

TURKEY: AMNESTY INTERNATIONAL'S BRIEF ON THE HUMAN RIGHTS SITUATION

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TURKEY'S STATE OF EMERGENCY ENDED BUT THE CRACKDOWN ON HUMAN RIGHTS CONTINUES

After two years of rapid deterioration in the human rights situation, Turkey's state of emergency finally ended on 18 July 2018. This long overdue and welcome news, however, was not accompanied by concrete steps to normalize the human rights situation in the country. Instead, many of the measures introduced during the state of emergency remain in force today and continue to have a profound and devastating impact on public life in Turkey.

The state of emergency was used to consolidate draconian government powers to silence critical voices and strip away fundamental rights and freedoms. Far from being reversed, many of these measures have continued unabated since the end of the state of emergency.

Since 18 July 2018, the Turkish authorities have continued to target different groups in society under various provisions in order to crack down on dissent and maintain a climate of fear. Human rights defenders and trade union representatives have been rounded up in successive waves of detentions. The government has introduced into ordinary law dismissal procedures similar to those it used during the state of emergency to dismiss over 130,000 public sector workers and introduced suspensions for newly qualified doctors who fail opaque security checks. As many as 123 journalists and other media workers remain in prison¹ while many university students are on trial facing terrorism related charges for merely expressing dissenting views or participating in peaceful protests.

The human rights cost of the state of emergency has been massive and the consequences of the government crackdown in the aftermath of the attempted coup of 15 July 2016 continue to be keenly felt today. Over one hundred thousand public sector workers, publicly labelled as having links to terrorist organizations and banned from public service for life, are still waiting for an effective remedy, while facing destitution and tremendous social stigma. Meanwhile, tens of thousands of people are languishing in lengthy and punitive pre-trial detention, in many cases, without credible evidence of internationally recognizable criminal acts.

HUMAN RIGHTS IN TURKEY IN 2018: A PERPETUAL STATE OF EMERGENCY

During the two-year long state of emergency, legislation has been amended by 32 executive decrees that have the force of law. More than 300 amendments by state of emergency executive decrees were made to more than 150 separate laws many with human rights implications. In addition to amendments that were introduced to existing laws during the state of emergency, thus embedding in law what should have remained exceptional measures, the Law 7145 was passed by the Turkish Parliament in July 2018 with the stated aim of enabling an effective fight against terrorist organizations after the end of the emergency rule. This law transposes many of the extraordinary powers granted during the state of emergency into ordinary law.

The Law 7145 extends the power of governors to restrict movement and ban public assemblies within the boundaries of the province they govern and allows police to hold some suspects for up to 12 days without charge. Turkish authorities must repeal all emergency measures and other legal changes which are not demonstrably necessary and proportionate, or which entail disproportionate restrictions on the exercise of human rights. This includes, for example, Articles 1, 8 and 9 of Law 7145 that imposes restrictions on freedom of movement and right to peaceful assembly; Article 13 that extends police custody for suspects of "terrorism" related crimes as well as Article 26 that allows the arbitrary dismissals from public sector to continue for another three years.

¹ The figures vary depending on the source organization: Committee to Protect Journalists (CPJ) estimates 68 journalists are currently imprisoned in Turkey, only referring to individuals who are journalists, facing charges for their journalistic work that CPJ could verify. Reporters without Borders' (RSF) figure of 123 includes individuals who work in media organizations but may not be journalists.

ARBITRARY DETENTIONS AND ABUSIVE PROSECUTIONS

As of December 2018, the total number of detainees in prison without an indictment or pending trial is 57,000; over 20% of the total prison population.² 44,690 people are in prison for “terrorism” related charges.³ These include journalists, political activists, lawyers, human rights defenders and others caught up in a crackdown that has vastly exceeded the legitimate purpose of investigating and bringing to justice those responsible for the 2016 coup attempt.

Using broadly worded anti-terrorism laws and trumped up charges, many have been prosecuted and imprisoned despite the absence of credible evidence that they have committed a recognizable criminal offence. This includes, prominent civil society leader, Osman Kavala who has now remained in prison for over one year without indictment.

Taner Kılıç, Amnesty Turkey’s Honourary Chair, and İdil Eser, the organization’s former Turkey Director, are being tried alongside nine other human rights defenders on baseless allegations of ‘membership of a terrorist organization’ for which they could face up to 15 years of jail term. Taner was finally released on 15 August 2018 after the authorities finally acknowledged that they had no basis for the allegation that he had downloaded the “ByLock” messaging application. He had spent 432 days in pre-trial detention until then. All 11 human rights defenders are on bail as the trial against them continues, despite the fact that, in six separate hearings, the prosecution failed to produce any credible evidence of the baseless charges levelled at them. The next hearing in the case will take place on 21 March 2019.

Prosecutions of academics who signed a peace appeal in 2016 criticizing curfews and security operations in south eastern Turkey have continued throughout 2018. At least 529 are charged with “making propaganda for a terrorist organization” under Turkey’s Anti-Terrorism Law. On 19 December 2018, prominent human rights defender and president of the Human Rights Foundation of Turkey, Prof. Dr. Şebnem Korur Fincancı, was sentenced to 2 years 6 months in prison following sentencing of the former chair of the Turkish Medical Association (TTB), Prof. Dr. Gençay Gürsoy, on 11 December to 2 years 3 months in prison. On 24 January 2019, an Istanbul court sentenced another academic from Bilgi University to 3 years imprisonment, longest prison verdict so far given to academics who signed the appeal. These verdicts represent another example of how anti-terrorism legislation is used to silence critical voices and intimidate human rights defenders.

In November 2018, European Court of Human Rights (ECtHR) ruling called for the release of the former co-chair of the Peoples’ Democracy Party (HDP), Selahattin Demirtaş. The Court found that Demirtaş’ detention was aimed at ‘stifling pluralism and limiting freedom of political debate’ and that he ought to be released as a matter of urgency. However, on 13 December 2018, the Ankara 19th High Criminal Court ordered his continued detention. Demirtaş has been detained since November 2016. Following President Erdogan’s public dismissal of the ECtHR ruling, stating “this [decision] does not concern us. We make our move in response and finish this work”⁴, Istanbul Court of Justice 2nd Criminal Chamber, on 4 December 2018, rejected Demirtaş’ appeal against his conviction by Istanbul 26th Assize Court in another case, approving his imprisonment for 4 years and 8 months. The Court had found that Demirtaş made propaganda for an armed terrorist organization during a speech he gave during Newroz (Kurdish New Year) celebrations of 2013. The case is a test case for the ECtHR’s ability to offer a remedy against arbitrary detentions and prosecutions in Turkey.

² Figures were provided at the plenary of Turkey’s Grand National Assembly on 13 December 2018 in relation to 2019 budget of the Directorate General for the Prisons and Detention Centres by the member of parliament, İbrahim Yurdunu Seven, representing the AKP. Page 55 of the transcript of the plenary is available at: https://www.tbmm.gov.tr/develop/owa/tutanak_sd.birlesim_baslangic?P4=23206&P5=H&page1=55&page2=55&web_user_id=17267610.

³ The figure was listed by Minister of Justice, Abdülhamit Gül, at the plenary of Turkey’s Grand National Assembly on 13 December 2018. Page 143 of the transcript of the plenary is available at: https://www.tbmm.gov.tr/develop/owa/tutanak_sd.birlesim_baslangic?P4=23206&P5=H&page1=143&page2=143&web_user_id=17267610

⁴ BBC Turkish, “Selahattin Demirtaş decision by European Court of Human Rights: He must be released”, 21 November 2018, <https://www.bbc.com/turkce/haberler-turkiye-46272903>

OVER 100,000 PURGED PUBLIC SECTOR WORKERS STILL AWAITING JUSTICE

Of the 129,411 public sector workers arbitrarily dismissed by emergency decree after the 2016 coup attempt at least 121,928 have not been able to overturn their dismissal.⁵ As such, they continue to be banned from working in the public sector and cannot leave the country because their passports have been cancelled. Many are facing destitution and tremendous social stigma. In some cases, they have been entirely cut off from access to their professions. Those dismissed, including police officers, military personnel, teachers, academics, healthcare professionals, and media workers, were publicly labelled as having links to terrorist organizations. They were, however, not provided with individualized justifications or the possibility to mount an effective challenge to their dismissals.

Only 3,799 of these dismissals were later revoked through subsequent executive decrees, while others had to apply to an ad hoc commission established in January 2017 in response to domestic and international pressure over the lack of an appeals procedure to seek redress against the mass dismissals.

The State of Emergency Inquiry Commission received 125,600 applications between 17 July 2017 and 5 September 2018, when the deadline for those dismissed by the last decree issued on 8 July 2018 had expired.⁶ Two years on since the creation of the Commission, 50,500 of the applications have been reviewed, of which only 3,750 have been approved and referred to relevant government departments for reinstatement.⁷

In October 2018, Amnesty International published a report, [Purged Beyond Return? No Remedy for Turkey's Dismissed Public Sector Workers](#), which reveals that the Commission is not set up to provide an effective remedy. It is marred by a lack of institutional independence, long waiting periods, an absence of safeguards allowing individuals to rebut allegations and weak evidence cited in decisions to uphold dismissals. In effect, it acts as a rubber stamp to the vast majority of the government's original dismissal decisions with over 100,000 dismissed public sector workers still banned from public service due to alleged links to "terrorist" organizations..

Permanently purging people from all work in the public sector or their profession infringes on their right to work, and in the long term may threaten the right to an adequate standard of living. The routine cancellation of passports violates the right to freedom of movement, while the lack of an effective appeal procedure threatens the right to a fair trial and an effective remedy.

In order to put an end to these broad range of human rights violations stemming from mass dismissals, the authorities should reinstate all public sector workers dismissed by emergency decrees. In cases where any of these individuals are reasonably suspected of wrongdoing or misconduct in their employment, or of a criminal offence, decision on their dismissal should be made solely in a regular disciplinary process with full procedural safeguards. In the event of any disciplinary proceedings resulting in suspension or dismissal, the authorities must ensure that the consequences do not result in denial of human rights, notably, the right to work, freedom of movement, health, housing and adequate standard of living.

Six months after the end of the state of emergency, the Turkish authorities are, however, moving further away from a solution. The Law 7145 adopted in July 2018 gives the government the power to continue the practice of summarily dismissing judges and other public-sector employees deemed to have links to terrorist organizations or other groups posing a threat to national security for the next three years.⁸ Later in December 2018, further legislation introduced suspensions for newly qualified

⁵ 3,733 dismissed public sector workers were reinstated during the state of emergency through subsequent executive decrees. The minimum number of those, who remain banned from public service, is calculated by deducting the total number of positive decisions by the State of Emergency Inquiry Commission (3,750) from the remaining 125,678.

⁶ Official website of the State of Emergency Inquiry Commission: <https://soe.tccb.gov.tr/>

⁷ Statistics are from Activity Report 2018 of the State of Emergency Inquiry Commission and reflect the situation as of 31 December 2018: https://ohalkomisyonu.tccb.gov.tr/docs/OHAL_FaaliyetRaporu_2018.pdf

⁸ Article 26 of Law 7145.

doctors who fail what are likely to be politically motivated security checks, which include an administrative -not judicial- administrative - assessment of whether the person has any links to terrorist organizations or not.⁹ These provisions continue to put public sector workers at risk of arbitrary dismissals and must be repealed. Turkish authorities must ensure that any disciplinary proceedings are brought on the basis of an employee's capacity and conduct in their employment rather than their political opinion or exercise of their human rights such as freedom of expression, peaceful assembly, or freedom of association.

CRACKDOWN ON MEDIA FREEDOM

In 2016, Turkey became the biggest jailer of journalists in the world, a position it has maintained since, with up to 123 journalists and other media workers currently imprisoned either in pre-trial detention or serving a custodial sentence.

Some of the investigations and prosecutions under anti-terrorism laws have led to convictions with journalistic work presented as evidence like in the case of 14 *Cumhuriyet* journalists and executives sentenced to between two-and-a-half years and eight years and one month in prison in April 2018. In July, six out of the 11 defendants in the case of the *Zaman* newspaper, closed down by executive decree in July 2016, were convicted and sentenced to between eight-and-a-half and ten-and-a-half years in prison for 'membership of a terrorist organization' without any credible evidence. The threat of criminal investigations, prosecutions and imprisonment pending trial has had a chilling effect on the media, with the vast majority of the mainstream media supporting the government in their reporting.

The crackdown on media freedom also included the closing down of more than 170 media outlets, including print and broadcast media as well as publishing houses. More than 2,500 journalists and other media workers lost their jobs as a result of these closures. The media landscape became further desolate and uniform when the last remaining independent media group was sold in March 2018 to a conglomerate known to have close business ties to the government.

FREEDOM OF EXPRESSION, ASSOCIATION AND RIGHT TO PEACEFUL ASSEMBLY

At least 1,487 civil society organizations and 117 media outlets shut down during the state of emergency remain closed as of 31 December 2018.¹⁰ As public sector workers dismissed through executive decrees, these organizations and media outlets are not able to go to courts to seek reopening, but have to first apply to the ineffective State of Emergency Inquiry Commission. Many of these organizations had considerable assets seized by the government during their closure. Turkish authorities must allow civil society organizations and media outlets that have been arbitrarily closed to reopen and restore their confiscated property.

In 2018, several governors continued to use the extraordinary powers they enjoyed under the state of emergency to restrict the right to peaceful assembly, including after the end of the state of emergency in July. The ban on all LGBTI events the Ankara governor issued in November 2017 remained in force

⁹ Article 5 of Law 7151, which entered into force on 5 December 2018 as well as Articles 1, 2 and 11 of the Regulation on the Security Clearance and Archive Research (no. 2000/284) amended on 25 October 2018 by Presidential Decree No. 228/9.

¹⁰ A total of 1,727 associations and foundations and 170 media outlets (news agencies, television channels, radio channels, newspapers, magazines, and publication and distribution houses) were closed during the state of emergency through executive decrees. 208 associations and foundations, as well as 21 media outlets were then reopened by subsequent emergency decrees, leaving 1,519 associations and foundations, and 149 media outlets closed by decree. The State of Emergency Inquiry Commission had issued decisions in 32 applications concerning closures. However, Amnesty International is not aware of the outcome of each one of these 32 decisions and whether they have concerned associations, foundations or media outlets. If all of these were considered to be positive and, therefore, to have resulted in the reopening of 32 associations or foundations, this would leave 1,487 of them still closed. If all these were considered to have resulted in the reopening of 32 media outlets, this would leave 117 of them still closed.

in 2018. With the exception of the Middle East Technical University student Pride march, which went ahead in May despite the ban, the visibility of the city's vibrant LGBTI communities and ability to exercise the right to peaceful assembly have been dramatically reduced. Istanbul Pride march was also banned for the fourth year in a row. Despite the ban, a group was able to gather in a small side street surrounded by riot police, instead of the major pedestrianized avenue where they marched for years without issue until 2015.

The peaceful gathering of the 'Saturday Mothers', a group that held weekly vigils for victims of enforced disappearances since the mid-1990s, has been banned since August 2018. The group, primarily composed of female relatives of the disappeared, was forced to disperse on 25 August 2018 after the police used tear gas and water cannons. They have not been permitted to hold their vigil in their traditional location ever since despite the fact that their gatherings and speeches made during them are entirely peaceful in nature.

Hundreds of construction workers and five trade union representatives were detained on mass in September 2018. These construction workers were among thousands who protested poor working and living conditions on the site of Istanbul's third airport, demanding action over arbitrary dismissals, late pay, poor workplace safety standards and a bedbug infestation in the workers' sleeping quarters. Workers have also complained of the high numbers of accidents, including fatal accidents, at the site. 61 of the workers are being tried for their involvement in the protests, of whom 31 remained in prison custody for around two months until the first hearing of the trial took place on 5 December.

University students continue to be targeted for participating in peaceful protests or writing critical social media posts. Among these are 30 students from Boğaziçi University who are on trial for peacefully protesting Turkey's military involvement in Afrin, Syria; four students from the Middle East Technical University who are on trial for displaying a banner depicting a caricature of President Erdoğan during the university's graduation ceremony; and one student from the Black Sea Technical University who is on trial for 'insulting the President' in a social media post about journalism.

Turkish authorities must ensure that people can gather and protest peacefully without fear, including by putting a stop to the repeated bans which have been imposed on LGBTI events, the 'Saturday Mothers' and other peaceful demonstrations across the country. Peaceful expression on online platforms such as Facebook and Twitter must not be criminalized.

RECOMMENDATIONS TO THE GOVERNMENT OF TURKEY

- **Release people remanded in prison under broadly defined "terrorism" charges without any credible evidence:** The justice system lacks any meaningful independence or impartiality in "terrorism" or other politically charged cases. Recent years have seen the extension of executive control over the judiciary and prosecution, the widespread arrest, dismissal and arbitrary transfer of judges and prosecutors, and the persistent attacks against lawyers. These developments seriously undermine the independence and integrity of Turkey's judicial system as evidenced by the large number of pre-trial detainees languishing in prison in the absence of any credible evidence of criminal wrongdoing. Appeals for release from pre-trial detention are routinely refused and courts systematically fail to uphold the principle of the presumption of innocence.
- **End unfair dismissals and reinstate all public sector workers dismissed by emergency decrees.** In cases where any of these individuals are reasonably suspected of wrongdoing or misconduct in their employment, or of a criminal offence, decision on their dismissal should be made solely in a regular disciplinary process with full procedural safeguards. The existing appeal mechanisms does not represent an effective domestic remedy for the almost 130,000 people who have been dismissed from their jobs without due process since July 2016. Furthermore, a new law passed in July 2018 gives individual government departments the power to continue arbitrary dismissals even beyond the end of the state of emergency. These new measures must be repealed as a matter of urgency in order to prevent further arbitrary dismissals in Turkey.

- **Cease the unfair prosecutions against human rights defenders:** Human rights defenders are being targeted for their human rights work. This creates a climate of fear and has a chilling effect on others whom they represent and motivate to take action. The once vibrant human rights civil society in the country is at risk of being eradicated with very serious consequences for the human rights situation in the country. The release of human rights defenders and civil society leaders like Osman Kavala from punitive pre-trial detention and an end to unfair prosecutions against them brought under vague anti-terrorism provisions, is crucial to ensure a functioning and free civil society.
- **Repeal measures brought in through executive decrees issued under emergency rule which are not demonstrably necessary and proportionate** for protection against threats to national security or public safety, or which entail disproportionate restrictions on the exercise of human rights. It is imperative that the most adverse measures introduced during the state of emergency do not become normalized in its aftermath.
- **Ensure people can gather and protest peacefully without fear,** including by putting a stop to the repeated or blanket bans imposed on LGBTI events, the ‘Saturday Mothers’ and other peaceful demonstrations across the country.
- **Allow civil society organizations and media outlets that have been arbitrarily closed under state of emergency powers to reopen** and give back their confiscated property.

RECOMMENDATION TO THE INTERNATIONAL COMMUNITY

- **Ensure that all political dialogues and bilateral discussions with Turkey** are used to raise concern over the human rights situation outlined in this briefing.

TURKEY: AMNESTY INTERNATIONAL'S BRIEF ON HUMAN RIGHTS SITUATION

Turkey's two-year-long state of emergency may have ended in July 2018, but alarmingly, the ever-deepening roll back of human rights that it brought about has not.

The state of emergency was used to consolidate draconian government powers to silence critical voices and strip away fundamental rights and freedoms. Far from being reversed, many of these measures have continued unabated since the end of the state of emergency.

This briefing outlines Amnesty International's concerns over the human rights situation in Turkey as of end of 2018 and ends with recommendations to the government of Turkey to improve it.