranoia, Interior Affairs Commissioner head Mehmet Ersoy ordered officials to remove a dish called "Sarımsıyula karnaby" as it reminded him of terrorists affiliated with the so-called "parallel structure."



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Figure 11: *Today's Zaman*, April 1, 2015. The photo of Prosecutor Mehmet Selim Kiraz, who was murdered by DHKP-C terrorists after being taken hostage, was recklessly published, which was clearly one of the targets of the terrorists [The photo showing Prosecutor Mehmet Selim Kiraz as a hostage has been blurred in line with our editorial principles].

Assessing this subject only from a political point of view and reducing the accreditation issue to one of political interference would also mean ignoring the reason for implementing accreditation in general. When the issue is viewed with an unlimited sense of freedom, it can be easily seen how the discussions are just going around in circles, how the issues are evaluated only from a political perspective and that the debates are ideologically driven. Points that need to be brought up and criticized include the fact that the mentioned media organs were not sufficiently sensitive on the issue of avoiding the promotion of terrorism⁹⁹; that they supported terrorism with their broadcasts and publications; and that they put the murdered prosecutor's family in a difficult position by publishing the images of his assassination. On the other hand, they ignored the international ethical standards enjoining that "Terrorist acts must be covered responsibly, the victims must be respected, the footage should not be released unless there are compelling reasons." From this angle, it becomes clear that the conditions calling for accreditation were legitimate.

⁹⁹ International organizations and institutions apparently refer to editorial principles in general regarding press freedom in Turkey as well as some other major issues. However, these references are often either detached from their context or made into arguments to strengthen the theses put forward. Looking at the principles in question, it is clearly possible to make a comparison based on concrete events. BBC's editorial principles are a good example in this regard. BBC's editorial guidelines regarding "war, terror and emergencies" are as follows: "We do not interview a perpetrator live on-air. We do not broadcast any video and/or audio provided by a perpetrator live on-air. We should also consider carefully the ethical issues raised by providing a platform to hijackers." <http://www.bbc.co.uk/guidelines/editorial-guidelines/edguide/war/hijackingkidnap.shtml>, (Accessed Feb. 5, 2016). For a criticism of this issue, see MÜCAHİT KÜÇÜKYILMAZ, "Medyanın Terörü, Terörün Medyası", *Star Açık Görüş*, September 12, 2015.

Unlike this accreditation process that had legal grounds, the actions of the HDP in its Second Ordinary Congress was a textbook example of improper accreditation. The dailies *Sabah*, *Takvim*, *Yeni Şafak* and *Star* were not allowed to follow the Second Ordinary Congress of the HDP on January 24, 2016, and although it took place at a time close to the accreditation issue at Prosecutor Mehmet Selim Kiraz's funeral, it did not receive the same public attention. When the newspapers were not issued passes to follow the congress, it was clear that the HDP was not complying with its motto of "becoming citizens of Turkey" and "pluralism."¹⁰⁰ In this sense, the rhetoric of "becoming a citizen of Turkey" that the HDP began to promulgate with the claim of expanding freedoms -a rhetoric systematized with intense campaigns just before the election of June 7- has been criticized for being empty words and mere rhetoric with no practical dimension.

Unfortunately, this practice of accreditation is not the first example of HDP's negative attitude towards the aforementioned newspapers. During the HDP's election campaign for the June 7, 2015 elections, during its İstanbul rally held on June 6 of the same year, Selahattin Demirtaş, the Co-Chairman, denounced the *Sabah*, *Star*, *Yeni Şafak*, *Takvim* and *Akşam* dailies, incited the gathered crowd to boo the newspapers and finally disrespected the publications by throwing them on the ground.¹⁰¹

¹⁰⁰ "Basından HDP'ye Sert Tepki", *Sabah*, January 25, 2016.

¹⁰¹ "Demirtaş Sabah Gazetesini Hedef Gösterdi", *Sabah*, June 6, 2015; "Demirtaş'ın Hedef Gösterdiği Gazeteler Tehlikede", *Milat*, February 12, 2016.



Figure 12: July 24, 2015. During a rally before the November 1, 2015 elections, Co-Chairman of HDP Selahattin Demirtaş denounced *Yeni Şafak* and *Star* dailies and pinpointed them as targets. After his speech, the headquarters of both newspapers were attacked.¹⁰²

Examining the accreditation practice at Prosecutor Mehmet Selim Kiraz's funeral and the Second Ordinary Congress of the HDP can give us an idea about the current, structural and political aspects of the press freedom debate. Providing it is not permanent, it is justifiable to revoke accreditation for those media organs that do not comply with ethical guidelines, that promote terrorism, and that engage in print or broadcast journalism in ways that justify the restriction of their press freedom¹⁰³ based on internationally established norms and principles. The application of accreditation at Prosecutor Mehmet Selim Kiraz's funeral can be evaluated in this context. However, in this case accreditation should not be an administrative decision but a legal one, that

¹⁰² "Demirtaş Star'ı İki Kez Hedef Gösterdi", *Star*, July 24, 2015.

¹⁰³ The second paragraph of Article 10 of the European Convention on Human Rights states, "The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary." See p. 11.

follows due legal procedures. On the other hand, the discriminatory accreditation implemented by the HDP cannot be considered under international norms and principles, and is clearly an arbitrary and political maneuver. Likewise, legal regulations should be drafted in such a manner that they are able to prevent such arbitrary restrictions.

The comparison between the two cases also brings to light the drawback of utilizing press freedom as a political and discursive instrument. While the accreditation issue at the funeral of Prosecutor Kiraz, which had legitimate grounds, was criticized by the public and press alike, the arbitrary implementation by the HDP for its Second Ordinary Congress did not receive equal attention by the public or the press. The fact that the accreditation problem becomes an issue only when it is politically convenient makes it difficult to solve the underlying structural and legal problems.

Physical attacks on media professionals and organizations are covered in a similar way to the accreditation implementations. Leading to various professional and personal grievances, these attacks have shown that a democratic culture has yet to be installed in Turkey. The two elections held in 2015 and a number of radical moves witnessed in the political scene unavoidably affected the press as well. Broadcasting organizations that entered the sector with the intent of becoming an alternative to the mainstream media organizations became the main target of these attacks. On July 4, 2015 a bomb placed in the building where Star Media Group's newspaper *Star* and 24 TV channels were situated was discovered and eventually detonated by the police. On August 20, an armed attack was organized against Murat Sancak, the CEO of Star Media. The pluralistic tendencies of the press have been jeopardized by events such as when Selahattin Demirtaş singled out *Star* and *Yeni Şafak* as targets during the November 1, 2015 election

campaign rally,¹⁰⁴ which resulted in various attacks on these newspapers, and when a group tried to storm the building of Turkuvaz Media Group during the protests organized after the terrorist attack in Ankara on October 10.¹⁰⁵ In addition, the Molotov cocktail attacks on the buildings of *Yeni Şafak* and *Yeni Akit* on February 11, 2016 and the armed attacks that followed clearly demonstrate that alternative media organizations were targeted.¹⁰⁶ The attacks on such media organizations, which serve an important function in strengthening pluralism in the media sector, have unfortunately not been covered in an appropriate manner by the sector's established organizations, and we have yet to see sufficient sectoral cooperation to ensure press freedom.

This issue becomes clearer when the reactions to these attacks are compared to the reactions on the attack perpetrated on *Hürriyet* daily around the same time. As a result of the manipulation and out of context reporting of President Erdoğan's televised remarks on a series of terror attacks that took place after the general elections of June 7, 2015, frenzied crowds protested *Hürriyet* and a fraction launched attacks on the paper. Fiery debates erupted when the glass window of the entrance of *Hürriyet's* building was smashed during these protests. Those who evaluated the events as an attempt to silence the press held protests in front of the building, which gave the events nationwide publicity. Politicians, representatives of foreign countries, and NGO directors visited the paper's building and condemned the protest that had caused material damage to the premises.¹⁰⁷

¹⁰⁴ "2015'te Türkiye", SETA Yıllık, (December 2015), p. 364.

¹⁰⁵ "2015'te Türkiye", p. 365.

¹⁰⁶ "Turkish pro-Erdogan newspapers 'attacked' in Istanbul", BBC, February 11, 2016.

¹⁰⁷ "Hürriyet'e Çirkin Saldırısı CHP ve MHP'den Tepki", *Hürriyet*, September 7, 2015; "ABD, Hürriyet'e yapılan Saldırısı Kınadı", *Hürriyet*, September 8, 2015; "TÜSİAD Hürriyet Gazetesi'ne Yapılan Saldırısı Kınadı", *Hürriyet*, September 8, 2015; "Hürriyet'e Saldırısı Tepki", *Hürriyet*, September 7, 2015.

A comparison of the reactions to the broken window of the *Hürriyet* daily's entrance with the reactions to the armed attack on Murat Sancak, the protesters trying to storm the building of Turkuvaz Group, the bomb attack on Star Media Group, and the armed attack on *Star*, *Yeni Şafak* and *Yeni Akit*, allows us to look beyond the obvious and discern the power struggle in the background of the press freedom issue in Turkey. The vandalized entrance of *Hürriyet* suggests the existence of a problem in terms of democratic culture and press freedom in Turkey. That this attack received coverage for a long time is important in terms of raising awareness of the issue. However, a series of attacks staged against other media organizations, whose existence promotes a greater pluralism in the media, are larger in number and more severe in nature. The fact that they are not duly covered in the press indicates that the press freedom discussions are instrumentalized for political-economic interests. This attitude of instrumentalization has a negative effect on press freedom in Turkey.

Another much-discussed issue pertaining to press freedom is the Internet access bans and media blackouts. The issue of Internet access bans in Turkey gained an international character when the famous video sharing website YouTube was banned. Access to the site was banned twice by a court order in accordance with the laws regarding the posting of videos insulting Atatürk. The first ban was imposed on March 6, 2007 and the second on January 17, 2008. The ban lasted a total of two and a half years. After the matter was taken to the ECHR, the court ruled that the YouTube ban from May 5, 2008 to October 30, 2010 constituted obstruction of freedom of expression in Turkey.¹⁰⁸

¹⁰⁸ "AİHM'ye Göre YouTube Yasağı İhlal", *Hürriyet*, December 2, 2015.

This subject returned to Turkey's agenda in 2010. Secretly recorded video footage attributed to the CHP's then president Deniz Baykal, whose content violated his right to privacy was posted on YouTube. Upon an official complaint to the 11th Magistrates' Court by Deniz Baykal's lawyers, the Court ordered a ban on YouTube.¹⁰⁹ Access to the site was banned in November 2010 and the ban was lifted when the said footage was removed from the site in the first months of 2011.

Another long-term access ban was imposed on March 27, 2014. After an audio recording attributed to Ahmet Davutoğlu, the Foreign Minister of the time, the Ministry's Undersecretary Feridun Sinirlioğlu, National Intelligence Organization (MIT) Undersecretary Hakan Fidan and Deputy Chief of Staff General Yaşar Güler was posted on YouTube, the Ministry of Foreign Affairs appealed to the Telecommunication Communications Presidency (TİB) for "an immediate ban on access to YouTube on the grounds of posing a first-degree threat to national security." TİB, in accordance with Act No. 5651, blocked access to YouTube ex-officio, and then appealed to the Gölbaşı Prosecutor's Office, seeking an access ban to the site. Upon the request of the Prosecutor's Office, Gölbaşı Magistrates' Court blocked access to YouTube with decree No. 2014/358. Upon the appeal of the Turkey Bar Association, the same court lifted the general ban on April 4, but ruled in favor of the access ban on 15 links. Following this ruling, Gölbaşı Public Prosecutor's Office referred the case to a higher court on the grounds that the videos with criminal content had not yet been removed from the site. Gölbaşı Criminal Court reviewed the appeal and ruled with decree No. 2014/81 for the continuation of the access ban until "all criminal content is removed from the site"

¹⁰⁹ "YouTube Yine Yasaklandı", *Hürriyet*, November 2, 2010.

because YouTube, despite being notified about the verdict regarding the 15 links, had not removed the content. As a result, YouTube's lawyer Gönenç Gürkaynak objected to the ruling of Gölbaşı Criminal Court, which then accepted the objection and lifted the ban.¹¹⁰

Another example of this issue is the access bans imposed in the aftermath of the murder of Prosecutor Mehmet Selim Kiraz in 2015. Prosecutor Mehmet Selim Kiraz was murdered by terrorists who took him hostage on March 31, 2015 in the İstanbul Hall of Justice. The terrorists of DHKP-C announced their demands on social media when they were in the prosecutor's office. They also went live on certain TV channels and posted photos of Prosecutor Kiraz, showing him with a gun to his head, on social networking sites. Then, on April 3, 2015, as a result of a ruling by the First İstanbul Criminal Court, access to all websites that had posted audio and video recordings related to the investigation of the murder of Prosecutor Kiraz was banned. Facebook immediately removed the footage and was excluded from the ban. Twitter and YouTube did not comply with the ruling and thus access to the websites via Turkish servers was banned on Monday, April 6, 2015.¹¹¹ On the same day, during the night hours, the Twitter and YouTube bans were lifted respectively after the footage was removed from these sites as well.

When we look at the grounds for the access ban rulings and the public reaction to them, some important conclusions can be drawn about press freedom in Turkey. A close examination of the reasons behind the various bans imposed over the years, reveals that the ban in 2007 triggered by the YouTube videos insulting Atatürk was dif-

¹¹⁰ "YouTube Bu Yüzden Açılmıyor? Bakan Açıkladı", *Hürriyet*, April 10, 2014; "YouTube'a Erişim Engeli Kalktı", *memurlar.net*, June 3, 2014.

¹¹¹ "Twitter ve Youtube'a Yasak (Twitter ve Youtube Kapatıldı mı?)", *Hürriyet*, April 6, 2015.

ferent from the later cases. Unlike the other bans, the latter lasted for a long time and involved a complete ban of the site. The ban imposed in regard to invasion of privacy after the posting online of the footage that allegedly belonged to Deniz Baykal, the ban imposed in regard to national security issues after the audio recordings of the meetings at the Ministry of Foreign Affairs were posted, and the ban enforced in regard to the fight against terrorism and the protection of personal rights after footage of the murder of Prosecutor Kiraz was posted were all in accordance with international norms and standards. The 2007 ban, however, was imposed because of videos insulting Atatürk, and although this was appropriate and legitimate under Turkish laws, it was not legitimate in terms of international norms and standards.

The reactions to the access bans are yet another example of violations of standards and principles. Although the legitimacy of the access ban following the posting of videos insulting Atatürk was most controversial and the ban lasted for years, it was not duly covered in the press, thus supporting the aforementioned observation that the restrictions on press freedom in Turkey primarily come from the official ideology and bureaucracy. Likewise, the public did not react to the YouTube access ban regarding the footage that allegedly belonged to Deniz Baykal, as in the case with the footage insulting Atatürk. When evaluated in isolation, this attitude cannot be criticized in terms of press freedom.

Although the ruling for an access ban regarding the audio recordings of Ministry of Foreign Affairs meetings had legitimate grounds in a similar fashion to the ruling regarding Deniz Baykal, it was presented by the media as a move to curtail press freedom. All these access bans, along with the one imposed to prevent terrorist propaganda and the violation of the personal rights of Prosecutor Kiraz and

his family, were debated among others from a perspective of ethics and freedom, and were criticized for constituting obstacles to freedom of the press. Certain segments of the press particularly criticized the legitimate access ban in the case of Prosecutor Kiraz, ignoring the legitimacy of the ruling. Meanwhile, the subsequent removal of the footage that was behind the bans of Twitter, Facebook and YouTube stands as proof of the international legitimacy of the access bans.

When it comes to legitimate reasons such as, supporting terror, national security and protection of individual rights, blocking access is a measure adopted across the world. The state of emergency France declared after the terrorist attacks of November 2015 also brought about a series of measures that included a ban on the publication and broadcast of news stories with visual content showing terrorism. A draft law adopted by the National Assembly of France enjoined the closure of websites and social media networks that propagated terrorism and the punishment of any elements threatening public order.¹¹² Thus, any chance for terrorist propaganda via media outlets was eliminated.

¹¹² "Fransa'da Sosyal Medyaya Terör Ayarı", *Sabah*, November 20, 2015. We are confronted by the fact that digital crimes have revealed the need for new regulations. Regulations about "privacy" are also needed, and we find a current example in Australia. Through a "cybermobbing" law passed in the first days of 2016, attacks on privacy over the Internet, harming a victim's private life will from now onwards be punished. For example, anybody uploading the video of a young person that humiliates him or her will be fined or face imprisonment of up to one year. If the victim commits or attempts suicide, the anticipated punishment for the perpetrator is imprisonment of up to three years. From now on, anybody encouraging 30 people (it used to be 150) to violent behavior or committing hate speech will be punished with imprisonment of up to two years on the grounds of incitement. If the perpetrator's words are heeded by "a large group" (150 people), this penalty may go up to three years. The anticipated sentence for the inciter is a prison term of five years if the incited people commit a violent crime. "Avusturya'da Yaşayanların Dikkatine: 2016'nın Önemli Yeni Yasaları", *haberjournal.at*, January 31, 2016.

The fact that the legitimate YouTube ban of the videos insulting Atatürk and the footage attributed to Deniz Baykal were not debated as severely is an indication of the unilateral and hypocritical advocacy of freedoms in this case. Given this hypocritical and error-ridden approach, the issue of press freedom in Turkey can only be resolved through comprehensive measures with a focus on structural problems.

The inconsistent reactions to the four cases of access bans -reactions that were based more on politico-ideological interests than on principles- reveal the utterly challenging nature of the problems identified in this study. The fact that the press freedom issue has become a politico-ideological instrument makes it even more difficult to sustain the free media environment in Turkey.

The issue of “detained journalists” is another important debate regarding freedom of the press. Unfortunately, when press freedom in Turkey is discussed, it is addressed unilaterally. When press freedom is mentioned in international reports or by organizations such as the Turkey Journalists’ Union (TGS), it is always in a context that renders it identical with the “72 detained journalists.” In 2011, the Ministry of Justice issued an official response to the allegations by the TGS that there was a restriction on the activities of the press and to the issue of the 72 journalists still in detention as of August 2, 2011.¹¹³

In the official response of the Ministry of Justice, it was stated that there were no prison records about three of the 72 journalists on the list, that six of them had been released and 63 were still in custody. It was also stated that of the 63 journalists, who were held in different prisons, 18 received various prison terms, another 18 were being tried in custody, and the remaining 27 were under investigation, also while

¹¹³ “Bakanlıktan Tutuklu Gazeteci Açıklaması”, *Akşam*, August 25, 2011.

in custody. It is also striking that, according to the data provided by the Ministry of Justice, 59 out of the 63 journalists were not convicted of press-related crimes, “articles they wrote or journalistic activities,” but due to “crimes not related to press activities.” It is explained in the statement that the remaining four journalists were imprisoned for “propagating terrorist organizations” and that this fell within the scope of “crimes related to the press.”

The above communiqué also included the investigation, indictment, or criminal conviction details of the 63 individuals. The list included the following crimes or incriminating actions: murder, bank robbery, extortion, threat, forgery of official documents, using a fake ID card, assault on security forces, carrying or possession of unlicensed weapons, possession of unauthorized hazardous materials, collection of checks and bills by threat, an attempt to change constitutional order by force, being a leader or a member of an armed terrorist organization, aiding and abetting members of an armed terrorist organization, participation in an armed terrorist organization’s activities, collecting money on behalf of armed terrorist organizations, destroying documents related to state security or using them for criminal purposes, swindling, attending illegal meetings, and propaganda in favor of terror organizations. The Ministry of Justice also released the list of the prosecuted or convicted journalists and the journalists currently being investigated, along with the list of the charges brought against them.¹¹⁴

¹¹⁴ The Ministry of Justice drew attention to another controversial issue in its statement in response to the allegations of the Turkish Journalists’ Union. It is the “press card” issue. The Ministry of Justice clearly states that the press card is a precondition of being considered a journalist. However, this is a problematic approach. It should be questioned why one is supposed to be approved by the state in order to be considered a journalist, on what grounds the concept of “press card” first emerged, and what kind of dynamics are involved in its being granted.

The debate is kept current by the statements of international and national organizations -though they have changed over the years- claiming that the imprisoned journalists have been convicted solely on the basis of journalistic activities. This debate gained momentum with the release of the FH report on press freedom in 2014. The matter that caused the greatest controversy about Turkey in the 2014 FH report was a claim based on local sources that there were 44 imprisoned journalists in Turkey.

Responding to the claims, then Foreign Minister Ahmet Davutoğlu said that the report was not objective, that Turkey was not a country that should be mentioned in the same category with the other countries that were included in the report, and that the report clearly had a biased approach to Turkey. The report stated that there were 44 imprisoned journalists, and Davutoğlu maintained that this information was based on a report from the Platform of Solidarity with Imprisoned Journalists (TGDP) issued on April 24, 2014. However, as of May 2, the trials of 17 individuals had been completed and ended in convictions, 13 people were still being tried while in custody, and 12 people had been released. Davutoğlu also pointed out that the information in the report was not up-to-date, that the statistical information had not been obtained from reliable sources and that a portion of the people that had allegedly been arrested on the grounds of press activity were, in fact, imprisoned because they had participated in the activities of terrorist organizations, such as the PKK, DHKP-C and TKP.¹¹⁵

The fact that these reports are controversial stems from the allegations not being compared with the information provided by the Ministry of Justice, which is also party to this debate, and the sole reliance on the information provided by the lawyers of the detained journal-

¹¹⁵ "Ankara contacted Freedom House", CNN, May 3, 2014.

ists. In addition, there was no information about the legal grounds for trying the journalists, while some of the journalists on the lists had already been released.¹¹⁶

The report FH released in 2015 stated that there was a negative trend in the field of freedoms in Turkey, that there was a rise in the number of political interventions, and that tensions between Sunni Muslims and the “Alawite minority” was on the rise. Furthermore, Turkey was criticized for serious problems in the areas of political pluralism and participation, religion, freedom of speech, and legal order. According to the report, there was a decrease in the number of imprisoned journalists thanks to new legal regulations, and while the number of the imprisoned journalists was 40 in 2003, this number was down to 19 in November 2014.¹¹⁷ The report also states that intellectuals and journalists were arrested because of their connection with the KCK and others were arrested on the grounds that they were plotting a coup. FH conducted a series of assessments within the scope of its annual survey *Freedom in the World* and evaluated Turkey as among “partly free” countries in the category of general freedoms and “not free” countries in the category of press freedom.¹¹⁸ FH, referring to the data provided by the CPJ claimed that there were 14 imprisoned journalists in Turkey as of December 2015.¹¹⁹

¹¹⁶ Adnan Boynukara, “Tutuklu Gazeteciler Bahsi... Gerçek Gizlenebilir mi?”, *Star Açık Görüş*, May 5, 2014.

¹¹⁷ “Turkey”, Freedom House, (2015), <https://freedomhouse.org/report/freedom-world/2015/turkey>, (Accessed January 25, 2016).

¹¹⁸ “Turkey”, Freedom House, (2016), <https://www.freedomhouse.org/report/freedom-world/2016/turkey>, (Accessed January 25, 2016). Released in 2016, the report contains an analysis of the events that took place in 2015.

¹¹⁹ “Turkey”, Freedom House, (2016), <https://www.freedomhouse.org/report/freedom-world/2016/turkey>, (Accessed January 25, 2016). Released in 2016, the report contains an analysis of the events that took place in 2015.

Another organization that conducts research on detained journalists and press freedom is the aforementioned CPJ. CPJ provides the names of the prisoners and the allegations that have led to their detention. In the list released by the organization in 2014, there was a total of 221 detained journalists worldwide.¹²⁰ The list claimed that there were seven detained journalists in Turkey and provided their names, adding that six of them had been arrested for anti-state crimes and one was being kept in detention without any charges. The Minister of Justice at the time, Bekir Bozdağ, made a statement about the report and stated that the CPJ had been informed in a visit to the Ministry of Justice that no journalists had been arrested due to press activities and that the names on the list had all been convicted of different offenses.¹²¹ Bozdağ attended a TV program where he added that the information provided by different organizations was conflicting and that the people on the list had been detained or arrested because of offences not related to journalistic activities. Bozdağ noted that, according to the European Security and Cooperation Organization, there were 81 imprisoned journalists in 2012, that in 2013 this number decreased to 71, and in 2014 to 25. However, these numbers did not match the records in Turkey, he added. Commenting on the numbers released by the RSF, Bozdağ noted that the organization claimed there were 56 imprisoned journalists in 2012, 42 in 2013, and 23 in 2014. In addition, he said that only six of these prisoners had a press card and the others were self-proclaimed journalists. Reiterating that these people were not accused of crimes related to journalistic

¹²⁰ "2014 Prison Census: 221 Journalists Jailed", CPJ, <https://www.cpj.org/imprisoned/2014.php>, (Accessed February 16, 2016)

¹²¹ "Bozdağ Tutuklu ve Hükümlü Sayısını Açıkladı", *Hürriyet*, January 22, 2015.

activities, Bozdağ drew attention to different aspects of the issue by stating that the list of their charges included murder, throwing Molotov cocktails, attacking police stations, and organizing armed attacks on police stations.¹²²

In the report, *Violations of Freedoms of Expression and Press 2014-2015*, prepared by the Journalists Association and funded by the European Union *Sivil Düşün Programme*, it is claimed that there were 31 imprisoned journalists in Turkey as of November 28, 2015.¹²³ The names in the report were listed under the title “Journalists in Prison,” and information was provided regarding the institutions where they worked and the prisons where they were being held. The report made no distinction between the journalists who were detained and had been convicted, and provided no information on their charges. The list of the institutions where they worked, reveals clear links with terrorist groups, the radical left and marginal publications such as *Azadiye Welat*, Dicle News Agency, *Ekmek ve Adalet*, *Odak*, and *Eylül*. Without sharing any information on the crimes that led to their arrests, the report claims that these people had been arrested for opposing the government, a fact that casts a shadow on the objectivity of the report in question. There is a difference between accepting the presence of opposition as one of the values of a democratic culture and justifying the existence of publishing houses supporting terrorism by saying that they are just opposing voices. The report highlighted the identities of the detainees

¹²² “Bakanlıktan Tutuklu Gazeteciler Açıklaması”, *Sabah*, May 5, 2014.

¹²³ “Özgürlük için Basın-İfade ve Basın Özgürlüğü İhlalleri 2014-2105 Raporu”, Gazeteciler Cemiyeti, http://www.pressforfreedom.org/oib_turkce/index.html#, (Accessed January 25, 2016).

as journalists, while other statements on the issue were not taken into account. Many of these reports are plagued with a stream of common and striking mistakes: only personal statements are taken into regard when determining whether somebody is a journalist or not, the disregard for the fact that these people were detained not because of journalistic activities but due to unrelated crimes, and the fact that they present the perpetration of crimes as a privilege granted to journalists.

Bianet claimed that there were 34 imprisoned journalists in the last days of 2015.¹²⁴ On the list Bianet shared, there was a table with the names of journalists, reporters, editors and editors in chief along with the information of whether they were convicted or detained, but there was no information on the charges or the grounds for their arrests. In addition, there was information about where the people listed as journalists were employed and whether they had a press card. When we examine the information about the institutions where these alleged journalists worked, it becomes clear that they worked for press organizations related to the terror-linked, marginal left. When there is no clear divide between terrorism and the media, the reasons for arrest and conviction are also ignored. TGDP publicized another list of imprisoned journalists claiming there were 29 imprisoned journalists as of March 26, 2016. This list included the names of the journalists who were allegedly under arrest, where they worked and where they were being held.¹²⁵

¹²⁴ "Hapishanelerde 34 Mahkum Gazeteci Var", Bianet, December 24, 2015.

¹²⁵ "Tutuklu Gazeteciler", TGDP, May 20, 2016, <http://tutuklugazeteciler.blogspot.com.tr>, (Accessed February 5, 2016).

According to the information provided by the Ministry of Justice,¹²⁶ the number of imprisoned journalists according to international and national reports are as follows:

Institution that released the report	Number of detained journalists according to respective report	Number of detainees according to the Ministry of Justice data	Number of convictions according to the Ministry of Justice data	Total number according to data from the Ministry of Justice
Society for the Protection of Journalists	40	0	5	5
Organization for Security and Co-Operation in Europe	22	2	15	17
Media Monitoring Report	22	1	16	17
International Reporters Without Borders	54	0	8	8
Imprisoned Journalists Solidarity Platform	32	5	16	21
Republican People's Party	71	0	13	13
Press for Freedom	31	4	16	20
<i>Cumhuriyet</i> daily	32	4	16	20

Source: Ministry of Justice

The number of detained journalists in Turkey according to the claims by the organization that published the relevant report can be found in the column entitled “Number of imprisoned journalists according to respective report.” The column “Number of detainees according to Ministry of Justice data” states how many of the names in the report were actually arrested, while the column to its right states how many of the individuals in the reports were convicted. The last column gives information about how many of the imprisoned journalists are detained or convicted. When the names on the Ministry of Justice list are compared to the names on the lists in the various other reports, it becomes clear that the numbers presented in the reports are not correct. For example, out of the 54 journalists “in prison”

¹²⁶ “Ceza İnfaz Kurumlarında Bulunan ve Basın Mensubu Olduğu İddia Edilen Hükümlü ve Tutuklulara İlişkin Değerlendirme”, The Republic of Turkey, Ministry of Justice, March 28, 2016. (Information obtained in written form from the ministry).

according to the claims of the RSF -an organization that often claims, because of the “journalists” in prison, that there is no press freedom in Turkey- only 8 are actually imprisoned.

Another important detail that highlights the inconsistencies in various press freedom reports is that each list, which purportedly shows the names of the arrested journalists, provides a different set of names. Some names are listed with no detail accompanying them, such as, when or why the person was arrested, the scope of their case or a case number. A statement issued by the Ministry of Justice says that among the 231 people listed in various reports as allegedly detained, only 63 are actually in prison. Only two of the 63 people on this list hold a press card, while there are no records at the Social Security Institution about five of them which means that they are not employed either by a press organization or elsewhere. In addition, out of the 231 people who appear to be journalists in the various reports, there are only five who are present in all reports. In other words, the agreed upon number of the arrested journalists in all these press freedom reports is, in fact, five. The remainder of the names vary from report to report. Furthermore, if one were to search on the Internet or in other media for these individuals’ professional work, there is no record of any journalistic activities.

Finally, according to the National Judicial Network Information System, the number of people who are currently in prison and have declared themselves journalists, be they press card holders or not at the time of their arrest, is 38. In other words, the number of people the CPJ, RSF, CHP and similar organizations have listed as imprisoned journalists is higher than the number of people who are actually arrested and who have declared themselves journalists with or without a press card. In conclusion, the detailed data presented above clearly shows that the number of arrested journalists listed in reports published by various or-

ganizations and institutions is inconsistent and therefore not true. The names in the reports are not the same as the names in official records and the reports contain serious mistakes that belie their own credibility.

The issue of imprisoned journalists came into the spotlight once again and was discussed extensively with the arrest of the editor in chief of *Cumhuriyet* Can Dündar and the Ankara representative of the paper Erdem Gül. When trucks discovered to belong to the Turkish Intelligence Organization (MIT) were stopped by the gendarmerie in Adana on January 19, 2014, the incident received a great deal of coverage by the mass media and sparked intense debate. When MIT provided documents stating that they owned the contents of the trucks, a confidentiality order was issued regarding the investigation on January 20, 2014 and thus all reportage on the incident was restricted. Following these events, photographs and footage of the trucks' load were published in the May 29, 2015 issue of *Cumhuriyet*. Can Dündar and Erdem Gül were requested to make a statement at the prosecutor's office on November 26, 2015. Following their statements, Dündar and Gül were arrested by the 7th İstanbul Court of Peace on the same day, according to the following articles of Turkish Penal Code (TCK): Article 314/2, "aiding and abetting terrorism"; Article 328, "obtaining classified information with the purpose of political and military espionage"; and Article 330, "revealing classified documents, which should have remained secret, with the purpose of political or military espionage."¹²⁷ While the trial continued following their arrest, Dündar and Gül appealed to the Constitutional Court on the grounds of "unlawful arrest and violation of freedom of expression and press freedom." The high court assessed the individual petitions and ruled in favor of Gül and Dündar, stating that rights cited in the following articles were violated: Article 19,

¹²⁷ "MIT Tırları Soruşturması: Can Dündar ve Erdem Gül'e Tutuklama Talebi", BBC, November 26, 2015.

“personal freedom and security”; Article 26, “freedom to express and disseminate opinions”; and Article 28, “freedom of the press.”¹²⁸ The fact that the Constitutional Court overstepped its authority with this ruling further kindled an already intense debate on the issue. Given that the Constitutional Court did not act on the basis of sequence in individual appeals and released Gül and Dündar with a controversial decision, the allegations that they were arrested on political grounds become null and void. On the other hand, the fact that Gül and Dündar were released by a high court with a controversial ruling effectively demonstrates the power of the judicial bureaucracy in Turkey.

These journalists, who have a significant amount of “symbolic and social capital,” as it were, have been able to influence public opinion during the entire process and mobilize different groups and organizations, which, in turn, further deepened the debate. Those who made statements to the media following the arrests directly criticized and accused the government claiming that the arrests were made purely on political grounds. Former Prime Minister Ahmet Davutoğlu made a statement following the allegations that the arrests were politically motivated and conducted under government supervision. He stated that the issue was part of a legal procedure and that any involvement of the government in this incident was out of the question. Davutoğlu argued that the speculations surrounding the MIT trucks and the disclosure of state secrets were done in an effort to condemn and disgrace Turkey internationally.¹²⁹ Minister

¹²⁸ “Basın Duyurusu No: BB 08/16”, TC Anayasa Mahkemesi, <http://www.anayasa.gov.tr/icsayfalar/basin/kararlarailiskinbasinduyurulari/bireyselbasvuru/detay/65.html>, (Accessed February 5, 2016).

¹²⁹ “Başbakan Davutoğlu: Can Dündar ve Erdem Gül Tutuksuz Yargılanabilirdi”, *Radikal*, November 28, 2015.

of Justice Bekir Bozdağ also made a statement regarding the allegations sparked by the arrests of Gül and Dündar as well as other imprisoned journalists, saying that there were detained or convicted journalists in Turkey but that they were not being investigated or convicted because of journalistic activities. Bozdağ reiterated the fact that the people in question were under investigation for actions not connected to journalistic activities.¹³⁰

When the MIT trucks were stopped on January 19, 2014, there were many reports on the issue by various media outlets and the incident, with a basic journalistic reflex, was covered by most of the media. However, what set apart the news that appeared in *Cumhuriyet* on May 29, 2015, leading to the arrests, from the other reports was that this report included confidential state information and documents obtained and then exposed illegitimately. For this reason, the legal grounds for the arrest was not journalistic activity, as it was popularly claimed, but the illegal obtaining of information and documents, and their illegal dissemination. As a result, the court made a statement that Dündar and Gül were arrested based on Article 330 of the Turkish Penal Code for “revealing documents that should remain confidential, for the purpose of political and military espionage.” Assessing the report in *Cumhuriyet* as a journalistic reflex in an attempt to justify it only results in ignoring the underlying criminal offenses that constituted the grounds for the arrests and, at the same time, leads to the assessment of the case as one solely of violation of press freedom. In this regard, responsible and sensible journalism should be about the public’s right to information as well as ensuring national security and public interest. When we examine the speculations that

¹³⁰ “Bekir Bozdağ: Haberden Tutuklu Yok”, *Hürriyet*, December 24, 2015.

Turkey is supporting terrorism and the ongoing propaganda that international organizations should interfere in order to stop Turkey's alleged support of terrorism, it is clear that this kind of news reporting contradicts the basic principles of journalism.¹³¹

The reduction of the "press freedom" issue in Turkey to an issue of "imprisoned journalists" leads to a disregard of the structural and bureaucratic problems actually threatening this freedom. In fact, the press in Turkey is being restricted by various government bodies and has been forced to operate within a narrow space as a result of structural limitations that have been presented above. The most current example of this pressure is the penalties and restrictions issued to various media bodies by the RTÜK and the YSK.

When private TV and radio stations began to appear in the 1990s, an amendment to the Constitution was made to meet the needs that had emerged in the broadcasting field, and the RTÜK was founded in 1994 by Law 3984. According to Law No. 6112, the RTÜK was founded as an impartial public entity that had administrative and financial autonomy and with the purpose of regulating and supervising TV and radio stations as well as on-demand broadcasting services.¹³² The YSK was founded with the Law on Election of Deputies No. 5545 and also became part of Law 298, dated April 26, 1961, on the Basic Provisions on Elections and the Law on Voter Registers.¹³³ With the particular authority to supervise all broadcasts at election times to determine whether they are complying with the principles set by law, the YSK has the authority to penalize any media organization for

¹³¹ Fahrettin Altun, "Gazetecilik Bu Değil!", *Sabah*, November 28, 2015.

¹³² "Radyo ve Televizyon Yayıncılığı Sektör Raporu", (2014), pp. 16-17.

¹³³ "Tarihçe", YSK, http://www.ysk.gov.tr/ysk/faces/YSKTarihce?_adf.ctrl-state=vthm0hg-zw_9&wcnav.model=YSKUstMenu&_afriLoop=7009728580912822, (Accessed February 8, 2016).

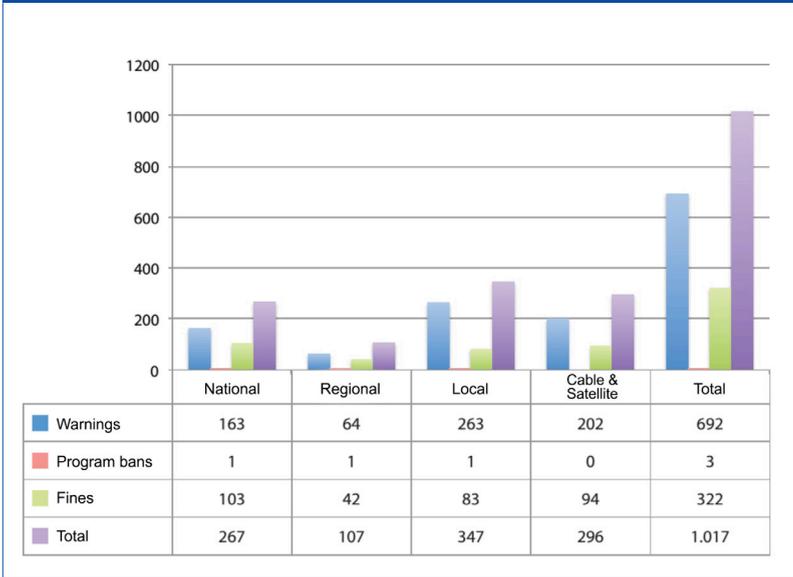
not complying with these principles. It most often gets mentioned together with the RTÜK during elections.

Following an increase in the number of penalties delivered to a number of TV channels following the elections of June 7 and November 1, 2015, the interference of autonomous institutions like the YSK and the RTÜK in press freedom was back on the public agenda. Following the 2015 elections, the RTÜK sent 262 reports to the YSK on violations that occurred during the elections. The YSK decided that 164 of these reports “did not have grounds for sanctions” and penalized many channels on the basis of the remaining 128 reports. The TV station that received the highest number of reports was TRT and the one most penalized was TGRT. TGRT topped the list with 70 broadcast bans, followed by TV24 with 55 and Halk TV with 22 broadcast bans, while TV stations, such as Show TV, Kanal D, Ülke TV and CNN Türk received penalties forcing them to stop the broadcast of some of their programs. In addition, 65 stations received various program bans because they began announcing the election results before the appointed time. The violation of the principles of “objectivity, authenticity and accuracy” constituted the grounds for the various penalties and bans, including the program bans imposed on the stations based on the reports prepared by the RTÜK.¹³⁴ The disproportionate program bans and fines recently imposed on A Haber (News) and TGRT channels have given the problem a multidimensional character.¹³⁵ In addition, the fact that there is no possibility of an appeal regarding the penalties leads to an arbitrary implementation of sanctions by the decision-makers assigned to this duty.

¹³⁴ “Seçim Dönemi Cezaları Belli Oldu”, *Hürriyet*, July 9, 2015.

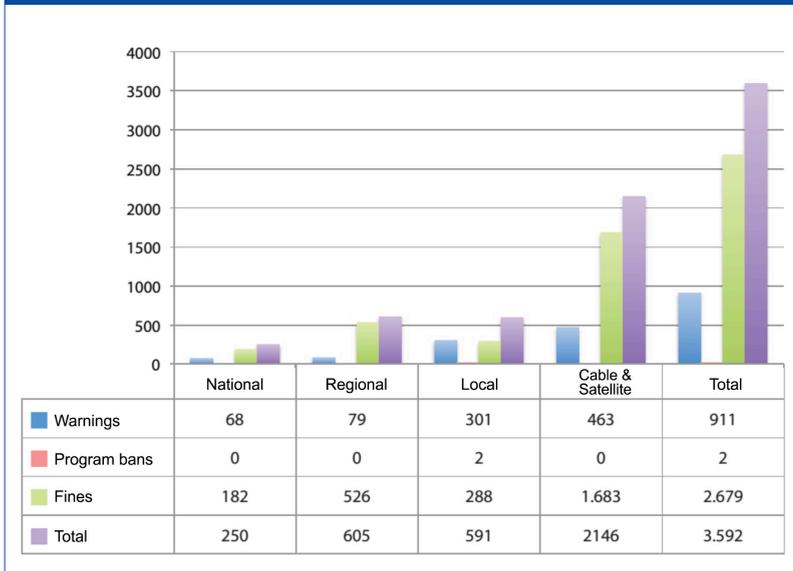
¹³⁵ The number of bans imposed on A Haber, as of December 2015, was 239. “A Haber’e Toplam 239 Ceza”, *Akşam*, December 11, 2015.

Table 3: Bans imposed in 2012 under Law 6112



Source: Sectoral Report on Radio and TV Broadcasting (2014)

Table 4: Bans imposed in 2013 under Law 6112



Source: Sectoral Report on Radio and TV Broadcasting (2014)

There has been a drastic increase in the number of sanctions recently imposed under Law 6112, which regulates Radio and Television Enterprises and Broadcast Services. The RTÜK issued three program bans in 2012 and two in 2013. While it imposed a total of 1,017 penalties including warnings, program bans and fines in 2012, this number reached 3,592 in 2013.

The local and presidential elections that took place in 2014, caused an increase in the applied sanctions and TV stations incurred a significant number of penalties during these elections because they failed to implement the law regarding election broadcasting. During the local elections of 2014, 198 reports were prepared in accordance with the YSK resolutions. In 161 of these evaluation reports, the ruling was that there was a violation and 113 reports resulted in sanctions. It was decided that there was no need for sanctions in the case of 85 reports. In the presidential elections in 2014, 255 reports were prepared in accordance with the YSK resolutions; the YSK ruled that 128 reports called for sanctions, and 122 did not.¹³⁶

In 2015, especially after the June 7 elections, there was an increase of program bans and fines to a degree not seen before, and this became an element of pressure on TV stations. This increase is closely related to the changes in the member composition of the RTÜK that took place following the elections of June 7, 2015. Following the elections, the RTÜK's member composition was revised according to the new composition of the Parliament. Before the elections, the nine-member board of the RTÜK was comprised of five AK Party and four opposition members. After June 7, however, the AK Party occupied four seats and the opposition parties five seats on the board -

¹³⁶ "2014 Faaliyet Raporu", RTÜK, Strateji Geliştirme Dairesi Başkanlığı, (2015), p. 48.

this ratio continued as such after the November 1 elections as well. As has been seen, there was a serious increase in the number of bans imposed when the opposition had the majority in the RTÜK (Table 5).

Table 5: TV stations with five or more reports prepared about them during the 26th General Parliamentary Elections and the relevant sanctions.										
Station name	GROUNDS FOR REPORTING		YSK RULINGS			SANCTIONS IMPOSED BY THE YSK				
	CONTENT	SURVEYS AND POLITICAL ADS	BROADCAST WHEN LAST DAY ELECTION RESTRICTIONS WERE IN OPERATION	INTERLOCUTORY RULING / COMPLAINT	TOTAL NUMBER OF REPORTS	NUMBER OF SANCTIONS IMPOSED	NUMBER OF SANCTIONS NOT IMPOSED	NUMBER OF REPORTS NOT FORWARDED BY THE YSK	WARNINGS RECEIVED	PROGRAM BANS IMPOSED
A HABER	6	3	1	-	10	9	1	-	19	99
TRT HABER	6	-	1	4	11	9	1	1	18	57
TGRT HABER	7	3	1	1	12	8	2	2	17	33
TV NET	5	4	1	3	13	12	-	1	5	33
BENGÜ TÜRK	4	1	1	-	6	6	-	-	14	25
KANAL 7	2	2	1	1	6	6	-	-	8	21
HALK TV	5	5	1	-	11	10	1	-	13	21
ÜLKE TV	4	-	1	-	5	5	-	-	14	19
SAMANYOLU HABER	7	2	1	-	10	8	2	-	8	7
CNN TÜRK	1	5	1	-	7	6	1	-	3	4

Source: RTÜK

While the grounds for penalties issued in 2012 and 2013 in accordance with Law 6112 varied, the majority of penalties imposed especially in 2015 were associated with broadcasts that occurred during the elections. The reason for the increase of penalties in 2013, compared to 2012, is reported to be an increase in the number of “herbal

product” advertisements broadcast in 2013.¹³⁷ The grounds for the penalties were the misleading advertisement and the misinformation contained in these ads which promoted products that were believed to pose a threat to consumers’ health. Although there was an increase in penalties in 2013, broadcast bans were imposed only twice and in both cases on local TV stations. In 2015, along with 388 broadcasting bans, there were additional 108 penalties imposed, including fines and program bans (Table 5). As a result, the intensity of these penalties triggered public debates and was criticized for creating double standards. Following discussions, the RTÜK issued a statement regarding the sanctions that had been imposed during the 26th General Parliamentary Elections and the penalized TV channels, thereby revealing the magnitude of the sanctions. The information in the report that was made public demonstrated that private TV channels were seriously penalized during the elections.

The RTÜK and the YSK have many problems that can be listed as follows: private television channels are subject to the law that governs the regulations regarding state-run TRT at election times; the legal relationship between the RTÜK and the YSK is not fully determined; there is no distinction between TRT and private TV stations regarding the violation of the principle of equal opportunities given to political parties during elections; there is a problem of transparency in the implementation of penalties; the penalties are not imposed based on a concrete set of rules; and some of the articles in the Anti-Terror Law are used arbitrarily as grounds for imposing broadcasting bans. Especially the broadcast bans and fines imposed in 2015 during the June 7 and November 1 elections have led to a debate on the legiti-

¹³⁷ “Radyo ve Televizyon Yayıncılığı Sektör Raporu”, (2014), p. 54.

macy of the institutions in question while also intensifying criticism against them.

In order to resolve the problems related to the YSK and the RTÜK that tend to occur especially at election times, the AK Party government prepared a bill according to which the penalties regarding electoral bans would be supervised by the RTÜK instead of the YSK, the principle of neutrality would be reformulated so that it would not affect any stations except TRT, and the RTÜK would be the sole supervising authority on broadcasts. Following the penalties imposed during the elections, one of the most urgent agenda items in the draft law put forward by the AK Party proposed the removal of the provision “Broadcasts cannot be biased or express favoritism toward any political party or democratic group,” which is found in Article 8 in the RTÜK Law regulating “principles of broadcasting services.” Also included in the draft law was the continuation of the aforementioned ban for TRT, and that TRT broadcasting could not be one-sided or express favoritism in addition to other regulations mentioned in the draft law.¹³⁸ RTÜK President İlhan Yerlikaya drew attention to practices dating from times when TRT was the only channel, stating that the law used as grounds for the penalties would be discussed in line with the new draft in Parliament and that the outdated laws would be amended.¹³⁹

This statement by the manager of an institution, which is an object of debate, clearly shows that the aim of this law is to perpetuate the bureaucratic control over the press. Mechanisms of tutelage, with their adopted mission of “protecting” the public from politics and

¹³⁸ “Seçim Döneminde YSK Denetimine Son”, *Milliyet*, January 26, 2016.

¹³⁹ “RTÜK Başkanı: Evlilik Programları Çığırından Çıktı”, *Al Jazeera Turk*, February 6, 2016.

supervising policy makers via various bureaucratic organizations, defined the format and content of broadcasting with the law in question in an era of a single TV station, and these regulations resulted in an “acceptable” broadcasting policy. It is clear that the law dating back to the single-station years cannot keep up with current developments and has been causing major crises to the system.

In this respect, autonomous hubs of authority that have clustered in the parliamentary system and were fortified by the 1961 and 1982 Constitutions have led to the strengthening of “pro-tutelage parliamentarism,”¹⁴⁰ enabling it to impose limitations on the government. These institutions have also become the very mechanisms promoting bureaucratic tutelage and correspond to the structural/institutional problems in the issue of press freedom in Turkey. From the standpoint of today’s Turkey, these institutions that act like a hub of micro-power are in urgent need of serious changes.

¹⁴⁰ The concept of “pro-tutelage parliamentarism” refers to the fact that parliamentarism in Turkey has not displayed its typical characteristics and instead has functioned like a mechanism that serves to perpetuate bureaucratic tutelage. It also refers to the impact of bureaucracy on policymakers. For a discussion of pro-tutelage parliamentarism, see Ali Aslan, “Türkiye İçin Başkanlık Sistemi: Demokratikleşme, İstikrar, Kurumsallaşma”, *SETA Analiz*, Issue: 122, (April 2015); Haluk Alkan, *Karşılaştırmalı Siyaset: Başkanlık ve Parlamenter Sistemler Işığında Yarı Başkanlık Modelleri*, (Açılım Kitap, İstanbul: 2013), pp. 300-314.

CONCLUSION

- ■ A social environment where the freedoms of expression and press could be fully functional can exist only when the structural elements posing an obstacle to press freedom in Turkey have been eliminated.

The press freedom issue is not limited to whether members of the press can carry out their activities in a comfortable environment. Press freedom is primarily part of freedom of expression and is therefore the prerequisite for the creation of a public space for interaction based on negotiations. Press freedom is both the product and a guarantee of democratic politics.

The press in Turkey cannot be said to enjoy a free environment that provides the necessary space for it to fully operate. However, this situation, contrary to the assertion, has nothing to do with the political changes that have occurred over the last ten years in Turkey. On the contrary, the changes that have taken place in Turkey over the last decade have provided many opportunities for positive steps to be taken in the context of press freedom. Even so, the current situation cannot be described as ideal. The sources of the obstacles to press freedom are firmly rooted in history, and have politico-ideological, legal, economic, and professional aspects.

In order to realize the press freedom ideal, above all, a democratic political regime is necessary. The biggest obstacle for the press is the existence of a political system rooted in tutelage, which limits its ability to operate in a free environment. The military and bureaucratic tutelage that has dominated Turkey's political culture for years has limited the activities of legitimate political actors and confined the political sphere. The press took the brunt of this domination and was trapped in a restricted, controlled environment. As a result, many press organizations, for the sake of securing their existence, gave full

support to the tutelage system and the official, legitimizing ideology behind it. The primary condition for a free environment where the press can act with fewer restrictions and controls are the steps that need to be taken towards democratization in Turkey.

A social environment where the freedoms of expression and press could be fully functional can exist only when the structural elements posing an obstacle to press freedom in Turkey have been eliminated. In this regard, it is vital to determine the problems related to the political, legal, economic and professional culture and to discuss the possible solutions to these issues.

In the political sphere, the fact that press freedom is abused as a means of power and that the media takes on the role of a political actor leave the press increasingly vulnerable to manipulation in the long run. Surely, a press organization that operates as part of a democratic social order is, like any other institution, entitled to a political stance. However, the press that derives its legitimacy from the notion of informing and gathering news should not allow itself to be instrumentalized to the point of undermining its own legitimacy. Discussions that reduce the issue of freedom of the press to one of political power should be avoided and, instead, the issue should be addressed in a holistic manner. Furthermore and importantly, a pluralist environment in the press, where different ideas and views can thrive, should be promoted.

We need a sphere where journalistic activities can be carried out independently of political engagements and where the principle of editorial independence in the process of news production is respected and preserved.

In the legal sphere, there needs to be a new and democratic constitution that will replace the “coup constitution” of September 12, 1980. The latter has been a major hurdle in the process of transfor-

mation that should have been launched a long time ago in Turkey. With the purpose of upholding the ideal of freedom of expression, many laws must become compatible with the ECHR and ECHR rulings, and guidelines to expand freedoms must be established. Amendments should be made to Articles 220, 301, 314, and 318 of the Turkish Penal Code, and Article 7 of the Anti-Terror Law, since these constitute a serious barrier to freedom of expression. Another factor that has caused significant debates are the wide discretionary powers of judges and the exploitation of articles that are open to interpretation. In this case, legislative changes are necessary that will prevent arbitrary decisions by the judicial bureaucracy and will minimize broad judicial discretion.

Legal arrangements need to be put in place to limit the reach of the parliamentary system, which frequently leads to major impasses in autonomous areas of authority. The authority and responsibility of institutions, such as the RTÜK and the YSK, need to be revised and regulated in accordance with democratic standards. In order to eliminate further debates on the practice of discriminatory accreditation, the legal infrastructure of the accreditation system needs to be formed.

The red tape involved in the legal cases of journalists must be taken into account and legal processes should proceed swiftly to protect journalists from unjust suffering and treatment. Structural setbacks must be eliminated as they force journalists to spend countless hours in the corridors of halls of justice attending long trial processes rather than exercising their profession.

The issue of imprisoned journalists, which has been an important part of the public agenda in Turkey, needs to be thoroughly discussed, and the Ministry of Justice should issue regular statements to inform the public about the allegations concerning imprisoned journalists.

Since this matter has gone beyond an issue of internal politics and has taken on an international character, it requires attention by Turkey's soft power elements. In this regard, organizations, such as the Public Diplomacy Institute, the Directorate General of Press and Information, and the Ministry for EU Affairs, need to conduct periodic studies on national and international organizations' reports on press freedom.

In addition to the organizations and institutions that have a part to play in the establishment of a legal environment that would strengthen press freedom, there is a need for an active and constructive environment where NGOs can operate. In this regard, all parties involved should be consulted during the process of establishing legal regulations regarding the media. Turkey should accelerate the EU accession process for the sake of strengthening fundamental rights and freedoms, and should consider the recommendations of international institutions.

Besides changes required in the political and legal sphere, steps also need to be taken in the economic and sectoral-professional spheres in order to establish an ideal system for a free press. Significant debates regarding the media's political and economic dimensions have been sparked by the prolonged existence of a monopolized system in the media, and by the fact that media owners are able to influence different sectors of the economy. In this regard, transparent and democratic regulations must be introduced in the media-capital relations, an area with accumulated problems. Media-capital relations need to be reevaluated, and this process should take place transparently before the public's eyes. The ability of capital owners to interfere in free journalistic activities should be revoked. The creation of an environment conducive to a proportional competition between media organizations would pave the way for regulations that could put an end to the media's monopolization and oligopolization.

Economic incentives should be put in place so that the media, whose *raison d'être* is to keep the public informed, is not apprehensive about the future. There should be a system of subsidies for organizations whose broadcasts or publications contribute to public benefit. In this manner, an important part of the problem would be eliminated, promoting public-friendly broadcasts and publications. However, an equilibrium must be observed between capital, economic incentives/state subsidies, and the media. The precondition for the establishment of this equilibrium is preventing capital owners from owning press organizations for political and economic ends -a precondition that necessitates close and transparent monitoring of the entire process.

Press freedom and sectoral relations should not be considered only from a perspective of politics, and regulations within the sector urgently need to be introduced. The personal rights of the members of the press should be considered and their working conditions rearranged according to modern global standards. The legal grounds for heavy financial sanctions weighing down on media organizations need to be revised.

Legal norms, which are high-priority topics in press freedom discussions, clearly prove inadequate from time to time. In this respect, these norms should be compatible with international standards while taking cultural differences into account. Rules of professional ethics also need to be redefined. Impartial and independent mechanisms of self-regulation need to be formed in order to implement the rules of professional ethics. In the final stage, professional auditing organizations that would operate as a supreme board should be established in order to benefit from a self-regulatory mechanism that operates effectively and efficiently.

Adherence to the code of ethics of journalism is another factor that would ensure and contribute to press freedom. Reporting should be done in a way that informs the public without necessarily sparking further debates. Instead of generating sensational news content with the sole purpose of increasing viewership, transparent journalism practices that are content-sensitive need to be adopted. Manipulative journalism should be abandoned and instead a professional practice that considers the public's right to information must be developed. Any internal structure of authority that limits professional, cultural and press activities, and that caters to self-censorship, needs to be reorganized in line with democratic standards, while all manner of professional or sectoral problems that could limit press freedom need to be resolved.

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APPENDIX

Turkish Penal Code, Article 125:

(1) Any person who acts with the intention to harm the honor, reputation or dignity of another person through concrete performance or giving impression of intent, is sentenced to imprisonment from three months to two years or imposed a punitive fine. In order to punish the offense committed in absentia of the victim, the act should be committed in the presence of least three persons.

(2) The offender is subject to the above stipulated punishment in case of commission of offense in writing or by use of audio or visual means directed to the aggrieved party.

(3) In case of commission of offense with defamatory intent; a) Against a public officer, b) Due to disclosure, change or attempt to spread religious, social, philosophical beliefs, opinions and convictions and to obey the orders and restriction of one's religion, c) By mentioning sacred values in view of the religion with which a person is connected, the minimum limit of punishment may not be less than one year.

4) (Amended: 29/6/2005 - Article 5377/15) The punishment is increased by one sixth in case of the performance of the defamation act openly.

5) (Amended: 29/6/2005 - Article 5377/15) (5) In case of defamation of public officers working as a committee to perform a duty, the offense is considered to have been committed against the members forming the committee. However, in such a case, the provisions of the article regarding successive offence shall be applied.

Turkish Penal Code, Article 132:

(1) Any person who violates secrecy of communication between the parties is punished with imprisonment from six months to two years, or imposed a punitive fine. If violation of secrecy is realized by recording of contents of communication, the party involved in such an act is sentenced to imprisonment from one year to three years.

(2) Any person who unlawfully publicizes the contents of communication between persons is punished with imprisonment from one year to three years.

(3) Any person who openly discloses the content of the communication between himself and others, without obtaining their consent, is punished with imprisonment from six months to two years.

(4) The punishment determined for this offense is increased by one half in case of disclosure of contents of communication between the individuals through press and broadcast.

Turkish Penal Code, Article 133:

(1) Any person who listens to non-general conversations between individuals without the consent of any one of the parties or records these conversations by use of a recorder, is punished with imprisonment from two months to six months.

(2) Any person who records a conversation in a meeting not open to the public without the consent of the participants by use of recorder, is punished with imprisonment up to six months, or imposed a punitive fine.

(3) Any person who derives benefit from disclosure of information obtained unlawfully as declared above, or allowing others to obtain information in this manner, is punished with imprisonment from six months to two years, or imposed a punitive fine up to one thousand days. If these recorded conversations are broadcast through a media outlet, the same penalty is handed down.

Turkish Penal Code, Article 135:

(1) Any person who unlawfully records personal data is punished with imprisonment from six months to three years.

(2) Any person who records the political, philosophical or religious beliefs of individuals, or personal information relating to their racial origins, ethical tendencies, sexual lives, health conditions or connections with syndicates is punished according to the provisions of the above subsection.

Turkish Penal Code, Article 136:

(1) Any person who unlawfully delivers data to another person, or publishes or acquires the same through illegal means is punished with imprisonment from two to four years.

Turkish Penal Code, Article 137:

(1) In the case of the perpetration of the offenses defined in the above articles; a) By a public officer or due influence based on public office, b) By exploiting the advantages of a performed profession and art, the punishment is increased by one half.

Turkish Penal Code, Article 138:

(1) In case of failure to destroy the data within a defined system despite the expiry of the legally prescribed period, the person responsible for this failure is sentenced to imprisonment from six months to one year.

2) (Additional subsection: 21.02.2014 Law No. 6526/Article 5) If the criminal element is data that had to be removed or destroyed according to the provisions of the Criminal Procedural Law, the penalty is increased one-fold.

Turkish Penal Code, Article 134:

(1) Any person who violates the secrecy of private life, is punished with imprisonment from six months to two years, or imposed a punitive fine. In case of violation of privacy by use of audio-visual recording devices, the minimum limit of punishment to be imposed may not be less than one year.

(2) Any person who discloses audio-visual recordings relating to the private life of individuals is sentenced to imprisonment from one year to three years. In case of the perpetration of this offense through press and broadcast, the punishment is increased by one half.

Turkish Penal Code, Article 267:

(1) Any person who casts aspersions on another person by raising complaint or notifying authorized bodies, or by using media in order to enable commencement of investigation and prosecution against this person, or imposition of administrative sanctions despite his innocence, is punished with imprisonment from one year to four years.

(2) The punishment is increased by one half in case of perpetration of this offense by slander based on produced evidence and in the case of other subsections.

Turkish Penal Code, Article 277:

Any person who unlawfully attempts to influence judicial bodies, or forces them to give instructions in favor or against any one of or all the parties present in the trial before the court, or the offenders, or those participating in the action, or the victim, is punished with imprisonment from two years to four years. The punishment to be imposed shall be from six months to two years if the attempt is no more than favoritism.

Turkish Penal Code, Article 285:

(1) Anyone who publicly breaches the confidentiality of an investigation shall be sentenced to imprisonment from one to three years. In the case of breaches of confidentiality with respect to decisions taken during an investigation that are confidential by law, and for procedures carried out in accordance with such decisions, the offence shall be deemed to have occurred even where it was not committed publicly.

(2) Anyone who publicly breaches the confidentiality of declarations or images produced in hearings that according to the law had to be held or had been decided to be held in closed session shall be sentenced according to the provision in Paragraph 1. Where the protection of a witness is an issue, the offence shall be deemed to have occurred even where it was not committed publicly.

(3) The sentence shall be increased by one half if the offences are committed by means of the press or publication.

(4) If, during the investigation and prosecution stages, images are published that label persons as guilty, a sentence of imprisonment from six months to two years shall be imposed.

Turkish Penal Code, Article 288:

(1) Anyone who makes verbal or written statements in public in order to influence a prosecutor, judge, court, expert or witnesses before an investigation and prosecution has concluded with a legally binding verdict shall be sentenced to imprisonment from six months to three years. (2) (Abolished by Law 5377 of June 29, 2005).

Turkish Penal Code, Article 329:

(1) Anyone who discloses information that should be held secret in order to protect the security of the state, internal or external political interests or because of its intrinsic nature, shall be sentenced to imprisonment from five to ten years.

(2) Where the act is committed in time of war or has endangered the state's preparations for war or effectiveness in war or military movements, imprisonment from ten to fifteen years shall be imposed.

(3) Where the act resulted from negligence on the part of the offender, the latter shall be sentenced to imprisonment from six months to two years in cases under Paragraph 1, and from three to eight years in cases under Paragraph 2.

Turkish Anti-Terror Law, Article 6:

(1) Those who announce that the crimes of a terrorist organization are aimed at certain persons, whether or not such persons are named, or who disclose or publish the identity of officials on anti-terrorist duties, or who identify such persons as targets shall be punished with imprisonment from one to three years.

(2) Those who print or publish leaflets and declarations of terrorist organizations shall be punished with imprisonment from one to three years.

(3) Those who, in contravention of Article 14 of this law, disclose or publish the identity of informants shall be punished with imprisonment from one to three years.

(4) (Amended 4th Subsection: 26/6/2006 - Article 5532/5) If any of the offences defined above are committed through print and broadcast media, the publishers or broadcasters in charge, even though they did not participate in the crime, shall be punished with a punitive fine from a thousand days to ten thousand days. However, the upper limit of this fine for the editors in charge is five thousand days.

(5) (Additional Paragraph: 29/6/2006 - Article 5532/5) Periodicals including public provocation for committing felony, glorification of felonies committed and their authors, and propaganda of a terrorist organization in the context of activities of a terrorist organization may be, as a measure, held up on the ground of the order of a judge, or of the warrant of a public

prosecutor for fifteen days to one month, where any delay would cause adverse consequences. The Public Prosecutor notifies the judge of his decision within 24 hours at the latest. If the judge doesn't approve such a warrant in the course of 48 hours, then it shall be deemed null and void.

Turkish Anti-Terror Law, Article 7:

(1) Whoever founds, leads a terrorist organization, and becomes a member of such an organization, with the purpose to commit a crime, in the direction of objectives prescribed in Article 1, through methods of pressure, threatening, intimidation, suppression, and menace, by taking advantage of force and violence, shall be punished according to the provisions of Article 314 of the Turkish Penal Law. Whoever arranges the activities of the organization shall be punished as leader of the organization.

(2) Whoever conducts propaganda for a terrorist organization shall be punished by imprisonment for one to five years. In case of committing this crime through media, the penalty to be given shall be increased by one half. In addition, a judicial fine of one thousand to ten thousand days shall be adjudged for owners and persons in charge of publication, who were not accessories to the felony by the media. However, the maximum limit of this penalty for persons in charge of the publication shall be five thousand days. The below given acts and behaviors shall be punished according to the provisions of this paragraph as well: a) to fully or partially cover the face with the purpose of hiding the personal identity in the course of a convention and demonstration march, turned into propaganda of a terrorist organization; b) to carry the emblem and signs, shout slogans or announce through audio means, membership or support of a terrorist organization, or to wear uniforms with emblems and signs of a terrorist organization.

(3) If offences prescribed in the second paragraph are committed inside any block, local, bureau or outlying buildings belonging to associations, foundations, political parties, labor and trade unions or their subsidiaries, or

inside educational institutions or student hostels or their outlying buildings, the punishment envisaged in this paragraph shall be doubled.

Turkish Anti-Terror Law, Article 14:

The identity of those providing information about crimes or criminals within the scope of this law shall not to be disclosed, unless the informant has given permission or the nature of the information constitutes a crime by the informant.

Press Law, Article 11:

(1) Crimes committed by way of printed matter occur upon their publication.

(2) The owner of the publication shall be held responsible for crimes committed through periodicals and non-periodicals.

(3) If the owner of a periodical is not specified or he/she does not hold penal liability during the publication or he/she cannot be tried by Turkish courts due to he/she being abroad during the publication process or if the punishment to be imposed does not influence another punishment previously imposed due to other crimes he/she committed, the responsible editor and the editor working beneath him/her, the editor in chief, editor, press advisor shall be held responsible. However, if the publication is published despite the objection of the responsible editor and the editor working beneath him/her, the responsibility shall fall on the person who made the matter published.

(4) If the owner of a non-periodical is not specified or he/she does not hold penal liability during the publication or cannot be tried by the Turkish courts or he/she is abroad during the publication process or if the punishment to be imposed upon him/her does not affect another punishment he/she was given due to other crimes committed, the publisher shall be held responsible. If the publisher is not specified or if he/she does not have penal liability

during the printing if he/she cannot be tried in Turkey due to he/she being abroad during the publishing, then the printer shall be held responsible.

(5) The above provisions shall also be applied to all publications which violate the provisions related to periodicals and non-periodicals.

Press Law, Article 13:

(1) If material or moral damages are incurred due to the publishing of a periodical, the owner of the periodical and his/her representative if he/she exists shall be held responsible. In non-periodicals, the publisher and the owner of the publication or the printer if the publisher is not specified shall be held jointly and severally responsible.

(2) This article is applied to the owners of both periodical and non-periodical publications, owners of brands or licenses, renters, operators or publishers under any title and real or corporate persons who act as publishers. If the corporate body is a company, the chairman of the board of directors in joint stock companies, and for others, the highest-level administrator is responsible jointly and severally with the company.

(3) After the activity which causes damage is carried out, if the publication is handed over in any way, or it joins with another publication or its owner – real or corporate person – is changed, the real and corporate person who takes over the publication, merges and acts as the owner of the publication and in joint stock companies, the chairman of the board of directors, and for others, the high-level administrator is responsible jointly and severally with those stated in the first and second paragraphs.

Press Law, Article 14:

(1) In cases where the reputation of an individual or his/her honor are slandered or in cases of unfounded allegations, the responsible editor of the periodical shall be obliged to publish a correction and a reply sent by the per-

son slandered within two months after the publication date of the article in question. The correction and reply, which shall neither include any element of crime nor contradict the interests of third parties protected by the law, shall be published without any additions or modifications within three days at the latest from the receipt of the correction and reply in daily periodicals; while in other periodicals, it shall be published in the first issue three days after receipt of the correction and reply. The correction and reply shall be on the same page and column as the original offending article, and shall be in the same font and format, in compliance with the guidelines for writing.

(2) The article in question shall be specified in the correction and in the reply. The correction and reply cannot be longer than the article in question. If the article in question is shorter than 20 lines or is an image or a cartoon, the correction and reply cannot be longer than 30 lines.

(3) If the periodical is published in more than one place, the correction and reply shall be published in all copies which included the offending article.

(4) If the correction and reply is not published within the periods specified in the aforementioned Paragraph 1, the person seeking the correction and reply may apply to a local criminal judge to deliver a verdict on the publication of the correction and reply in accordance with the provisions prescribed by the law, as soon as the predetermined period for the publishing of the correction and reply has passed. If the correction and reply contradicts the provisions of the same paragraph, the person seeking the correction and reply shall have the same right within 15 days from the date of publication. The criminal judge shall render a verdict on this request within three days without any hearing.

(5) The verdict of the judge may be appealed through immediate objection. The decision made within three days by the authority to whom the objection is submitted shall be considered final.

(6) If the judge rules that a reply and correction must be published, the time periods stated in Paragraph 1 begin with the date when the verdict

becomes final, provided no appeal is filed against the judge's ruling. If an appeal is filed, the period begins with the announcement of the official verdict.

(7) If an individual who has the right of reply and correction dies, this right can be exercised by one of his/her survivors. In this case one month can be added to the two-month period of correction and reply specified in Paragraph 1.

Press Law, Article 19:

In a period beginning with preparatory inquiry to *nol pros*, or to an open public lawsuit, a person who publishes material about the proceedings of the Republican prosecutor, judge or court or content of documents regarding the inquiry shall be sentenced to pay a major fine ranging from 2 billion to 50 billion TL. This fine cannot total less than 10 billion TL for regional periodicals and 20 billion TL for nationwide periodicals.

Press Law, Article 20:

In periodicals, persons who disclose the identities of the following individuals shall be sentenced to pay a major fine ranging from 1 billion to 20 billion TL (not less than 2 billion TL for regional periodicals and 10 billion TL for nationwide periodicals): a) News about sexual acts between individuals prohibited from marrying under Turkish Civil Code No. 4721 dated 22.11.2001, b) Victims who appear in the news regarding crimes mentioned in Articles 414, 415, 416, 421, 423, 429, 430, 435 and 436 of Turkish Penal Code No. 765 dated 01.03.1926, c) Victims or perpetrators of crimes under the age of 18.

Press Law, Article 26:

(1) It is essential that cases of crimes entailing the use of printed matter or other crimes mentioned in this law should be opened within a period of two months for daily periodicals and four months for other printed matter.

(2) This period begins with the delivery of the printed matter to the Office of the State Chief Prosecutor. If the material is not submitted, the beginning date of the aforementioned periods is the date when the Office of the State Chief Prosecutor ascertains the action which constitutes the crime. However, these periods cannot exceed the periods stipulated by the relevant article of the Turkish Penal Code.

(3) The period for the case to be opened against individuals who had material published despite the objection of the responsible editor and the editor working beneath him/her begins when the decision acquitting the responsible editor and the editor working beneath him/her becomes final.

(4) If the responsible editor discloses the identity of the owner of the publication, the period for the case to be opened against the owner of the publication begins with the date when the disclosure is made.

(5) The period to open a case concerning crimes the legal proceedings of which are based on complaints begins when the date the crime is committed is ascertained, provided that the prescription envisaged by the law is not exceeded.

(6) Regarding crimes for which permission or a decision to open a public case is needed, the period to open a case ends when the application is made. This process cannot exceed two months.

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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.

