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Briefing Note

Continuing repression of freedom of assembly and association in Turkey

This briefing note was prepared by the Human Rights Foundation of Turkey (HRFT)¹ jointly with the World Organization Against Torture (OMCT) and the Human Rights Association (İHD) in order to highlight the continuing repression, obstacles and challenges to the enjoyment of freedom of assembly by human rights defenders in Turkey and to strengthen solidarity with human rights defenders.

The crackdown on human rights defenders² and civil society activists continues at an alarming pace in Turkey today. Journalists, lawyers, civil society representatives, and all sorts of human rights defenders in Turkey face repression, obstacles, and challenges in pursuit of their fight for human rights and for their efforts to hold the authorities accountable. These obstacles emerge through methods such as judicial and administrative harassment, dismissals, threats, targeting and reprisals and bans on peaceful assemblies and demonstrations.³

Specifically marking the resurgence of conflict in Turkey in 2015, the 2016 coup attempt and the continuing *de facto* state of emergency measures, the human rights climate in Turkey has reached a level where peaceful assemblies and demonstrations have in practice become *impossible* to organise and stage, and the right to collectively defend human rights has also been out of the question. Since restriction of rights and freedoms has become the norm, their enjoyment has been the exception.⁴ Meanwhile, pro-government rallies and assemblies organized by public authorities have heavy security measures but no interference. Assemblies supporting government policies can be held in all restricted areas, even at night, although Law No. 2911 on Meetings and Demonstrations does not permit assemblies after sunset. This demands a specific focus on the methods used by the authorities to intervene in assemblies and protests organised by human rights defenders. For this reason, we will

¹ HRFT is an internationally recognized civil society organization that has been offering treatment and rehabilitation services for those subjected to torture and other forms of ill-treatment, along with their families, and has been working to prevent human rights violations, particularly torture, since 1990.

² Even if there is no specific definition of who is or can be a human rights defender, the UN Declaration on Human Rights Defenders, adopted by the UN General Assembly on 9 April 1998, lists those covered by the concept of human rights defender as individuals, groups and organizations. In accordance with this broad categorization, human rights defenders can be any person or group of persons working to protect and promote human rights. Human rights defenders can be of any gender, of varying ages, and from all sorts of professional or other backgrounds.

³ For detailed information, see HRFT, [Information Note on Repression, Obstacles And Challenges Faced by Human Rights Defenders in Turkey \(September 1-December\)](#); and [Human Rights Defenders in Turkey Face Oppression, Obstacles and Challenges \(1 March-31 August 2021\)](#).

⁴ See, Bianet (in Turkish) [“İhlaller olağan, hak kullanımı istisna haline geldi”](#)

briefly set out the main methods and trends employed by the authorities to prevent human rights assemblies and protests, and their dire effects on human rights defenders in Turkey.

I. Banning, “Unauthorizing” or Intervening in Human Rights Assemblies and Demonstrations

Article 34 of the Constitution of Turkey enshrines the right to freedom of assembly and demonstration, and states that everyone has the right to hold peaceful assemblies and demonstrations, without prior permission. While the constitutional protection of freedom of assembly is in line with international standards, other legislation⁵ regulating the freedom of assembly and demonstration is largely in breach of both the Constitution and international standards. Such legislation establishes arbitrary limitations, such as the requirement for prior permission, granting police forces unwarranted use of power or delegating to governors the authority to decide whether a protest is lawful or not right. In addition, the conditions for banning, postponing, or terminating an assembly or demonstration are drafted in a very vague manner in this body of legislation, leading to arbitrary restrictions of the exercise of freedom of assembly and demonstration.

To briefly summarize the most significant shortcomings of the freedom of assembly law:

- Article 19 of Law No. 2911 gives the administration the authority to postpone and ban all meetings in cities and districts for **up to one month**, but this fundamental power given to the administration is delegated to governorships and district governorships. Article 17 of the same law specifies the lawful reasons for such decisions as “national security, public order, prevention of crime, protection of public health, public morality or the rights and freedoms of others, or ... in cases where there is a clear and imminent threat of a crime being committed.” However, the administrative authorities do not offer any justifiable reasons for their actions and decisions in preventing assemblies and demonstrations; rather they use general reasons copied-and-pasted directly from this article for justifying such far-reaching interventions.
- Article 6 of Law No. 2911 also allows the provincial governors the authority to **decide on the venue and the route of gatherings** provided that the venue or the route “do not make the daily life of citizens excessively and unbearably difficult.” This authority is widely open to subjective and unsubstantiated interpretation, as it does not clearly define what makes the daily life of citizens excessively and unbearably difficult, given that mass peaceful gatherings concerning matters of public concern and interest do, in part, aim by their very nature to have significant effects on the daily life of citizens.

According to Article 11/C of Law No. 5442 on Provincial Administration, governors are entitled to take all necessary decisions and measures to ensure peace and security, personal integrity, and public well-being within the district. This provision was amended on July 25, 2018, straight after the end of emergency rule, by Law No. 7145. This continues to allow for the unfettered discretion of provincial

⁵ The main legislation that regulates the freedom of assembly and demonstration is Law No. 2911 on Meetings and Demonstrations. The secondary legislation regulating the freedom of assembly and demonstration are Law No. 2559 on the Duties and Discretion of the Police, Law No. 5442 on Provincial Administration, Law No. 3713 on the Prevention of Terrorism Acts, and Law No. 5326 on Misdemeanours.

governors to take any decisions or preventative measures within their province. Such measures extend to decisions on any type or size of assembly or gathering in open or enclosed places. Among other restrictive provisions, these amendments vested governors with the power to **ban any person from entering or leaving certain areas for a period of 15 days**. Under Article 66 of the same law, those who do not abide by the governors' decisions are subject to sanctions under Article 32 of Law No. 5326 on Misdemeanours. This makes individuals taking part in a peaceful assembly which is deemed to contravene Article 11/C automatically subject to sanctions in the form of fines.

Building upon this vague and open-ended legislative framework, widespread bans and restrictions on assemblies and demonstrations in Turkey are construed such as (i) blanket bans on assemblies and demonstrations, (ii) refusal to grant “authorization” for such assemblies and demonstrations or (iii) intervention of police forces to disperse such events. These restrictions clearly prevent human rights defenders from raising their voices in a collective manner from the outset, and infringe the means of public scrutiny, open public debate and the very foundations of a democratic society.

According to data from HRFT Documentation Centre, governors and district governors in twenty-four provinces and six districts, banned assemblies and demonstrations one hundred and one times within the first eleven months of 2021.

These widespread bans and restrictions are demonstrated by a few significant cases:

- One of the most striking cases for such bans is the longest, a more than **5-year-long blanket assembly and demonstration ban in eastern Van province**. In effect since November 21, 2016, the ban on protests and demonstrations in eastern Van province has been extended by the provincial governor many times. Citing security as the reason for the ban, the Governor's Office of Van has repeatedly declared the aims of the ban to be “ ... ensuring the safety of life and property of our citizens; eliminating the plans of the terrorist organizations and, within this context, ensuring national security, public order and public health, preventing the committal of crimes, maintaining fundamental rights and freedoms as well as the fundamental rights and freedoms of others and public order, preventing the spread of incidents of violence.”⁶ The Governor’s Office of Van has not identified any specific and genuine reasons for blanket bans during this five year timeframe. Even when legal action has been taken against these decisions, first instance administrative courts have refused to overturn them. According to the information obtained from lawyers in Van, the blanket-ban has now been taken to the Constitutional Court of Turkey, and the application is currently pending before the Court.
- Another extreme prohibition directly targeting human rights defenders under the pretext of “unauthorized” demonstrations, is the unlawful intervention, dispersal of, and brutal assault on the Saturday Mothers’ vigil. On 25 August 2018, on the 700th week of the protest begun in 1995, police used tear gas, water cannons and plastic bullets against those assembled, to break up the peaceful vigil being held by relatives of people forcibly disappeared, human rights defenders and parliamentarians, as well as journalists covering the event. This happened even though peacefully in the square for almost 699 weeks. Ever since 2018, the Saturdays Mothers’ vigil cannot be held

⁶ See, Bianet, [Demonstration ban in Van extended for another 15 days](#); also see (in Turkish) HRFT [Van Valiliği Anti-Demokratik Yasak Kararlarına Son Vermeli!](#)

at its usual location at the centre of Istiklal Street, in Taksim Square, as the street is surrounded by police barriers and barricades. Judicial harassment of the Saturday Mother’s activists is still on-going.⁷

- University students continue to be targeted for participating in peaceful protests and for their advocacy of academic freedom and autonomy. Among them are students from Boğaziçi University who have been protesting since the beginning of 2021, against the appointment of two recent rectors by Recep Tayyip Erdoğan. The authorities’ response to the ensuing protests has been highly violent. Students and protestors have faced police brutality and torture, arbitrary detention, and unlawful arrests. They have been targeted as “terrorists” by government officials and portrayed using sexist, homophobic and transphobic rhetoric. Recurrent interference in student protests and judicial harassment against the students are on-going.⁸

At the moment, there is no “reasonable chance of success” in seeking remedy against these restrictions or asking for the full and effective implementation of rights of freedom of assembly and demonstration before Turkish courts. According to Ministry of Justice data, in 2020 6770 people faced investigations on the charges of not complying with Law No. 2911 on Meetings and Demonstrations, while 3171 people were being prosecuted on such charges.⁹ According to the HRFT Documentation Centre, within the first 11 months of 2021, 29 cases involving participation in peaceful assemblies and demonstrations were still pending against 607 people in the courts of first instance. As for the resulting cases, thirty-nine individuals were acquitted in three cases and twelve were sentenced to imprisonment for 10 years, 6 months and 5 days in total. In addition, fifty-four new investigations were launched in relation to enjoyment of freedom of assembly and demonstration. The judiciary for freedom of assembly and association is widely used to deter human rights defenders from exercising their rights and this creates an unnerving-effect on wider society.

The United Nations Special Procedures in May¹⁰ and July 2021¹¹ were also communicated to the government of Turkey, drawing the attention of the authorities to the relevant international norms and standards that are applicable to the issues described above. This communication reminded the Government of Turkey, Articles 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), that were ratified by Turkey on 23 December 2003, which ensure the right to freedom of expression and the right to hold opinions without interference, and the right to peaceful assembly and association. Also relevant is the Human Rights Council Resolution 22/6¹², which urges States to ensure that measures to combat terrorism and preserve national security comply with their obligations under international law and do not hinder the work and safety of individuals, groups and representatives of society engaged in promoting and defending human rights. It is important to stress that counter

⁷ See, the Observatory, [OBS Urgent Appeal: Saturday Mothers](#).

⁸ See, HRFT, İHD, OMCT and FIDH [Turkey: Immediately release Ersin Berke Gök and Caner Perit Özen](#), and the Observatory [Turkey: Arbitrary detention and ill-treatment against Ersin Berke Gök and Caner Perit Özen](#).

⁹ HRFT, [Verilerle 2021 Yılında Türkiye’de İnsan Hakları İhlalleri](#).

¹⁰ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26402>, AL TUR 7/2021 dated May 12, 2021

¹¹ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26538>, AL TUR 10/2021 dated 27 July 2021

¹² https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/22/6.

terrorism legislation backed by penal sanctions should not be misused against individuals peacefully exercising their rights to freedom of expression and freedom of peaceful association and assembly. These rights are protected under ICCPR, and non-violent exercise of these rights is not a criminal offence. Counter terrorism legislation should not be used as an excuse to suppress peaceful minority groups and their members.¹³

II. *Extra-Custodial Use of Force by Security Forces*

The bans and restrictions referred to above also enable the security forces to carry out unfounded, unlawful and extra-custodial use of force against those who claim public spaces for the legitimate exercise of freedom of assembly and demonstration, despite unlawful restrictions. The mere fact that an assembly is classified as “unauthorised” provides the police with the so-called legal basis to disperse protesters and to practise the use of force.

Extra-custodial use of force by the security forces has been at epidemic levels for a long time now, and Turkey has been repeatedly criticised by international players for not considering the peaceful nature of assemblies when policing demonstrations. The security forces may crack down on assemblies that they characterise as “unlawful” or “unauthorised” on the basis of Article 23 and 24 of Law No. 2911, regardless of whether the assembly is peaceful and whether their actions meet the requirements of necessity and proportionality. In addition, the police are equipped with broad discretionary powers and, in practice, whether an assembly can take place without any restrictions largely depends on the decisions taken by local police officers and commissioners on the ground. Furthermore, under Article 16 of Law No. 2559 on the Duties and Authorities of Police, police forces are entitled to use proportionate force, including physical force, truncheons, tear gas, pressurised water, and handcuffs to break resistance while executing its duties. This provision, coupled with the above-mentioned provisions of Law No. 2911, enables the police to use force against peaceful protestors who participate in an “unauthorized” or “unlawful” assembly and who refuse to disperse despite a warning.

According to data from the HRFT Documentation Centre, police forces intervened in 291 demonstrations and eighty-eight events were interrupted. As a result of these interventions, 3540 persons, including twenty-eight children, were subjected to ill treatment and torture while being arrested.¹⁴ In this regard, unlawful and unnecessary physical intervention by police forces constitutes violence that directly amounts to torture and ill-treatment. According to the Human Rights Foundation of Turkey’s Treatment and Rehabilitation Centres Report, in 2020, 165 people out of 562 applications for torture and ill-treatment practices stated that they were subjected to torture in public spaces such as streets / open spaces, people’s living areas and vehicles, which the police use for transportation, while 264 people out of 566 stated the same in 2019. This pattern of accelerating police brutality against protestors and human rights defenders shows a cycle of prevention and limitation of the rights to practice freedom of assembly and association.

¹³ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26538>, ALTUR 7/2021 dated May 12 2021

¹⁴ See, (in Turkish), HRFT, [Verilerle 2021 Yılında Türkiye’de İnsan Hakları İhlalleri](#).

III. Targeting of Selected Protest Groups and Discrimination

With further restraints on the freedom of assembly and demonstration, widespread bans, restrictions and interventions to assemblies and demonstrations also include discriminatory patterns. The brutal interventions to LGBTI+ and women's marches, apart from the authorities' overall reactionary stance on demonstrations, also aims to suppress the visibility and collective needs of these groups. This situation has specifically affected women's and LGBTI+ demonstrations in Turkey, especially if they carry the rainbow flag or any symbol related to the LGBTI+ movement. Students, women or LGBTI+ activists who have exercised their freedom of assembly and demonstration, a basic right to peacefully express their opposition to the government's policies, have been arrested, and many of them faced criminal investigation.

Today, Pride marches in almost all provinces of Turkey are banned in practice since 2015, despite the existence of lawful requests to hold them. The last ban was on June 24, 2021, when the Governor's Office of Istanbul rejected the organization of the Pride March, which was to take place in the Maltepe district, where the government always permitted other kinds of gatherings, on the grounds of "protection of public peace and safety, public morality and health and prevention of terrorist incidents". On 22 June 2021, the police attacked a picnic organized for the Istanbul Pride March. In this case, while one person was arrested, eight people, including lawyers, were injured by the police. On 26 June 2021, the police attacked the Istanbul Pride March, which was illegally declared "unlawful" by the Istanbul Governor and arrested forty-five people who intended to join the march. As a result of this attack, seventeen people contacted HRFT's Istanbul Treatment and Rehabilitation Centre because of the torture and ill treatment they faced.

In one of these cases, the authorities pre-emptively targeted the LGBTI+ community's ability to hold any assemblies and demonstrations from the outset. During the state of emergency, on 19 November 2017 the Ankara Governorship imposed a blanket ban on all LGBTI+ activities despite any rational link between the reasons for declaring a state of emergency and LGBTI+ activities in Ankara. After the end of the state of emergency, the Ankara Governor, in a letter dated 3 October 2018, informed all police within its jurisdiction that LGBTI+ events were banned in the city. As justification for the ban, the governor cited "social sensitivities and sensibilities", "public security", "protection of the general public's health and morality" and "protection of the rights of the others" in a hypothetical manner. Even though these regulations have now been lifted, the disturbing effect created still endures to this day, and the public discussion about the LGBTI+ community has only deteriorated ever since.

In 2021, twenty-two assemblies and demonstrations organized by women and LGBTI+, were interrupted, and eight assemblies were prevented. During those interventions, at least one hundred and ninety-one LGBTI+ people and women were taken into custody, facing torture and ill-treatment. According to the HRFT's Istanbul Treatment and Rehabilitation Centre 2021 Report, eighty-three LGBTI+ people contacted HRFT because of the torture and ill-treatment they faced during protests. In 2020, eighteen assemblies and demonstrations organized by women and LGBTI+, were interrupted, and ten gatherings prevented. During those interventions, one hundred and sixty-four people were taken

into custody. Lastly, in 2021, the police held up three Pride marches in three provinces. At least ninety-three LGBTI+ individuals were taken into custody.

Recommendations

To adopt a specific focus on the connection between freedom of assembly and association, and its vital importance for human rights defenders in Turkey, we call upon the authorities:

- To guarantee an effective mechanism to appeal any decision banning or imposing restrictions on an assembly by creating specific rapid procedures in administrative courts.
- To stop the abuse and manipulation of law against those who practise their freedom of peaceful assembly and demonstration: this must stop.
- To drop all kinds of investigations and prosecutions against peaceful demonstrators and human rights defenders practising their freedom of assembly and demonstration.
- To end all kinds of discriminatory practices towards human rights defenders practising their freedom of assembly and association, specifically in relation to women and LGBTI+ human rights advocates.

Furthermore:

- The authorities in Turkey must implement its obligations under international human rights law. Assemblies and demonstrations must be strictly subject to the approved limitations set out as legality, legitimate aim, necessity, and proportionality. The peaceful nature of an assembly cannot be prejudged, and a broad interpretation of the term “peaceful” must be used.
- Counter terrorism legislation with penal sanctions must not be misused against individuals peacefully exercising their rights to freedom of expression and freedom of peaceful association and assembly. These rights are protected under ICCPR, and non- violent exercise of these rights is not a criminal offence.
- The body of law regarding freedom of assembly and association, especially Law No. 2911 on Meetings and Demonstrations and Law No. 5442 on Provincial Administration must be redrafted. We call upon the authorities to review this legislation to bring it into line with international human rights standards.
- Article 11/C Law No. 5442 gives local governors the power to take all necessary decisions about assemblies and gatherings. This exercise of extraordinary legal powers profoundly affects the enjoyment of fundamental rights. We call upon the authorities to establish state level regulations to set limitations on the power of local authorities to restrict the exercise of a citizen’s fundamental rights.
- Articles 6 and 19 of Law No. 2911, which give the administration the authority to postpone and ban all meetings in cities and districts and decide on the venue and the route of gathering is abused by local authorities and exceeds the limits of necessity and proportionality. Therefore, we call upon the authorities to drop the abovementioned articles.



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- We call upon the authorities to adopt policies to limit the use of force by the police and ensure safeguards under Article 16 of Law 2559 regarding the use of force against participants in assemblies.
- We urge the authorities to adopt policies to provide safeguards for the right of assembly of different groups such as students, women or LGBTI+ activists.