

**ADVOCATES FOR JUSTICE AND HUMAN RIGHTS &  
LAWYER RIGHTS WATCH INITIATIVE  
JOINT SUBMISSION FOR THE UN UNIVERSAL  
PERIODIC REVIEW 3<sup>RD</sup> CYCLE OF THE UPR WORKING  
GROUP, JANUARY-FEBRUARY 2020**

Advocates of Justice and Human Rights (AJHR) is a grassroots movement aims to address all ongoing human rights violations by the Turkish government regarding civil, political, economic, social and cultural as contained in the basic human rights documents in the post-coup witch hunt.

It aims to defend right to life, rule of law, right to privacy, freedom of expression, freedom of thought, conscience and religion, freedom of associations.

AJHR utilizes all human rights advocacy tools, mechanisms, and systems that can possibly be used to protect and promote the human rights of those whose voices are being silenced in Turkey and beyond.

Lawyer Rights Watch is an independent non-governmental organization specific to Turkey and Turkish lawyers, with the basis of open and free participation, which was formed to defend advocacy profession and colleagues against the violation of rights towards the profession and members of the profession; to make lawyers who faces issues while performing advocacy profession and/or because of advocacy title, heard; to reach required rights to be able to fulfill function of the representation of defense, and to use these rights freely.

*Since Advocates for Justice and Human Rights & Lawyer Rights Watch did not submit a report for the 3rd Cycle of Universal Period Review, these considerations include the period after 2015.*

**TURKISH LAW IS DIMINISHING DAY BY DAY  
VICTIMIZATION OF LAWYERS**

1. July 15,2016 is undoubtedly one of the most embarrassing chapter in the history of Turkish democracy and law history. Only a few hours after the unsuccessful coup attempt that took place in the evening of July 15,2016 the official sources

explained that the action was the initiative of the Hizmet movement. In such a short period of time there wasn't a healthy examination of the actualization of the coup attempt therefore it was not hard to imagine the serious prejudice and heavy accusation that left thousands of people under suspicion.

2. Today in Turkey, there are thousands of senior commanders and many soldiers, along with tens of thousands doctors, engineers, higher judiciaries, lawyers, teachers, health personnel, academics and many other major occupational individuals that amount to more than 150,000 who are connected to Hizmet movement are being accused of aiding and abetting in the coup attempt have lost their jobs in public and private sectors because of the alleged links. More than 10,000 women along with hundreds of children which totally amount to more than 30,000 individuals are being on trial under heavy prison conditions.
3. In particular, the expulsion of the lawyer and judges from their respective jobs and the prosecution of these individuals undermine faith in legal institutions in Turkey every day. It is unacceptable in today's modern state of law to expel prosecutors and high judicial personnel from their profession despite their immunity and personal rights on the grounds that they are connected with the Hizmet movement or just based on them taking on cases of individuals who are taken court in reference to the FETO-PDY.
4. In relation to the number of detained judges and prosecutors in Turkey, the Minister of Justice Abdulhamit Gul said FETO was a cryptic organization and furthermore stated, "In this regard, there has been 3 thousand 920 judges and prosecutors that have been expelled from their duties, but we cannot say that our work has been completed. In the near time we will do the necessary inspection with the already completed files." When visiting the AK Party's Bursa Provincial Presidency, Gul answered the questions raised by the journalist as "The fight against FETO continues with determination. 3 thousand 920 judges and prosecutors that have been expelled from their duties. In the Supreme Board of Judges and Prosecutors (HSYK) 22, the Judiciary 208, the Council of State Court 91 members have been expelled from duty." by answering in such matter he was sending message to the members of the judiciary that the expulsions and investigations were to continue<sup>1</sup>.

### **VICTIMIZATION OF LAWYERS IN NUMBERS**

5. As of the 15 July 2016 investigation, approximately 585 lawyers have been arrested, 1544 lawyers have been investigated in some form or other, and 162 lawyers have been sentenced to long prison terms<sup>2</sup>. In addition, about 34 bar

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<sup>1</sup> <http://www.milliyet.com.tr/abdulhamit-gul-3-bin-920-hakim-savci-bursa-yerelhaber-2298005/>

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associations were closed for alleged links to a terrorist organization. The Office of the United Nations High Commissioner for Human Rights (OHCHR) also identified a practice in the form of a reaction to the lawyers representing individuals charged with terrorist allegations.<sup>3</sup>

6. According to another source reported in April,2019 1546 lawyers have been subject to investigation whereas 598 lawyers are detained and being tried in court, and 274 lawyers have been sentenced to long prison terms<sup>4</sup>. According to the law of the legal profession as self-employment business<sup>5</sup> and now it is suffering day by day and is being weakened by the legal environment in Turkey. It is unacceptable for the lawyers to be prosecuted on the basis of accusing them for performing their profession.
7. Lawyer Abdulkadir Aksoy, who had taken on the case for the 75 accused individuals in reference to the FETO-PDY trial, is now on trial for three years despite his advanced age and paralysis. Despite the medical reports presented by his lawyers during every time in his trial, he was denied the request by the court to release Aksoy on condition of forensic condition.<sup>6</sup>

#### **VICTIMIZED LAWYERS AND LAWYERS CLOSE FRIENDS AND FAMILY AND INTERVIEWS CONDUCTED WITH THEM**

8. This section of the report describes the process where the lawyers have been victimized and their sufferings as lawyers in Turkey, these lawyers have traveled abroad due to the human rights violation. The interviewed lawyers' information such as their name and other pertinent information is being kept confidential as a security measure to protect their relatives in Turkey.
9. Our lawyer A.Y. begins his talk by mentioning the victimization of his counterparts due to human rights violations in Turkey. A former individual who is in prison says that a close colleague of his lawyer has been sentenced to 8 years, 9 months of imprisonment by a court, in addition to that lawyer's deputy president

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3 <sup>3</sup> <https://silencedturkey.org/wp-content/uploads/2018/08/VICTIMIZATION.jpg>

4 <sup>4</sup> <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22853&LangID=E>

5 <sup>5</sup> <https://arrestedlawyers.files.wordpress.com/2019/04/report9.pdf>

6 <sup>6</sup> <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.1136.pdf>

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and deputy lawyers are arrested and put to trial, and regretfully, the court has sentenced them prison to 10 years in prison.

10. Due to the lack of prisons designated for terrorists, these individuals have to be sent to jails that are 80 km far away. These people are then taken to another prison that is 990 km far away from where they live. Barely after 2-3 months later when a prison was opened designated only for terrorists that these people were moved into the city center but still a 50 km from the district. The reason why he told us these things one by one was to bring to our attention that this was a psychological pressure game that the government was playing on the victims and their family members. Attorney A.Y. emphasizes this point and he explains the psychological pressure of the lawyer's relatives who have to travel long distances in order to be able to go on a weekly or monthly meeting that they get with them in prison. In addition, he raises awareness of the economic burden that the families have to bear by traveling the distance to and from the prison to see their individuals in prison.
11. Another problem that the lawyer A.Y. is bothered with is not being able to see the necessary support from professional organizations. The prosecutor's office writes article in lawyer associations blaming the lawyers by citing the related prosecution of individuals appertaining to FETO-PDY investigation. Lawyer's association then launches a disciplinary inquiry about the member of the individual that the prosecutor's office has initiated the investigation to.
12. They then send letter of inquiry to individuals homes and demand from them to defend themselves. Attorney A.Y. at this moment in order to clarify a point states that every person can be tried in court under legal conditions. However, the Universal Declaration of Principles (Article 38 of the Constitution),<sup>7</sup> which is one of the universal legal principles, states that a person cannot be found guilty without a final judicial decision, and that the persons who is not guilty cannot be named by the judicial authorities as guilty because they are innocent. Yet our own colleagues from our professional organization is treating us as criminals. What he wanted to emphasize here was that every month they pay regular dues and despite that their colleagues from the profession does not give them the necessary spiritual support.
13. According to Lawyer A.Y., another problem why lawyers are on trial in this way is due to lack of objectivity and impartiality. Judgments must be impartial says lawyer A.Y. and he continues on saying that lawyers should not be prosecuted for their ideas and ideologies. The principle of sanctity of the defense is to ensure that lawyer carries out justice fairly. The lawyer clarifies his point by saying that it is the job of a lawyer to execute his task in a neutral way. At the end of our meeting,

Attorney A.Y. expresses his dissatisfaction with Turkey and the world of professional organizations and human rights organization that remains silent for so long and now is reacting to it, and he states that **delayed justice is not justice...**

## SUGGESTIONS

14. This section we will be listing number of recommendation which we have accumulated through the reports and papers that we can recommend to international organization and civil societies and individuals to put a stop to the victimization of individuals in Turkey within the legal framework.

- **Suggestions with respect to Turkish government**

15. The State of Emergency, which was announced after the July 15 coup attempt, offered the opportunity to act arbitrarily. Therefore, it is very important for the Turkish government to reinstate rule of law in order to end the victimization and the violation of the human rights. In addition, the State of Emergency Commission, which aims to reduce the grievances caused by Statutory Decree's, should provide appropriate services for the purpose.

16. The rule of judiciary should become independent; therefore, the government must put an end for the dominance of the legislative body.<sup>8</sup> The pressure on judges and prosecutors should be reduced and the courts should be able to make independent decisions. Both lower-ranking courts and higher jurisdictions should avoid making political decisions by deciding on universal jurisprudence and international treaties.

17. Lawyers detained for political reasons after July 15th must be freed of their conviction as soon as possible and they should be able return to their profession without any problem.

- **Suggestion with respect to the International Organizations**

18. International organizations and human rights organizations have to take into account over the 150,000 victimized individuals in Turkey and they need to put an end to lawlessness by pressuring the Turkish government. At this point, international organizations after seeing the lawlessness in Turkey the organizations should voice their discomfort in different environments and meetings, this can be through both publishing reports or personally go to Turkey

and examine the situation and report it to world media about the human right violations and lawlessness in Turkey.

19. International organizations, bar associations and lawyers' organizations should express their discomfort due to the presence of lawyers that are being put to prison because of political reasons in Turkey, that way it creates pressure on the judicial community and it draws everyone's attention to this situation and threatens the government.

- **Suggestions to the Civil society and Individuals**

20. Individuals and civil society gains importance every day to be effective in this 21st Century and in order to end the suffering experienced by the victimized individuals in Turkey, there is an extremely important task that falls to civil society organizations. Both individuals and civil society organizations taking into account the situation of lawyers after what happened in July 15, need to launch actions like signature signing campaigns, arranging press releases and utilizing the social media to take concrete step to end the human rights violation in Turkey.

## **CONCLUSION**

21. This report aimed to address the unlawful proceedings and human rights violations that took place in Turkey. The report briefly elaborated above and provided examples of the victimization of lawyers in Turkey. In the following sections, news articles from domestic and international press are listed to provide different sources of information. The way in which the different sources handle this sensitive subject and the style they use is important in that it illustrates how the Turkish and international press approaches the subject.

22. We hereby request that the coup attempt of July 15, 2016, which victimized more than 150.000, should be investigated in an impartial manner and the main responsibility of the coup be tried within the legal framework. We further request that 20-month-long lawless trials and human rights violations to end as soon as possible. We also request authorities to investigate torture ill treatment allegations, and have those responsible of these actions held accountable in front of judges within the legal framework. It is crucial for Turkey to reinstate rule of law and become a country that aims to be more democratic, put emphasis on individual and human rights.