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IHOP Members:



Association for Monitoring Equal Rights

Rights Initiative Association

Human Rights Association

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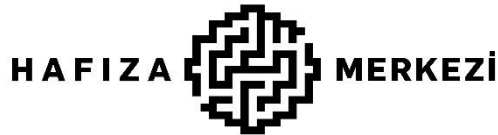
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HUMAN RIGHTS JOINT PLATFORM'S SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW OF TURKEY

Submitted on 18 July 2019

IHOP is a network of Human Rights NGOs in Turkey. Human Rights Joint Platform (IHOP) was established by Helsinki Citizens' Assembly (hYd), Human Rights Association (IHD), Human Rights and Solidarity with Oppressed Society (MAZLUMDER), Human Rights Foundation of Turkey (TIHV) and Amnesty International Turkey Branch, on 25 June 2005 in order to allow them to provide policies/solutions in the field of human rights that they cannot provide effective solutions by themselves.

IHOP was born in the need of to do joint work in order to strengthen the contribution of human rights associations in the formation of a healthy and permanent democratic system based on the

human rights principles in Turkey. This common working area continue its existence to this day sometimes it was shrinking, sometimes it was expanding.

Hakikat Adalet Hafıza Merkezi (Hafıza Merkezi, engl. Truth Justice Memory Center) is an independent human rights organization set up by a group of lawyers, journalists and human rights activists in November 2011 in Istanbul, Turkey. Hafıza Merkezi aims to uncover the truth concerning past violations of human rights, strengthen the collective memory about those violations, and support survivors in their pursuit of justice.

Hafıza Merkezi implements a range of activities, including documentation in accordance with the universally accepted standards, monitoring of precedent cases, as well as dissemination of marginalized truths and narratives on these violations to a large section of society, with a view to support the recognition and rehabilitation of victims of such atrocities. Hafıza Merkezi uses a unique approach, as it gathers and accumulates knowledge and methodology from organizations dealing with similar issues in other post-conflict and post-authoritarian regions, develops them further through its everyday work and adapts the know-how into the Turkish context.

CONTEXT

1. Between 2015 and 2019, Turkey has been the scene of events that have significantly affected human rights and freedoms. These events are mainly the curfews and intra-city clashes in south-eastern Turkey, a coup attempt in July 2016, and a two-year state of emergency (**SoE**) declared after that coup attempt.
2. Strict use of curfews and anti-terrorism operations during July 2015 and August 2016, had resulted in serious human rights violations i.e., long term displacement, deprivation of food, education, shelter and health. In addition, anti-terror operations conducted within urban areas under curfews resulted with the death of civilians. The exact figures on deaths of civilians during these operations that are accompanied by curfews declared by the local Governors¹ are not brought to the public².
3. A constitutional amendment referendum was held during the SoE period, which changed the system of government. Participatory methods have not been implemented in the process of making constitutional amendments and the views and recommendations of international mechanisms, especially the Council of Europe Venice Commission, were not taken into consideration. With the constitutional amendment, the parliamentary system of government was abolished, the powers of the parliament regarding supervision and legislation were weakened, the ban on the president being a member of a political party was lifted and the president was positioned as the sole power in the executive. Therefore, his influence over the legislature and the judiciary has increased to upset the balance of powers.
4. The definition of terrorism was extended through SoE, which was announced after the termination of the resolution process and the coup attempt. The SOE measures, which should be temporary, have been made permanent by making amendments in the laws and regulations through State of Emergency decrees. The whole area of rights and freedoms, from freedom of expression to freedom of association, the right to work to the right to education and the rights to participate, has been narrowed with the legislation restructured during the SoE period, and the practice of criminalizing the use of rights and freedoms under the name of combatting terrorism has become widespread.

Equality of Arms and Judiciary Independence

5. The new constitutional amendments have restructured the Council of Judges and Public Prosecutors (CJPP). The number of members of the council, which prescribes and undertakes the employee personal rights of judges and prosecutors, was taken down to 13 from the previous 15. It has been regulated that 6 members of the council would be directly appointed by the president himself, while 7 members would be selected by the Grand National Assembly of Turkey. The Minister of Justice, who would be among the 6 members appointed by the president, has been designated as the chairperson of the council. When the change in the government system and the restructuring of the CJPP are considered together, it is seen that the dependence of the judiciary on the government has perilously increased. Other regulations which would bring about the same impact have also been introduced for other higher courts including the Constitutional Court itself. (App. Ref. Rule of Law and Impunity)
6. The continuation of state of emergency measures, restructuring of the government system and the consolidation of the impact of the executive branch over the judiciary along with the ways in which the CJPP was restructured have terminated judges' guarantees and their independence.
7. 4,279 judges and public prosecutors working at civilian courts were dismissed from their posts during the state of emergency between July 2016 and July 2018. A significant portion of the dismissed judges and prosecutors were then jailed.
8. More than 8,000 new judges and prosecutors replaced the dismissed ones and this figure amounts to 45% of the total. Passing the written exam prerequisite was lifted for these new judges and prosecutors most of whom were appointed by the CJPP. Again during the state of emergency all Court of Cassation and Council of State memberships were terminated and most of them were replaced by the newly-formed CJPP.

9. Although the State of Emergency was lifted on 18 July 2018, omnibus Law No. 7145 that went into force on 30 July 2018 prescribed that dismissals from public posts that were initiated during the state of emergency would continue for another three years³. Indeed 17 more judges and prosecutors have been dismissed on 10 January 2019⁴.

Right to Life & Impunity

10. Since the previous UPR cycle, the security operations carried out in the southeastern Turkey between August 2015 and August 2016 was the key turning point further deepening the situation on the right to life and impunity⁵. On 23 June 2016 the Provincial Administration Law on which the curfews were declared and anti-terrorism operations conducted has been amended by bringing impunity for the military personnel deployed in operations. This amendment further reinforced the impunity shields military personnel from any civil investigation or proceedings⁶.
11. Compared to the previous UPR cycle, there has been severe backsliding on the accountability for the past right to life violations committed by the security forces in 1990s. Meanwhile, gross human rights violations in the past remained in impunity.
12. In total 15 criminal cases (concerning only 85 of 363 forcibly disappeared persons) has been brought to prosecution⁷. Of these 15 cases, only 2 cases (pertaining to 2 forcibly disappeared) resulted in convictions where these decisions became final with the scrutiny of Court of Appeals; whereas 9 cases (pertaining to 47 forcibly disappeared) concluded by acquittals; and currently, 4 cases (pertaining to 36 forcibly disappeared) are pending.
13. Since the adoption of an individual application procedure in 2012, when the Constitutional Court (CC) became a remedy to be exhausted under international law, the CC decided in relation to only 25 individual applications.⁸
14. In 3 of the 4 judgments that the procedural aspect of the right to life had been violated, the CC noted that in respect of the consequences of the violation, it was not possible to re-investigate due to the expiry of the 20-year statute of limitations. As can be seen in Annex II, as of 2018 the CC only declares inadmissibility decisions due to not observing the time limit in applications related to enforced disappearances and extrajudicial killings. As a common aspect, in these judgements CC does not consider the enforced disappearances and extrajudicial killings as crimes against humanity and thus subject these to a 20-year statute of limitations. Furthermore, the CC interprets that the lawyers are under a strict obligation to keep the investigation alive and to take the authorities' attention in the course of a 20-year statute of limitations, as a consequence mitigates the State's obligation in respect of these acts that are essentially crimes against humanity.
15. The amendment made in respect of statute of limitations covers torture, but not include enforced disappearances and extrajudicial killings. Due to the existence of a statute of limitation in respect of these actions and the CC's above-stated approach that is contrary to international human rights principles, enforced disappearances and extrajudicial killings of the 1990s result in impunity.
16. Recommendations of the previous UPR cycle on enforced disappearances include signing and ratifying the International Convention for the Protection of All Persons from Enforced Disappearance and abolishing the statute of limitations on crimes by state agents like torture, extrajudicial killings, and enforced disappearance. There has been no steps taken on both recommendations.

Right to Work

17. The measures taken during the SoE period were made permanent and these measures were made impossible to supervise⁹. 130346 public servants were dismissed. The SoE Commission overturned a small portion of these dismissals, while those dismissed were also prevented from exercising many private occupations, including being a lawyer, and were rendered unable to find work abroad because their passports were cancelled. Cumulatively the existence of these measures has led to these individuals being described as "civil dead".

18. The State of Emergency Inquiry Commission (OHAL Commission) established to examine the objections of the persons dismissed from duty on the basis of administrative decisions. In the last two years until 28 June 2019, only 55.8 per cent of the applications have been finalised. 93 % of these decisions are in fact decisions of reject; i.e. not accepted for any further review.
19. Practice of confidential security investigations, which were introduced as a prerequisite for entry into public office following the amendment made in the Civil Service Law No. 657 to be conducted during the first appointment as well as for the reassignments also have a similar negative impact on the public sector workforce.

Media and Freedom of Expression

20. The already alarming state of freedom of expression before the coup d'état attempt of 15 July 2016 has transformed into a space, where particularly freedom of the press became non-existent. During this period about 200 media outlets, including television and radio stations and periodicals, were closed down; at least 122 journalists were jailed and criminal cases were filed against a total of 520 journalists.
21. Numerous individuals who expressed their views in dailies, media and the social media have been linked to terrorist organizations because of the same reason. Naturally columnists, authors, academics and human rights defenders whose task is to express their opinions and offer their assessments account for the most vulnerable section affected by this wave.
22. Solely in 2017, criminal investigations were launched into 136000 individuals under membership in a terrorist organization while 24000 individuals faced investigations as per propaganda offenses. The charge of membership in a terrorist organization covers the offense of aiding an illegal organization as a non-member as well. Numerous individuals including journalists, politicians and human rights defenders faced investigations and were convicted as per this offense because of their social media posts.
23. According to the transparency reports by Twitter and Facebook, Turkey tops the list of countries that force denial of access to Internet sites. Turkey has been denying access to more than 20,000 websites and URL addresses, including Wikipedia, under Law No. 5651.
24. After the coup attempt of 15 July 2016, there has been a dramatic increase in the number of criminal investigations initiated under Article 299 of the TPC that proscribes insulting the president within the same period. While a total of 2,136 investigations were launched between 2010 and 2014, this figure increased to 7,216 criminal investigations in 2015, to 38,254 in 2016 and to 20,539 investigations in 2017. (ANNEX I)

Academic Freedoms

25. State of Emergency measures also had a severe impact on academic freedoms. A total of 6081 academicians were dismissed through SoE decrees, without any due process and with no judicial remedy. Decree no 676 in the State of Emergency, inflicting a heavy blow to university autonomy by changing the election of Rectors¹⁰.

Protection of Human Rights Defenders

26. Human rights-based civil society organisations, are subjected to continuous pressure during the State of Emergency. Many lawyers, women rights, children rights associations were closed without any any court decision or an effective remedy. Human rights defenders were subject to toxic political discourse and smear campaigns in pro-government media, and numerous criminal proceedings against human rights defenders. (ANNEX III.). LGBTI Rights organisations activities were banned.

Freedom of Peaceful Assembly

27. Law no. 2911 Assemblies and Demonstrations is the fundamental law with respect to freedom of assembly and demonstration, but many other laws authorize the public administration to be able to restrict the right to assembly and demonstration.¹¹
28. Assemblies and demonstrations are restricted by governorships or district governorships through the broad authorities granted to the administration particularly in Laws No. 5442¹² and Law No. 2559¹³. These restrictions include the prohibition of assemblies and demonstrations throughout the province or district for certain periods of time or indefinitely, or the prohibition of a specific demonstration, for instance the May Day celebrations. In addition to these powers, the governorships use the obligation of notification defined in Law No. 2911 as a *de facto* “obligation to obtain permission”. The law enforcement forces use this “permission” requirement which is not included in the Constitution and the law. The law enforcement forces conduct disproportionate intervention to the assemblies and demonstrations in almost all cases.
29. Pursuant to Law No. 4483¹⁴, the judicial investigation of the members of the law enforcement forces regarding their acts is subject to the permission of the governor. Regarding the allegations of disproportionate use of force, the governorships do not allow the judicial authorities to investigate the members of the law enforcement forces and disproportionate use of force remains in impunity in almost all cases.
30. The Supervisory Commission for Law Enforcement Forces, established by law in 2016, does not even have the authority to initiate an investigation on its own, independent from the executive. Members of the Commission has not been fully appointed.

Gender Equality

31. Since the last UPR Review, Turkey has failed to fulfill its obligations on gender equality under international conventions and mechanisms such as CEDAW, the Istanbul Convention and the Sustainable Development Goals. There is still a huge lack in the implementation of laws and policies from a gender equality perspective.
32. Independent women’s organizations have been largely excluded from the processes of drafting laws, and developing policies and regulations regarding women’s issues. Instead GONGO’s have taken over these spaces, which come from a more conservative bias.
33. As the latest developments show, Turkey rather than showing its commitment to gender equality, has proven vice versa and adopted a family-oriented approach regarding women’s issues. The discourse of social and national values has prevailed against the commitment to equality and human rights. The Council of Higher Education in Turkey cancelled the gender equality project that was implemented in universities, claiming that “it is not suitable with societal values”.
34. The last National Action Plan on Gender Equality was published for the 2008-2013 period, and a new action plan has not been published since. Instead, a “Women’s Empowerment Strategy Document” was issued covering the years 2018-2023. This shift from the discourse on gender equality to women’s empowerment is very significant. Despite its title, the preface of the document shows that it is a shift from the commitment to enhance women’s human rights to empower family and societal values. In addition the latest 11th Development Plan of Turkey announced on July 2019, the term “gender equality” has been excluded from the whole document.

Minority Rights

35. Non-Muslims are the only group that were officially recognized as minority by Turkey in the third section of the 1923 Lausanne Peace Treaty concerning the on Protection of Minorities. In practice, this status is only recognized to Greeks, Armenians and Jews. Necessary measures should be taken to eliminate the violations arising from this practice, considering that minority status also includes Assyrians, Chaldeans, Protestants and other Non-Muslim nationals of Turkey.

On the other hand, there are continuing violations of minority rights recognized under Lausanne Treaty, including the rights of Greeks, Armenians and Jews. Violations of the Constitution-based equality legislation have also continued in many areas from education to freedom of religion, freedom of worship and representation. Recommendation decisions made in 2015 have not been taken into account.

The Rights of Persons with Disabilities

36. Turkey has signed the Additional Optional Protocol to the Convention on 28 September 2009. The Additional Optional Protocol was ratified and entered into force on 10 February 2015.
37. Turkey does not fulfill many of its obligations under the Convention¹⁵. Domestic law is not fully aligned with the Convention, and some laws and low-level legislation contain discriminatory provisions against persons with disabilities. Law on Persons with Disabilities, but the law does not foresee any criminal sanctions for perpetrators of discrimination.
38. Human Rights and Equality Institution of Turkey, which is in charge of monitoring the implementation of the Convention and established as a National Prevention mechanism, is not an effective mechanism in accordance with the standards of the Paris Principles.

RECOMMENDATIONS

Equality of Arms and Independence of Judiciary

39. Constitutional amendments that changed the structure of the CJPP should be repealed in line with the recommendations of the Venice Commission; the control of the executive branch over the judiciary should be revoked; independence of the judicial control system should be enhanced.
40. A process to draft a democratic constitution should be initiated to eliminate the structural sources of the problem; the relationships among the legislative, executive and judicial branches of government should be reconstructed in line with the principles of rule of law and separation of powers.
41. Article 33 of Law No. 7145 that extends the state of emergency measures into the ordinary order should be repealed without delay.
42. All amendments made through SoE Decrees in the existing legislation should be scrutinised under the Article 90 of the Constitution with the assistance of CoE Venice Commission and the human rights NGOs of Turkey.

Right To life

43. Turkey should sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance.
44. Turkey should abolish the statute of limitations on crimes by state agents like torture, extrajudicial killings, and enforced disappearance
45. The related Articles of the Law No. 4483 on the investigation of public officials which pave the way for impunity should be amended and the requirement of permission to investigate public officials, including the law enforcement forces, should be removed for effective investigation of allegations of human rights violations.

Media and Freedom of Expression

46. Counter-terrorism provisions within the legislation that easily replace one another with ambiguous elements should be reviewed in their entirety.
47. This review, which should be conducted through a holistic approach, should be undertaken in a way so as to prevent the replacement of amended and repealed provisions by others.
48. The consequences of a particular conduct should be substantially foreseeable; the elements of an offense should not be left open-ended that allows different interpretations according to conjuncture.
49. The limits designated by law should not be transgressed, the deduction of unclear statements through assumptions and interpretations should definitely be avoided.
50. Interpretations should be offered in line with international criteria and the principles developed within the ECtHR case law. In this process the habit of singling out a few ECtHR judgments that the court found no violation of freedom of expression against Turkey should be dropped, liberating standards should be taken as the basis.

Academic Freedoms

51. All changes endangering academic freedom should be amended immediately under the recommendations of 1997 in UNESCO's Recommendation Concerning the Status of Higher-Education Teaching Personnel.

Human Rights Defenders

52. Turkey must fulfill its obligations under the UN Declaration on Human Rights Defenders.

53. Ensure a safe and enabling environment for HRDs to defend their rights free from fear, threats, harassment and violence, acknowledge the important and legitimate role of HRDs in the promotion and protection of human rights, democracy, and the rule of law.

Freedom of Assembly

54. Article 11 of the Provinces Administration Law providing authority to governors to restrict and ban assemblies and demonstrations should be removed from the law. This authority should only be used in cases of emergency and based on the decision of the competent court.
55. Law No. 2911 concerning meetings and demonstrations should be amended to prevent the arbitrary practices of the public administration which converts obligation of notification to a *de facto* "obligation to obtain permission".
56. Supervisory Commission for Law Enforcement should be restructured and managed in accordance with international standards.
57. Regulations should be included in the laws to prevent discriminatory attitudes of public authorities and public officials through indicators such as the subject and the purpose of the demonstration as well as the political tendencies of the organizers.
58. Arrangements should be made to provide the necessary facilities for journalists and civil society organizations carrying out monitoring activities during the demonstrations.

Right to work

59. Immediate establishment of an effective and independent judicial remedy in place of the State of Emergency Inquiry Commission, which already proved itself as an ineffective remedy,
60. Abolishing rules preventing applicants whose applications are accepted by the Commission or by a judicial decision to be reinstated to their posts; if this is not possible, to ensure that all kinds of financial and moral damages are compensated.
61. Immediate removal of passport restrictions not based on a judicial decision.
62. Immediate abolition of profiling, including persons dismissed from the Social Security Institution.
63. Immediate abolition of all measures requiring security investigation of all persons under the Regulation on Security Investigation and Archive Research that prevent entry to the public service, and abolition of the legal amendment made to Article 48 of the Public Service Law No. 657, introduced with a state emergency decree.

Gender Equality

64. Turkey should continue publicly expressing its determination as being the first State which has signed and approved the Istanbul Convention and abandon its political discourses which aims to confine women to discriminative gender roles.
65. Reforms should be made on aggravating factors in Penal Code in compliance with gender equality as it is defined by the Article 46 of the Istanbul Convention and legal precautions that are aimed to end violence against women should be taken.
66. Gender, age, state of health, minority status, disability status, immigration or refugee status, sexual orientation and gender identity should be included explicitly to the Article 10 of the Constitution as conditions which have prohibition of discrimination.
67. Sexual orientation, sexual identity should be included to the Article 3.2. of the TİHEK law No. 6701.
68. New regulations which contains all factors of mobbing including sexual harassment should be made on Labour Act, Public Personnel Law and Penal Code.
69. Stalking should be defined as an especial crime in penal codes by its characteristic for the purpose of penalizing severely and dissuasively and protection orders and injunction concerning stalking should be implemented.

70. Mediation between the women and perpetrators should be forbidden by no manner of means in institutions that women apply to be away from violence.
71. Regulations should be made in relevant legislation on health for the purpose of giving access to safe abortion to the women whose right to legal abortion is not exercised due to factual obstacles.
72. Gender sensitive budget system should be implemented, namely, an inclusionary and participatory approach should be adopted to distribute the sources in accordance with gender sensitivity.
73. Starting with the first grade, the curriculum of all formal and informal education should be cleaned of gender discriminative expressions and subjects that are focused on human rights and strengthening of women should be included.

The Rights of Persons with Disabilities

74. Turkey should harmonize its legislation with the Convention, discriminatory regulations similar to the Article 74 (e) of the Law No. 5174 and Article 8 (g) of the Law No. 2802 should be abolished and the domestic law should be aligned with the human rights-based approach of the Convention.
75. Effective participation of persons with disabilities and civil society organizations in monitoring the implementation of the Convention should be ensured.
76. All closed institutions hosting persons with disabilities should be opened for independent monitoring.
77. Updated, inclusive and disaggregated data (according to age, gender, type of disability, geographical distribution etc.) related to the disabled population should be collected with a methodology in accordance with the principle of confidentiality of personal data, and the process of sharing the data with the public in a transparent manner and collecting statistics should be planned and implemented with the participation of persons with disabilities and their representative organizations.
78. The number and quality deficiencies of sign language interpreters working in the courts should be eliminated, a standard should be set for sign language interpretation and interpreters should be present in all judicial processes.
79. Article 405 of the Civil Law, restricting the legal capacity and regulating the guardianship system should be amended to ensure that the persons with disabilities can use their legal capacity through personalized supports.

Minority Rights

80. The Framework Convention for the Protection of National Minorities of the Council of Europe and the European Charter for Regional or Minority Language should be signed and ratified.
81. Reservations on the signed human rights treaties should be abolished and minority definition of Turkey should go beyond the Lausanne Treaty.
82. Minority schools' private school status should be abolished; a new legal status should be recognized to these schools.
83. Statement of "Greek, Armenian and Jewish minorities" in Article 2 (e) of Legislation n.5580 on Private Education Institutions should be amended as "all Non-Muslim nationals of the Republic of Turkey" considering the judgement of Ankara 13th Court of Administration and the Lausanne Treaty.
84. According to the Article 60(5) of the 1969 Vienna Convention on the Law of Treaties, reciprocity should not be applied to provisions relating to the protection of the human person contained in treaties of a humanitarian character.¹⁶ For this reason, reciprocity principle in article 5 of the Legislation n.5580 on Private Education Institutions should be abolished.
85. The requirement for parents to prove that they are non-Muslim during the registration to minority schools should be abolished. Declaration of parents should be satisfactory and registration conditions should be left to school administrations.

86. While minority schools are considered private schools, the regulation on foreign students to be registered by these schools only as “guest students” should be abolished based on the right to education.
87. Requirement of a Turkish Deputy Headmaster in Minority Schools should be abolished.
88. A regulation should be enacted concerning allowances from state budget to minority schools according to the Article 41 of the Lausanne Treaty, and the continuity of the assistance provided per student to these schools should be ensured.
89. Obstacles to freedom of religion and belief of all Muslim and non-Muslim groups outside the scope of service of the Presidency of Religious Affairs should be removed. The right to obtain legal personality of the religious institutions should be recognized. Ecumenical title of the Greek Orthodox Patriarchate should also be recognized under this framework.
90. The obstacle to the establishment of new community foundations should be removed.
91. Legislation n. 5737 on foundations requires a “mention in foundation statute” which only cover the ones registered in 1936 Declaration should be abolished. Additionally, property rights of the minorities in Hatay, which was joined to Turkey in 1939, must be recognized.
92. Return and compensation of immovable properties taken from foundations based on reasons other than “being not eligible for possession” should be arranged.
93. The solution of the problem of cemeteries that are registered as property and not registered by foundations should be accelerated.
94. Theological school in Heybeliada should be opened and violations of the article 40 of the Lausanne treaty and the article 24 of the Constitution on the right to religion and worship should be ended. Opening of other theological schools of non-Muslim minority groups should be enabled.
95. The problems of Protestants and other Christian groups to open places of worship and raising clergy should be solved. Obstacles preventing them to employ foreign religious people should be removed.
96. Considering the responsibility of the government to protect in Article 42 of the Lausanne, necessary measures against direct and indirect acts of violence, discourse, hate crimes and acts involving discrimination against non-Muslims should be taken within the framework of the law. Impunity should be ended.
97. Following the decision of the Constitutional Court in 2019, the election process of the Armenian Patriarchate should be enabled to be conducted within the framework of democratic principles and Patriarchate’s own election conditions.
98. In order to hold elections for the board of directors of non-Muslim community foundations, regulations that were abolished in 2013 should be reinstated; and violations of the freedom of association and the right to vote of all religious, and ethnic groups should be ended.
99. Without ethnic or religious discrimination in admissions, all nationals of Turkey should be treated equally based on their merits in acquisition of bureaucratic positions.
100. Support for community newspapers should be continued and improved considering the financial problems of the community newspapers and press cards should be given.

Freedom of Peaceful Assembly

101. The authority of governorships to ban assemblies and demonstrations throughout the provinces should be removed from the laws, this authority should be amended in a way to be used only in cases of emergency and based on the decision of the competent court.
102. The purpose of the obligation of notification in the Law No. 2911 is to ensure that the necessary measures are taken to protect the assemblies and demonstrations and their participants, this Article should be amended to prevent the arbitrary practices of the public administration which converts obligation of notification to a de facto “obligation to obtain permission”.
103. The related Articles of the Law No. 4483 on the investigation of public officials which pave the way for impunity should be amended and the requirement of permission to investigate

public officials, including the law enforcement forces, should be removed for effective investigation of allegations of human rights violations.

104. The Supervisory Commission for Law Enforcement Forces, established by law in 2016, does not even have the authority to initiate an investigation on its own, independent from the executive. It is recommended to reorganize and manage the Supervisory Commission for Law Enforcement as a mechanism in accordance with international standards.
105. Regulations should be included in the laws to prevent discriminatory attitudes of public authorities and public officials through indicators such as the subject and the purpose of the demonstration as well as the political tendencies of the organizers.
106. Arrangements should be made to provide the necessary facilities for journalists and civil society organizations carrying out monitoring activities during the demonstrations.

END NOTES

¹ Based on the data collected by Human Rights Foundation of Turkey, between these dates the authorities have declared blanket curfews 111 times in 9 provinces and 35 districts. See. <http://en.tihv.org.tr/curfews-between-august-16-2015-august-16-2016-and-civilians-who-lost-their-lives/> <Accessed on 11 July 2019>. The curfews initially declared for shorter periods but over a short period after, the length, scope and intensity of the curfews increased. The operations accompanying the curfews were started as police operations then gained military character and turned into mixed police/military operations.

² Commissioner for Human Rights of the Council of Europe, in his Memorandum (para. 53) notes that, in response to his explicit request for official figures on deaths of civilians during the operations, the information provided by the Turkish authorities in May and October 2016 omits any information about dead or injured civilians and gives only the number of deaths of security officers and the number of “counteracted” terrorists. The report of the United Nations High Commissioner for Human Rights (para.2), published at a later date refers to some 2,000 people were reportedly killed (para.2).

³ <https://www.tbmm.gov.tr/kanunlar/k7145.html>

⁴ Official Gazette dated 10 July 2019, Decision no 2019/1 of the Council of Judges and Prosecutors;

<http://www.resmigazete.gov.tr/fihrist?tarih=2019-01-11>

⁵ In respect of reports on violations of right to life as a result of unlawful and excessive use of force by state agents please see. Mazlumder “Cizre: Investigation and Monitoring Report on Developments During The Round-The-Clock Curfew Imposed on The Town Between 14 December 2015 and 2 March 2016” http://www.mazlumder.org/fotograf/yayinresimleri/dokuman/MAZLUMDER_CIZRE_REPORT_20162.pdf; Human Rights Association, Human Rights Foundation of Turkey, Health and Social Service Workers’ Union, Diyarbakır Bar Association, and Gündem Çocuk Foundation, “79-Day Curfew: Observations in Cizre” http://tihv.org.tr/wp-content/uploads/2016/04/Cizre-Gözlem-Raporu_31-Mart2016.pdf; Human Rights Watch, “Turkey: State Blocks Probes of Southeast Killings” <https://www.hrw.org/news/2016/07/11/turkey-state-blocks-probes-southeast-killings>; Commissioner for Human Rights of the Council of Europe “Memorandum on the Human Rights Implications of Anti-Terrorism Operations in South-Eastern Turkey” (Memorandum) [https://rm.coe.int/ref/CommDH\(2016\)39](https://rm.coe.int/ref/CommDH(2016)39); Office of the United Nations High Commissioner for Human Rights “South-East Turkey Report” https://www.ohchr.org/Documents/Countries/TR/OHCHR_South-East_TurkeyReport_10March2017.pdf <All reports accessed on 11 July 2019>

⁶ These amendments *inter alia* subject the judicial investigations of military personnel deployed in operations based on the Provincial Administration Law to an administrative approval at the ministerial level; acknowledge any offence committed in the framework of these operations to be a military offence which results in the perpetrators to be tried by military courts, in short provide shielding military personnel from any civil investigation or proceedings. The provisions of the amendment further extend this protection to village guards. It should be highlighted that the amendment introduces an article which stipulates that the provisions of the amendment is retroactively applicable to operations conducted before its adoption.

⁷ According to the analysis of the updated legal data on the judicial processes by Hafıza Merkezi,

⁸ In 4 judgements the CC found that the procedural aspect of the right to life has been violated, in 1 judgement found inadmissible due to non-exhausting the domestic remedies, in 20 judgements found inadmissible due to not observing the time limit (Please see the list in Annex II).

⁹ Updated Situation Report- State of Emergency in Turkey 21 July 2016 – 20 March 2018 – See ANNEX I

¹⁰ Immediately after this regulation was put into force rectors in many state and foundation universities were appointed by the new method. The Council of Higher Education has not taken account of previous election results in state universities leading to appointment as rector of people who were not candidates in the elections by faculty, or who were not even a member of that university. The Council of Higher Education has in some cases not approved the candidates proposed by board of trustees of foundation universities. these regulations constitute extremely serious blows to university autonomy. These are also in direct conflict with the rules of academic freedom and professional ethics, stated in 1997 in UNESCO’s Recommendation Concerning the Status of Higher-Education Teaching Personnel.

¹¹ Such as Law No. 5442 on Special Provincial Administration Act, Law No. 2559 on the Powers and Duties of the Police, Law No. 2935 State of Emergency Law and Law No. 5326 Misdemeanors Law.

¹² Special Provincial Administration Act

¹³ Law on the Powers and Duties of the Police

¹⁴ Law on the Trial of State Employees and Other Civil Servants

¹⁵ Turkey has signed the UN Convention on the Rights of Persons with Disabilities (CRPD) on 30 March 2007, and ratified it by Law No. 5825 on 3 December 2008. The Convention has entered into force on 28 October 2009. Turkey has no reservations or declarations concerning the Convention.

¹⁶ 1969 Vienna Convention on the Law of Treaties 60(5): "Paragraphs 1 to 3 do not apply to provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular to provisions prohibiting any form of reprisals against persons protected by such treaties."

See, <https://treaties.un.org/doc/Publication/UNTS/Volume%201155/volume-1155-I-18232-English.pdf>