



9 December 2018

10 December Human Rights Day

WE WILL NOT LET HUMAN RIGHTS VALUES BE DISCARDED IN ANY WAY!

10 December 2018 marks the 70th anniversary of the day the United Nations (UN) General Assembly adopted and proclaimed the Universal Declaration of Human Rights.

Debates, which had started during WWII with its gross destruction and devastation to ensure that similar atrocities would never happen again and an international order dominated by peace be established, yielded results immediately after the end of the war and the Charter of the United Nations was signed on 26 June 1945 at the conclusion of the United Nations Conference on International Organization assembled in San Francisco.

The Preamble to the Charter presents the concept fundamental human rights and underlines the significance of human rights in protecting peace. Under Article 55 § C of the Charter, the UN was given the obligation to promote “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion” with a view to the creation of conditions of stability and well-being which were necessary for peaceful and friendly relations among nations.

The drafting of the Universal Declaration of Human Rights commenced on 29 April 1946 with the establishment of the “Commission on Human Rights” within the UN. The Universal Declaration of Human Rights with a preamble and 30 articles was drafted by the commission and adopted by the UN General Assembly assembled in Paris on 10 December 1948. The formal inception of Human Rights Day dates back to 4 December 1950, after the General Assembly passed resolution 423 (V) inviting all States and interested organizations to adopt 10 December of each year as Human Rights Day.

The adoption of the Universal Declaration, based on the idea that human dignity and value constitute the foundation of rights and that these rights are universal, is a major achievement for all humanity.

The Preamble to the Declaration states that the recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of

freedom, justice and peace in the world; it is essential, if human beings are not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.

Human rights are being instrumentalized and are at risk on the 70th anniversary of the declaration

However, an international system based on the rights and freedoms enshrined in the Universal Declaration has yet to be established. The fundamental idea that human beings have inherent and inviolable rights regardless of their race, color, gender, sexual orientation, language, religion and creed, belief, ethnic identity; political, personal and philosophical convictions has still not been sufficiently promoted worldwide. Today, the United Nations, in contradiction to its very grounds for existence, cannot be effective enough in preventing/putting an end to wars and civil wars that account for the major causes of rights violations, in intervening into refugee crises, in protecting natural and cultural heritage worldwide, in fighting poverty and injustice, and eliminating all kinds of discrimination particularly against women.

Moreover, we have been going through an era witnessing an erosion in human rights within which human rights themselves have been instrumentalized; on-going economic crises, armed conflict and war have been threatening human rights within the intervening 70 years in spite of the fact that the United Nations and the Council of Europe had both been built upon a system based on human rights and democracy. The recent “yellow vest” (gilets jaunes) protests in France and in some other European countries merely constitute one of the signs of the current crisis around the world.

Today the ideal of coexistence based on human rights is threatened by global state of emergency regimes imposed on account of all forms of “war” including economic, cultural, religious, ethnic, etc. all around the world. This ideal is sacrificed to bilateral commercial or international regional interest agreements. What is indeed being faced is a major crisis of humanity. The manifestation of this crisis both in Turkey in particular and around the world in general is the systematization, popularization, and the imposition of all kinds of violence to societies as the sole fact of life. The only path to lead in order to get out of this crisis, which humanity sadly faces on the 70th anniversary of the adoption of the Universal Declaration, is the unconditional protection and realization of the principles and values enshrined by the Declaration itself.

It is among our primary tasks to remind everyone once again of human rights in this era during which this setback in the world gives way to an increase especially in the number of refugees/asylum-seekers/immigrants whose rights are rendered to be issues for negotiation which, in turn, contributes specifically to the instrumentalization of human rights, and the United Nations and the Council of Europe systems’ shortcomings and inefficiency emerge more clearly with regards to the universality of human rights and their subjection to international protection.

Turkey's human rights and democracy problem deteriorated

The dire straits in the world also facilitated the downward spiral in Turkey and the country entered a new era during which its human rights and democracy problem gradually deteriorated, moved away from resolving its fundamental problems, and steadily became more authoritarian. It is seen that Turkey has not been able to implement a genuine conflict resolution since it could not solve its Kurdish issue, therefore, could not secure its democratization and stepped into a contrary state of affairs transitioning to an authoritarian presidency model through a constitutional amendment which in turn produced round-the-clock rights violations.

In addition to the rising authoritarianism of the regime in an environment of constant armed conflict, we now live in an environment where a significant setback process in economic and social rights has started having been affected by the economic crisis in the country which led to an increase in unemployment and poverty, and labor organizations that want to fight these are being coerced.

Turkey has been governed by a state of emergency (SoE) regime which has gone way beyond its grounds for declaration, been implemented arbitrarily and free from all kinds of control, and given way to gross rights violations within the last two years. While citizens have been deprived of their “right to have rights” via SoE practices and emergency decree laws, both the relationship among the members of the society and the relationship between the state and the citizen have ceased to be one based on human rights and democracy. We see that this situation which brought about a severe erosion in the sense of equality and justice within the society has sustained its place in 2018 as well.

Further, the “new regime” –which went into force with the 24 June 2018 elections that was held under an amended election legislation that was rendered vulnerable to the control and manipulation of the political power under the SoE conditions, pressure and coercion— has made the SoE permanent and perpetual through an ample number of successive legislative modifications. At the current stage the parliament has ceased to serve as a political power, which should function as a checks and balances mechanism and a body where citizens seek their rights via their deputies and express their demands, and has simply been transformed into an apparatus of legitimization/approval for the executive power. The idea of a rights-based regime has been abandoned; the institution of law has been rendered an instrument of silencing and intimidation against social segments that do not express gratitude and consent. The country has succumbed into a severe political, cultural and economic crisis brought about by not only the impacts of militarist and hawkish policies pursued both at home and abroad but also by the consequences of neoliberal economic policies that have been implemented for long. Unemployment, poverty and exclusion have become the major sources of rights violations that large social segments have been subjected to. Flexible and precarious employment, and corporate murders have virtually become the fate of

employees. Legal regulations to take back women's vested rights and attacks directed against these; exclusion, coercion and obstacles regarding the LGBTI+ movement, disregard of millions of refugees in the country by depriving them of their rights, subjection of different ethnic and belief groups to discrimination by harassment, deteriorating oppression on human rights defenders and segments engaged in the struggle for rights have all constitute crystal clear indicators of the attempt to eradicate human rights values in their entirety from social life.

Following this short assessment, a review of violations in various right categories in Turkey in 2018 is hereby presented.

SoE RENDERED PERMANENT

Turkey has spent half of 2018 under the SoE yet again. The SoE regime, which was declared on 21 July 2016 and maintained until 19 July 2018 having been extended seven times and gave way to numerous rights violations, has established an unchecked form of government which blatantly transgressed the lines drawn by the Constitution and rendered this state permanent.

A total of 32 emergency decree laws (12, 18 and 2 in 2016, 2017 and 2018 respectively) have been enacted within this period. These emergency decree laws, which have been implemented without fulfilling the requirement that necessitated deliberation at the Grand National Assembly of Turkey (GNAT) within 30 days following their enactment, have been put on GNAT's agenda hastily shortly before the decision to hold 24 June snap elections and have been included in the legislation having been passed into law. This way amendments introduced to more than 300 laws via emergency decree laws enacted on the grounds of the SoE, most of which were in utterly irrelevant fields, have also been incorporated in the legislation and became permanent.

31 emergency decree laws have become laws and gone into force. As per the Constitution, emergency decree laws can only be implemented during the SoE. When one studies the content of such decree laws, however, it is seen that they put forth permanent provisions with prospective effects. On this account, the main opposition party, Republican People's Party (CHP) filed a lawsuit before the Constitutional Court to repeal the emergency decree law No. 670 while the SoE was still in effect. Yet, the Constitutional Court held that emergency decree laws were not subjected to Constitutional jurisdiction in its judgment of 2 November 2016 (No. 2016/171 E, 2016/164 K) which was published in the *Official Gazette* on 8 November 2016 opening up a rather wide and arbitrary space for the political power. After the emergency decree laws were passed into laws, the Constitutional Court dismissed the lawsuits lodged by CHP for the repeal of these laws as well. The entirety of these judgments were published in the *Official Gazette* of 29-30 June 2018. Thus, the rule of law that set forth the provision that emergency decree laws could only be limited to a specific

SoE period was violated within Turkey's domestic law, including the Constitutional Court, and the political power was granted the opportunity to arbitrary government.

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

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

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

- The period of police custody was extended to 30 days with the emergency decree law No. 667 which went into effect on 23 July 2016, while the right of the suspect to confer with a defense counsel was restricted for the first five days of custody with the emergency decree law No. 668 which went into effect on 27 July. This practice was implemented round-the-clock for 6 months. The period of custody was then cut down to 14 days, while the restriction on conferring with a defense counsel was cut back to 1 day with the emergency decree law No. 682 which went into effect on 23 January 2017.
- 135,147 public employees were dismissed from public posts through emergency decree laws which were blatantly unconstitutional and issued during the SoE when the Constitutional Court was thoroughly by-passed. Yet, only 3,833 formerly dismissed public employees were reinstated to their posts. Work permits of 22,474 persons, most of whom were teachers who worked for closed-down private institutions, were revoked and only the permits of 614 of them were restituted.
- A total of 4,395 judges and public prosecutors were dismissed from their posts mostly through the Board of Judges and Public Prosecutors decisions and through Constitutional Court judgments while military judges and prosecutors were dismissed through Supreme Military Council decisions during the SoE. However, only 170 dismissed judges and prosecutors were reinstated.

- The number of closed-down private healthcare institutions was 48, while 2 were reopened.
- The number of closed-down private educational institutions (schools, prep schools, students' boarding houses and dormitories) was 2,281. 15 private universities were closed down and the activities of 19 trade unions and confederations were discontinued. A total of 3,041 tenured staff of 15 closed-down universities became unemployed.
- The number of companies that were seized by the state and trustees were assigned was 985 and it was reported that the economic size of these companies amounted to about 41 billion TRL with 49,587 workers.
- The greatest harm was inflicted upon freedom of expression during the SoE, accordingly, upon freedom of the press. While the number of closed-down media companies, prominently visual and print media, was 201, only 25 of them were permitted to be reopened.
- An ample number of journalists were imprisoned during the SoE. Currently at least 123 journalists are being held in prisons.
- 1,607 associations were closed down during the SoE with only 183 were allowed to be reopened. Further, 168 foundations were also closed down and 23 were permitted to be reopened. While it was alleged that many of these associations and foundations were associated with the Fethullah Gülen organization, it was indicated that the others were associated with other illegal organizations without basing this allegation on any concrete grounds. The other closed-down associations are mainly Kurdish cultural institutions, women's organizations, rights and legal bodies.
- Decisions taken by the SoE Commission were rendered within the jurisdiction of only 2 competent administrative courts in Ankara.
- Violations of the right to freedom of expression hit record high during the SoE. According to the official statistics provided by the Ministry of Justice, while lawsuits were lodged against 4,187 individuals under Article 299 of the Turkish Penal Code (TPC), i.e. insulting the president, in 2016, this figure went up to 6,033 persons in 2017. While in 2016 482 lawsuits were lodged under Article 301 of the TPC which proscribes insulting Turkishness, this figure went up to 753 in 2017. Moreover, the number of lawsuits lodged on the grounds of propaganda for an illegal organization was 17,322 in 2016, this figure also went up to 24,585 in 2017.

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

compliance with none of the criteria covered by the recommendations of the Venice Commission. The investigation commission, however, has been inching itself across the files before it and along with its insufficient decisions it has been lifting the permanent impacts of the SoE. The commission in question has announced on 9 November 2018 that it had undertaken a total of 131,922 procedures including 125,678 dismissals from public posts through emergency decree laws within the scope of the SoE. Out of these 2,761 procedures were about the closing down of institutions/organizations. The number of applications lodged before the commission was 125,000. Out of these, the commission decided on a total of 42,000 files accepting 3,000 while dismissing 39,000. Even these figures alone point out to the fact that this commission is not functional in practice, particularly regarding recommendations about an independent organ equipped with the appropriate tools to materialize the right to seek legal remedies.

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

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

- It was prescribed that the period of police custody could be extended to a total of 12 days through 4-day extensions by a judge’s ruling. The Constitution has been blatantly violated in this way since the period of custody can only be extended to a maximum of 4 days even for collective offences upon the request of the public prosecutor and the ruling of the judge as per Article 19 of the Constitution. Under the same article periods of custody can be extended in cases of SoE and war. This legislative move indicates that the SoE is de facto sustained.
- Not only have the governors been granted the power to prohibit the entry and exit of specific persons into and from specific places in a city for 15 days, they have also been granted the authority to declare curfews and ban vehicles to go out in traffic without a time limit at certain places and times. This merely signifies the authority to declare a curfew on one’s own. This authority has been defined specifically, not generally as is the case in the Law for Provincial Administration. It is without doubt that liberty and security of the person enshrined in Article 19 of the Constitution and the rights to freedom of residence and movement enshrined in Article 23 of the Constitution have been violated. Along with these rights, many related rights have also been violated accordingly through the use of this power.

- Procedures and practices that will give way to the violation of Article 34 of the Constitution, which designates the right to assembly and demonstration, has been paved for by granting governors such new powers as restriction and early dispersal of meetings and demonstration marches.
- It has been designated that dismissal of persons from public office will continue through commissions to be established at every public institution and organization, and by the consent of the related minister. Indeed, the SoE order is being maintained in just the same way as emergency decree laws by introducing such a concept as persons “in junction with” [iltisaklı] terrorist organizations and structures and entities posing a threat to national security. It also sets forth that passport invalidations of those who have been and to be dismissed will continue. As for purged academics, it has been regulated that they will not reinstated to their former universities even if a decision for reinstatement is handed down.
- Many modifications that terminate procedural guarantees and the right to a fair trial have been introduced. These include instances during which a need arises to retake the testimony of a person about the same incident, this procedure can be undertaken by the law enforcement through the writ of the public prosecutor, and challenging detention orders and release demands can be concluded through file reviews.

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

RIGHT TO LIFE

The political power’s policies predicated upon violence both at home and abroad constitute the major cause of violations of the right to life in 2018. Violations of the right to life, however, are not limited to those perpetrated by the state’s security forces. They also cover those violations brought about by the failure of the state to undertake its obligation to “prevent” violations perpetrated by third parties and “protect” its citizens from such incidents. According to data provided by the Documentation Center at the Human Rights Foundation of Turkey (HRFT), within the first 11 months of 2018:

- 14 individuals lost their lives due to summary execution by the law enforcement, random shootings, or fire on the grounds that they disobeyed stop warnings.
- A total of 529 individuals lost their lives due to armed conflict; of these 185 were in the security forces (soldier, police officer, village guard), 311 were militants, while 33 were civilians. A total of 434 individuals were injured during this period; of these 323 were soldiers, police officers and village guards, while 111 were civilians.
- 7 individuals lost their lives while 31 were injured due to being hit by armored vehicles of the security forces.
- 2 individuals lost their lives, while 22 were injured due to mine and unclaimed bomb, etc. explosions.
- At least 10 individuals lost their lives under suspicious circumstances in prisons, while at least 5 individuals, one being a trans woman, lost their lives in detention centers also under suspicious circumstances.
- At least 6 individuals lost their lives under suspicious circumstances while performing their compulsory military services.
- At least 1,797 workers lost their lives due to occupational accidents/corporate murders according to the data provided by Health and Safety Labor Watch.
- At least 340 women were killed due to male violence within the first 10 months of 2018.

TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

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

- A total of 538 individuals applied to the Human Rights Foundation of Turkey (HRFT) within the first 11 months of 2018 with allegations that they were subjected to torture and other forms of ill-treatment. Out of these, 280 applicants stated that they were subjected to torture and ill-treatment in the same year.
- According to data provided by the Human Rights Association (İHD), on the other hand,

a total of 2,719 individuals were subjected to torture and other forms of ill-treatment within the first 11 months of 2018. These include 284 cases of beating and other forms of ill-treatment in detention, 175 cases in extra-custodial places, and 2,260 cases at meetings and demonstrations intervened by security forces. Moreover, allegations of torture and ill-treatment gradually increased in prisons in Turkey, while the documentation of exact figures is still pending. For further information on the issue, please consult İHD's special reports on prisons.¹

- There are numerous pieces of evidence revealing the fact that the use of “extreme and disproportionate force” by the law enforcement against individuals exercising their right to peaceful assembly and demonstration all over the country amounted to the level of torture and other forms of ill-treatment. Particularly, the police interference into the peaceful protests staged twice daily before the Human Rights Monument on Yüksel Street, Ankara merely constitute one of the examples of such “extreme and disproportionate force” across the country.

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

- The re-emergence of enforced disappearance cases that constitute a black hole in our recent history and, in fact, for our civilization is extremely alarming. As far as the Documentation Center at HRFT was able to determine, 12 individuals were abducted within the first eleven months of 2018 and these individuals who were also subjected to torture were set free later on.
- According to the data collected by the Documentation Center at the İHD, on the other hand, 28 individuals were abducted or faced attempted abduction within the first eleven months of 2018. Similarly, these persons who were also subjected to torture were set free after some time. 49 individuals were forced to become informants either under custody or at extra-custodial places, while 77 persons were threatened while under custody or at other extra-custodial places within the same time period. For further information on the issue, please consult İHD's special report on testimonies, interviews, forced informant-making and abduction through coercion and threats.²

¹ Inter alia, <http://ihd.org.tr/en/index.php/2018/10/19/ihd-observation-report-on-duzce-t-type-prison/>.

² <http://ihd.org.tr/en/index.php/2018/11/16/ihd-special-report-on-testimonies-interviews-forced-informant-making-through-methods-of-coercion-and-threat-and-abduction-cases/>

- “Law on Amendments to Some Laws and Decree Laws” that went into force on 31 July 2018 sets forth that the period of police custody can be extended to a total of 12 days through 4-day extensions by a judge’s ruling; this infringes even the provisions of the current Constitution.
- Procedural guarantees of due process, which play a significant role in preventing torture but were mainly disregarded in practice for years, have been eliminated to a large extent due to legislative modifications introduced by emergency decree laws during the SoE. These procedural guarantees include informing the detainee about the reasons of custody, informing third parties, access to defense counsel, access to a medical doctor, appropriate physical examination under appropriate conditions and obtaining medical reports in due form, speedy applications to judicial authorities for lawfulness review, proper handling of custody records, and possibility of independent observations. One can argue also based on such amendments that procedural guarantees have recently been terminated in no small measure and a thoroughly arbitrary situation has been created about this issue.

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

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

Various visitation restriction practices like restricting defense counsels’ conferences with their clients who were being investigated for similar charges and review of file-related documents at conferences with inmates are still maintained even after the end of the SoE as well.

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

power to punish others and, in this regard, implies the denial of the principle of rule of law, state of law which authorizes only the state to punish offenders is profoundly important.

- The fact that the ECtHR declared the application for the Roboski Massacre “inadmissible” on 17 May 2018 refers to an unforgettable threshold regarding the level that the problem of impunity reached along international mechanisms as well. This judgment by the ECtHR, which implies an attempt to “bury in history” a massacre that was witnessed by everyone on 28 December 2011, provides a rather special example revealing the state of the international mechanisms that have been transformed into severely bureaucratic structures, notably the ECtHR itself, against the current regimes of crisis.
- Similar assessments to those offered here based on applications to our respective bodies have also been delivered by the UN Special Rapporteur on Torture in his report of 18 December 2017 based on his visit to Turkey between 27 November and 2 December 2016. The report in question not only does cover assessments and facts but also 31 concrete recommendations. The UN Special Rapporteur on Torture also felt the need to express his deep concerns on the issue once again on 27 February 2018. Moreover, similar assessments have found their way into the “Report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East”³ penned by the Office of the UN High Commissioner for Human Rights and issued in March 2018 along with the Council of Europe’s “Turkey 2018 Report”⁴ of 17 April 2018.
- Further, the fact that the government has not yet permitted the publication of a finalized report on the observations and assessments of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) based on its ad hoc visit to Turkey between 29 August and 6 September 2016 is yet another indicator of the problem of torture in Turkey.

PRISONS

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

According to data offered by the Ministry of Justice during the budget deliberations at the GNAT, a total of 260,144 people were incarcerated in 385 penitentiary institutions as of 16 November 2018. 202,434 of these persons are sentenced prisoners, while 57,710 are

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

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

prisoners with no conviction. No data has been provided for a long time now on the number of prisoners on remand, i.e. those inmates whose sentences have not been upheld yet. These are shown as being included in the number of sentenced prisoners.

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

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

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

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

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

The fact that Abdullah Öcalan, who is a sentenced prisoner, has not been allowed to confer with his lawyers since 27 July 2011 and with his family members since 11 September 2016 is a human rights violation and this state of affairs has not changed as of 9 December 2018.

- Other problems that have been going on for a long time include restriction of access to healthcare services, denial of the right to visit the prison infirmary, ill-treatment practices including handcuffed transfers to the Forensic Medicine Institute, courthouses and hospitals, failure to provide timely and effective solutions to prisoners' medical problems. Banishment of a majority of prisoners, who hardly have the opportunity to continue their treatments, to other prisons has severely endangered the right to access healthcare services especially in recent years.
- Sick prisoners account for another significant issue regarding prisons. According to the latest data of 1 March 2018 provided by İHD, there is a total of 401 critically ill prisoners. Not only do these persons have significant problems in gaining access to healthcare services, but also face serious problems in obtaining medical evaluation reports based on independent and qualified examinations including the fact that the Forensic Medicine Institute is neither independent nor impartial. The phrase "security of the society" found in the provision that stated "those evaluated to be not posing a severe and concrete danger regarding the security of the society" in the amendment of 18 June 2014 introduced to the Code on the Execution of Sentences and Security Measures has completely rendered the release of prisoners dependent on arbitrary decisions even though there existed medical reports showing that sick prisoners faced concrete life-threatening conditions.
- Uniform clothing has been imposed as a compulsory practice for prisoners, sentenced and otherwise, for offenses within the scope of Anti-Terror Code in outbound transfers to hearings with the emergency decree law no. 696 of 24 December 2017. The "imposition of uniform clothing" that has found its way to the agenda recently among the numerous problems in prisons and meant derogatory punishment on its own is likely to give way to highly serious disadvantages today and in the future.
- Further, at least 10 prisoners lost their lives in prisons under suspicious circumstances within the first eleven months of 2018 as far as the Documentation Center at the HRFT was able to ascertain. Although there are allegations about these suspicious mortality cases, no effective investigation processes have been undertaken to the best of our knowledge.

THE KURDISH ISSUE

The armed conflict that restarted immediately after the general elections of 7 June 2015 is still going on not only due to the fact that the government failed to take sincere and coherent steps for the peaceful and democratic resolution of the Kurdish issue, but also with

the impact of developments in the Middle East. The most intense conflict environment faced lately, has given and indeed is giving way to gross and serious human rights violations.

According to the data provided by the Documentation Center at the HRFT, a total of 529 individuals lost their lives within the first eleven months of 2018. Of these, 185 were law enforcement officers (soldier, police officer, village guard), 311 were militants while 33 were civilians. According to data collected by IHD, on the other hand, 656 and 1,669 individuals (security forces, militants and civilians) had lost their lives in 2017 and 2016 respectively.

As has been stated in the “Report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East” penned by the Office of the UN High Commissioner for Human Rights issued in March 2018, lack of effective investigations and the immunity granted to security forces even in the presence of serious allegations of gross human rights violations constitute a major problem. A decline was observed in the number of investigations upon the extension of powers granted to the security forces. Criminal charges brought before the public prosecutors’ offices regarding the killings of many individuals (130 to 189 individuals) in places defined as “basements” during the “curfew” in Cizre were dismissed by non-prosecution judgments on the grounds that there were no grounds for legal action. Such judgments were based on arguments like the “presence of a legal basis in the incident” and “lack of evidence showing no transgression of justifiable self-defense limits.” Cizre Public Prosecutor’s Office has dismissed 72 out of 120 criminal charges brought before it declaring non-prosecution and has not undertaken any action about the rest as of October 2018. The ECtHR process, with its first hearing held on 13 November 2018, is still pending with regards to a total of 35 applications lodged before the court.

“Round-the-clock curfews” were also sustained in 2018 with all their negative impacts though in shorter terms and smaller scales. The curfews were imposed intensively during 2015 and 2016, gave way to the violation of at least more than 1.8 million persons’ most fundamental rights to life and health in cities and districts. Further, reports penned by the European Commission for Democracy through Law (Venice Commission) and the Council of Europe Human Rights Commissioner openly stated that these curfews lacked legal grounds with regards to both domestic and international laws. According to the data collected by the HRFT Documentation Center between 16 August 2015 and 1 October 2018, a minimum of officially confirmed 332 round-the-clock and/or open-ended curfews were declared in 11 cities and at least 50 districts in Turkey.⁵ 43 new curfews were declared in 2018 mostly in the South-Eastern region. It should also be noted that about 1 million 809 thousand residents were “arbitrarily deprived of their liberty” intentionally due to “perpetual curfews” that lasted for months. Residents living in regions under the full control of the state were deprived of their fundamental rights and freedoms and these persons’ access to basic needs like water, food and healthcare services were prohibited for long terms. This imposition of “perpetual curfews” should be evaluated within the scope of the prohibition of torture and other forms of ill-treatment, which have already amounted to serious levels, considering the

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

fact that persons suffered from conditions including severe pain and emotional suffering either individually or collectively.

Moreover, elected mayors were removed from office and state trustees were appointed to replace mayors in 99 municipalities. 94 of these municipalities belonged to the Democratic Regions Party (DBP), while 4 to the Justice and Development Party (AKP) and 1 to the Nationalist Movement Party (MHP). 46 co-mayors of the Democratic Regions Party are still imprisoned.

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

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

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

According to the annual Global Peace Index by the Australia-based Institute for Economics and Peace, which ranks 163 independent states and territories according to their level of peacefulness, Turkey ranked the 149th out of 163 countries in 2017. Turkey had ranked 146th and 138th in 2016 and 2015 respectively. We believe that the core principle that will bring about the termination of wars both at home and in the world and will render it possible to exist in a peaceful world and Turkey is human rights.

FREEDOM OF THOUGHT, EXPRESSION AND BELIEF

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

- 178 media outlets were closed down by emergency decree laws issued during the SoE to date.

- 9 raids were launched against publishing houses, printing houses, offices of daily newspapers, magazines and Internet sites as of 1 November 2018; at least 15 books were pulled off the shelves as reported by the press itself.
- As has been stated in the BIA Media Monitoring Report of 22 October 2018, 123 journalists are still in prison. Many of these journalists have been accused of unproven offenses lacking fact-based evidence.

Turkey ranked the 155th out of 180 countries, having went down four ranks compared to the previous year, in 2017 World Press Freedom Index issued by Reporters Without Borders (RSF). The RSF has also stated in its report that Turkey alarmingly went down 57 ranks within the last 12 years.

Academia in Turkey has also sustained heavy blows under such circumstances. 6,081 academics were dismissed without any justification or due legal process. Appeals mechanisms and legal remedies have been rendered inaccessible for dismissed academics through regulations implemented in the state of emergency. Additionally, these academics have been banned from working in the public sector as well. They have been ripped off their right to social security. And their passports have been invalidated. 407 academics dismissed from their posts at universities are those who signed the declaration “We Will Not Be a Party to This Crime!” penned by Academics for Peace on 10 January 2016. Lawsuits have been brought against the signatory academics for peace under Article 7 § 2 of the Anti-Terror Code No. 3713 with impugned allegations of “making propaganda for a terrorist organization.” As of 6 December 2018, lawsuits have been brought against 426 academics since 5 December 2017. Within the framework of finalized cases in local courts judges have sentenced 39 academics to 1 year and 3 months in prison while 2 academics were handed down 1 year and 6 months of imprisonment sentences. Judges have ruled for the deferral of the announcement of all these verdicts except for Prof. Dr. Zübeyde Füsün Üstel of Galatasaray University, Prof. Dr. Büşra Ersanlı of Marmara University and Prof. Dr. Gülhan Türkay of İstanbul University. Professor Türkay’s sentence was deferred having been subjected to a 2-year supervision. This oppressive process against Academics for Peace proves to be a crystal clear indicator of the ways in which the principle of the rule of law and the right to a fair trial have been eradicated in Turkey.

Among other instances one finds lawsuits brought against 39 individuals under Articles 6 § 2 and 7 § 2 of the Anti-Terror Code who symbolically acted as editors-in-chief on duty of the daily *Özgür Gündem* for a day within the scope of a solidarity campaign in 2016, against human rights defenders in general and İHD executives in particular and against lawyers practicing human rights law, specifically those taking part in social cases, in order to actively exercise the right to defense. For further information on the issue, İHD reports “Lawyers under Judiciary Pressure,”⁶ “Increased Pressures on Human Rights Defenders, Human Rights

⁶ <http://ihd.org.tr/en/index.php/2018/07/25/lawyers-under-judiciary-pressure/>

Association and its Executives”⁷ can be consulted. On this note, we would like to reiterate our demand for the immediate release of human rights defenders Gönül Öztürkoğlu, Osman Kavala, Hasan Ceylan and Özgür Ateş along with all jailed lawyers in the person of Selçuk Kozağaçlı.

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

As has already been stated in the opinion of 13 March 2017 by the Venice Commission entitled “Opinion on the Measures Provided in the Recent Emergency Decree Laws with Respect to Freedom of the Media” and in the memorandum of 15 February 2017 by Council of Europe’s Human Rights Commissioner entitled “Memorandum on Freedom of Expression and Media Freedom in Turkey,” lawsuits were brought against many people and were sentenced because of their statements and acts within their right to freedom of expression through different laws. For instance, according to the data provided by the Ministry of Justice, lawsuits were brought against 10,745 individuals under Articles 6 and 7 § 2 of the Anti-Terror Code in 2013 and this figure continuously went up amounting to 24,585 persons in 2017. Further, the number of persons against whom lawsuits were brought under Article 314 § 2 -which regulates membership in an armed organization proved to be an article often resorted to in such cases- dramatically increased from 8,110 in 2013 to 136,795 in 2017 according to the data provided by the Ministry of Justice as well.

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

According to the the statements by the Ministry of the Interior, the number of persons against whom legal procedures have been initiated on the grounds of their social media posts was 11,744 as of 29 October 2018.

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

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

Most of those against whom legal action was taken were students, politicians and human rights defenders. Among them were the central executive committee members of the Turkish Medical Association, executives and members of KESK and affiliated trade unions,

⁷ <http://ihd.org.tr/en/index.php/2018/06/20/report-on-increased-pressures-on-human-rights-defenders-human-rights-association-and-its-executives/>

executives and members of DİSK, KAOS GL activists, members of Pir Sultan Abdal Cultural Association, Students' Collective members, the co-chairperson of Halkevleri Dilşat Aktaş and its members, Boğaziçi University students, members of the General Board of Directors of the Federation of Idea Clubs (Fikir Klüpleri Federasyonu), Human Rights Association members; HDP deputies, executives and members; Peoples' Democratic Congress representatives, Socialist Reestablishment Party executives and members, Democratic Regions Party executives and members, EMEP executives and members, Socialist Party of the Oppressed executives and members, co-speakers of the Greens and the Left Party of the Future, co-speaker of the Socialist Solidarity Platform.

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

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

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

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

FREEDOM OF ASSOCIATION AND PRESSURES ON HUMAN RIGHTS BODIES AND DEFENDERS

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

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

- The report of 1 June 2018 by İHD incorporates information on 221 lawsuits out of more than 500 brought against İHD executives. A total of 143 lawsuits were brought against

İHD's Co-Chairperson Eren Keskin alone. Ms. Keskin was sentenced to 7.5 years in prison under Articles 299 and 301 of the Turkish Penal Code (TPC) on 29 March 2018 within the scope of one of these lawsuits along with other heavy sentences based on other lawsuits. As of today İHD's Malatya Branch Chair Ms. Gönül Öztürkoğlu, İHD's former Bitlis representative Mr. Hasan Ceylan, and İHD's Dersim Branch executive Mr. Özgür Ateş are jailed.

- At least 30 investigations and lawsuits against the founders, president, members of the board of directors and volunteers of HRFT are still pending.
- Further, authorities have launched both administrative and judicial procedures against the legal personalities of human rights bodies like the HRFT and İHD. Investigation processes have been initiated and are pending with regards to a report⁸ drafted by the HRFT, İHD, Agenda: Child! Association, Trade Union for Public Employees in Healthcare and Social Services and Diyarbakır Bar Association following a visit to Cizre within the scope of initiatives to document gross human rights violations in residential areas under curfew in Turkey's South East. Moreover, there are two separate pending investigations against İHD.
- Lawsuits are still pending for 8 human rights defenders and two consultants who were taken under custody in Büyükkada, İstanbul on 5 July 2017 while they were at a workshop on the welfare and safety of human rights defenders organized by Amnesty International Turkey.
- The report by İHD issued on 1 June 2018 incorporates information on 78 lawsuits, specifically against lawyers practicing in political cases.⁹ The Chairperson of Progressive Lawyers Association Selçuk Kozagaçlı and many other executives and lawyers of the association are in jail.
- There is an increase in cases of coercion and judicial harassment against medical doctors who resist cases contradicting medical ethics, universal values, and at the same time, the principles of the İstanbul Protocol. Recently physicians who denounced war and armed conflict in their statements as has been prescribed by their professional liabilities and duties have been taken under custody, arrested, subjected to criminal proceedings. For instance, the Central Council members of the Turkish Medical Association were taken under police custody on 30 January 2018 because of their statement of 24 January 2018 that denounced war and reminded all once again that "war is a public health problem." Four council members were released four days after while the others were released seven days after the fact. Investigations initiated against the council members are pending.
- The lawsuit brought against the central executive committee members of KESK (Confederation of Public Employees' Trade Unions) under Article 216 of the TPC and Article 7 § 2 of the ATC because of their statement on Afrin is pending. Judicial

⁸ <http://en.ihd.org.tr/wp-content/uploads/2016/04/Cizre-Report-2016.pdf>

⁹ <http://ihd.org.tr/en/index.php/2018/07/25/lawyers-under-judiciary-pressure/>

harassment on KESK, with about 5 thousand members dismissed from their public posts, and its affiliated trade unions is ongoing.

- Mr. Osman Kavala, who has served as a founding member, executive board member, or advisory board member of many NGOs, was taken under police custody on 19 October 2017 and is still under pre-trial detention in spite of the fact that no indictment could be prepared against him. İstanbul Chief Public Prosecutor's Office asked for Mr. Kavala's detention without ever taking his testimony at the end of a 14-day police custody, and he was detained as per Article 309 of the TPC that sets forth the offense of attempting to abolish the constitutional order and Article 312 of the TPC that prescribes the offense of attempting to abolish the government. No indictment has been brought against him yet. On another note, 12 out of 13 academics and rights defenders who were taken under custody on 16 November 2018 were released, yet the investigations against them are ongoing. These investigations are conducted as a continuation of Gezi Park protests and these can be considered to be attempts to silence social dissidence down the line by issuing arrest warrants against many individuals.

We would like to note on the occasion of World Human Rights Day that we stand in solidarity with all human rights defenders deprived of their liberty and reiterate that they should immediately be released.

Conducting extensive and repetitive country-wide arrest and detention operations specifically against a political party (HDP) is a direct interference into democratic politics. Constant arrest and detentions of HDP executives and members have amounted to world record breaking levels while this state of affairs necessitates the drafting of a special report.

FREEDOM OF ASSEMBLY AND DEMONSTRATION

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

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

During the official SoE period governors' offices in many cities had been handing down one-off and regarding a specific day/protest prohibition decisions or all-encompassing ones

covering all protests consecutively for various meetings, demonstrations and activities having been authorized by the antidemocratic regulations in the SoE laws. Although the SoE was lifted on 19 July 2018, this and similar practices continue to be implemented. These bans cover a wide spectrum of events ranging from a meeting on the negative impacts of geothermal power plants to high school and university festivals, from culture and arts, nature festivals to LGBTI+ events.

Even under such circumstances, where the right to freedom of peaceful assembly and demonstration has essentially been disregarded, the following interferences have taken place within the first 10 months of 2018 according to the data collected by the Documentation Center at the HRFT:

621 times into the protests staged with the demand “I want my job back” notably in Ankara and İstanbul; 10 times into the press statements by Saturday Mothers; thrice into the protests staged by İstanbul airport workers asking to improve their working conditions; 785 times into peaceful protests planned to be staged by various segments of the society (unpaid workers, unassigned teachers, trade unions, farmers, university students and professors, women’s platforms, LGBTI+ groups, residents, political parties, associations, professional organizations). People were subjected to police violence amounting to torture; 3,697 persons were taken under custody while 118 were arrested.

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

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

VIOLATIONS OF THE RIGHT TO VOTE AND BE ELECTED

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

When the Supreme Board of Elections unlawfully decided to recognize unsealed ballots and ballot envelopes as valid at the referendum of 16 April 2017 held under the SoE conditions, a grave trust problem has arisen. The Board, hence, seriously damaged the right to vote and

be elected through amendments introduced into Law No. 298 in the 24 June 2018 elections again held under the SoE conditions.

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

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

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

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

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

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

İHD and HRFT have drafted a special report on the coercive practices and violations between 26 April 2018, the official start off for election campaigns, until 20 June 2018 for the 24 June

elections.¹⁰ This report incorporates repressive practices and violations, arbitrary restraint orders by civilian authorities, interventions and attacks by security forces along with attacks and obstructions by civilian groups.

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

VIOLENCE AGAINST WOMEN

Women have also faced many rights violations in 2018 yet again. Many rights and freedoms of women, particularly their right to life, have been infringed. Male violence killed 340 women, injured 341 women within the first 10 months of 2018. At least 54 women were raped, 169 women were subjected to harassment.

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

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

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

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

REFUGEES/ASYLUM-SEEKERS/IMMIGRANTS

Turkey's stand on refugees¹¹ has not changed in 2018 either. No permanent solutions were offered to solve refugees' problems while the policies implemented were short-term and far from facilitating coexistence. The number of persons who had to immigrate to Turkey due to the ongoing war in Syria since 2011 is over 3.5 million as of 2018 according to official figures

¹⁰ <http://ihd.org.tr/en/index.php/2018/06/22/violations-during-propaganda-period-and-voting-security/>

¹¹ Everyone who came into Turkey due to compelling reasons are referred to as "refugees" by human rights bodies regardless of their legal status. Thus, the term "refugee" will be used in the following parts.

while the estimates show more than 4 million. Although these people have spent seven years in Turkey, they still legally have a “temporary protection status” and cannot access the right to asylum. Other rights and services are mostly focused on those coming from Syria, while refugees from Afghanistan, Iran and African nations amounting to about 365,000 in number are being disregarded. This precarious state that all refugees in Turkey are in lead these people who were forced to leave their countries to seek other safer countries. The number of people who lost their lives while trying to get to Europe from the Mediterranean was more than 2,000 in 2018.

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

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

ECONOMIC AND SOCIAL RIGHTS

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

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

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

According to data provided by the Health and Safety Labor Watch, at least 1,797 workers lost their lives within the first 11 months of 2018. There has recently been a constant increase in the number of corporate murders euphemized as occupational accidents.

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

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

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

In lieu of conclusion, we will persevere in our struggle to put an end to this malevolent process, which can be prevented as it is human-made, both in Turkey and the world and to promote the ideal of a common life based on human rights more than ever.

Human Rights Association

Human Rights Foundation of Turkey