

Appreciation over Rights to Freedom of Peaceful Assembly in Turkey in Case of Social & Political Crises, e.g., Related to Major Political Contestation, Coup D'état

In Turkey, rights to freedom of peaceful assembly are protected by the Constitutional guarantee and have been further enforced under the Assembly and Demonstrations Law No. 2911 and other legislation. Turkey has also been a party of and has signed many binding international agreements that guarantee the right to peaceful assembly and demonstration.

a) In what ways have you observed, or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?

After the coup attempt in 2016, the country has started to regress in all democratic areas. The right to assembly and demonstration has been seriously disrupted. In the state of emergency, which started after the coup attempt and continued until 19 July 2018, many assemblies and demonstrations were either canceled or not allowed to be held on the pretext of "state of emergency". In the post- 'state of emergency' period, however, there was no expected improvement in the conditions, and with the enactment of the Statutory Decrees issued during the state of emergency, many democratic rights continued to be restricted. Regional and provincial bans continued to be implemented through the Ministry of Interior and the Governor's Office. Subsequently, due to the spread of the pandemic, many rules that were not applied for supporters of AKP and Erdoğan were applied to prevent opposition demonstrations and assembly marches.

In the **Law No. 2911** on Assembly and Demonstrations, although it has been stated that assembly and demonstration marches can be held without permission, the reasons given in the law for the postponement or prohibition of these exhibition to be organized are open to very broad interpretation. For example, **Article 17** states that

“The regional governor, governor or district governor may postpone a certain assembly for a period not exceeding one month or prohibit it in order to protect national security, public order, prevention of crime, protection of public health and morals or the rights and freedoms of others or if there is a clear and imminent danger that a crime will be committed.”

Likewise, **Article 19** and **Article 24** are also open-ended regulations. The right to peaceful assembly and demonstration is likely to be violated by local governments. Turkey has a unitary state government, and all local governments are subordinate to the government, and

local governments take a stance in favor of the government in preventing opposition assembly and marches.

b) What types of measures have you observed or do you have knowledge of being taken in response to such situations, that impact on assemblies and other relevant human rights?

On the grounds of the above-mentioned laws, many assembly and demonstration marches are prohibited on a provincial or regional basis in Turkey. One of the most striking examples of this situation is the ban on events and assembly in the provinces of Van and Hakkari. Van and Hakkari are in the Southeastern Anatolia region of Turkey and the execution of all collective events has been prohibited since November 2016. Prohibitions are constantly being extended by the governorship. The reason varies according to the conditions brought by the period. While the “pandemic” is recently used as an excuse, public security is often cited as a main reason.¹

According to the 2020 Violation Report of the Human Rights Association, many assembly and demonstration marches were prevented in the Southeastern Anatolia Region. Numerous assembly and demonstration marches were systematically prevented in Mardin, Tunceli, Şanlıurfa, Siirt, Batman, Gaziantep, Şırnak, Kars and Diyarbakır districts.²

Gathering at the symbolic points of cities, especially Istanbul and Ankara, are also prohibited. According to the Assembly and Demonstrations **Law No. 2911**, governorships determine which parts of the city can be used for the marches and assembly. Taksim Square, which has hosted many demonstrations and marches in Istanbul from past to present, is not among the permitted places, and no activity is allowed in this location.³ The aim of the government in this way is to destroy the symbols. It is a deliberate action to remove Taksim Square from the assembly and demonstration marches area, which hosts many well-established events such as the commemoration of the Gezi Park protests, May 1 celebrations, Pride Parade, and Saturday Mothers' assembly.

In addition to the prohibition of demonstrations and assembly on various pretexts by the government, there are several disproportionate measures that have been taken. Foremost among them are the police measures. Preventing the activists from entering the city, which has been practiced frequently in recent times, is one of them. The freedom of transportation for people arriving from outside of the city for the meeting to commemorate the struggle carried out by the society against the destruction of forests in the Kaz Mountains has been violated. Likewise, demonstrations and assembly held by bar association presidents and lawyers to protest the planned changes in the Attorneyship Law were also prevented because lawyers were not allowed to enter the city.⁴ The assembly of the victim of the Statutory

¹ <https://www.cumhuriyet.com.tr/haber/hakkari-ve-vanda-yasaklar-yillardir-suruyor-1841703>

² <https://www.ihd.org.tr/wp-content/uploads/2021/02/2020Y%C4%B1l%C4%B1-%C4%B0nsan-Haklar%C4%B1-%C4%B0hlalleri-Raporu.pdf>

³ <http://istanbul.gov.tr/toplanti-gosteri-yuruyus-alanlari-duyurusu>

⁴ <https://www.evrensel.net/haber/407654/baro-baskanlarinin-ankaraya-girisine-izin-verilmiyor>

Decree, which was planned to be held in Ankara, was also banned by the Governor's Office and the people were prevented from entering the city.⁵

While many opposite demonstrations and assembly were prevented on the grounds of public safety and the pandemic, the same reasons were ignored in many assemblies and demonstrations organized by the AK Party or their supporters in the same period.⁶ Aside from the AK Party congresses held indoors by ignoring the pandemic rules, many demonstrations and assembly that were intended to be held outdoors were not allowed due to the pandemic. **Law No. 2911** shows serious differences in practice and double standards are applied by the government. It is not only those politically opposing demonstrations and assembly which are not allowed, but also environmental, economic, and social assemblies. The police intervened harshly in almost all recently attempted protests, except for the demonstrations and assembly of the supporters of AKP. Police intervened in 19 assembly and demonstrations only in the Southeastern Anatolia region in 2020.⁷ This is a year that many collective actions were prohibited due to the pandemic; it seems that the police intervened in all the assembly that took place. Again, many environmental protection actions, Boğaziçi University actions, protests regarding women's rights were eliminated by harsh police intervention and while many people were detained, there were also arrestments.⁸

c. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?

After the 2016 coup attempt in Turkey, many freedoms were suspended by decree law and arbitrary practices. The right to assembly and demonstration is one of the most severely restricted rights. In fact, it has been given special importance by the government as it has the power to arouse public attention and to mobilize the masses collectively. Many assembly and demonstration marches that were sought to be held after the coup attempt in Turkey were not allowed.

For example, LGBT+ Pride Parade has not been allowed for a long time on the grounds of the protection of the peace and security of the public, personal immunity, general health and morality, and the rights and freedoms of others. Pride parades have not been held in Istanbul since 2015. The LGBT+ press statements were intervened by the police force.⁹

"Saturday Mothers" has been organizing weekly assembly since 1990. But they have been banned since August 2018. The group, primarily composed of female relatives of the disappeared, were forced to disperse on August,25 2018, after the police used tear gas and water cannons. They have not been permitted to hold their vigil in their traditional location ever since despite the fact that their gatherings and speeches made during these gatherings are

⁵ <https://www.evrensel.net/haber/388249/ankaraya-gelen-khkliler-polis-tarafindan-engellendi>

⁶ <https://www.bbc.com/turkce/haberler-turkiye-56177899>

⁷ <https://www.ihd.org.tr/wp-content/uploads/2021/02/2020Y%C4%B1l%C4%B1-%C4%B0nsan-Haklar%C4%B1-%C4%B0hlalleri-Raporu.pdf>

⁸ <https://stockholmcf.org/police-beat-arrest-bogazici-university-students-demanding-release-of-jailed-friends/>

⁹ <https://www.bbc.com/turkce/haberler-turkiye-48810564>

entirely peaceful in nature.¹⁰ Even though they held their demonstrations peacefully 699 times, the Saturday Mothers were deprived of their right to assembly and demonstration and were not allowed to hold the 700th assembly.

Hundreds of construction workers and five trade union representatives were detained in the masses in September 2018. They were working for IGA Construction which has strict tight with the government and contractor company for building Istanbul Airport. These construction workers protested poor working and living conditions, demanding action over late payment and poor workplace safety standards. They have also complained about high numbers of deadly accidents. At least 24 workers were arrested during the protest. According to the official statement 52 people have lost their lives while working in Istanbul Airport construction.¹¹

The protests and demonstration marches that started after the rector of Boğaziçi University was replaced were also subject to harsh police intervention. More than 100 people were arrested during the demonstrations. As with all opposition demonstrations, these demonstrations were terrorized and presented as a movement organized under the control of terrorist organizations and aimed directly at overthrowing the government. Even in a semantic context, pointing out PKK is added in a way that is disconnected from the sentence, and LGBT+ is mentioned right after this sentence. So, is LGBT+ really a terrorist organization far from national and moral values?¹²

Social civil unrest is enough to depict Turkey in a dangerous line. Although difficult to predict, economic and demographic indicators confirm this.¹³ Protests coordinated by advocates, shopkeepers, miners, and Boğaziçi University students have indicated the different parts of society exposed to major trouble.

After the coup attempt in 2016, the government has not only disallowed assembly conducted outside, but also peaceful assembly that took place indoors. Thousands of Gülen Movement associated individuals were detained and arrested on the grounds that they attended or had religious conversations in a group at their homes. The government does not tolerate any of the opposition gatherings. As proven by the instructions administered to the judicial organs and government to identify many people who participate in peaceful assembly as members of a terrorist organization. In fact, according to the Penal Department No. 16 of the Supreme Court, participating in an organization within the Gülen Movement circle, constitutes conclusive evidence of being a member of an armed terrorist organization.¹⁴

d. What good or promising practices have you observed or do you imagine might be possible that would help to ensure the right to freedom of peaceful assembly amongst other relevant human rights, is better respected, protected and/or fulfilled in such a crisis context?

¹⁰ The Right To Hold A Peaceful Assembly in Turkey, pg 6.

¹¹ <https://tr.sputniknews.com/turkiye/201812031036438349-cimer-istanbul-havalimani-olen-isciler/>

¹² <https://assedel.org/why-government-targets-lgbt-in-bogazici-university-protests/>

¹³ <https://assedel.org/why-government-targets-lgbt-in-bogazici-university-protests/>

¹⁴ <https://www.aa.com.tr/tr/turkiye/yargitay-16-ceza-dairesinden-feto-uyeligi-kriterleri/1758356>

Although the right to peaceful assembly and demonstration is guaranteed by the Constitution, the open-ended articles of **Law No. 2911**, the restrictions imposed by the decree laws after the coup attempt, the Ministry of Interior circulars and in addition to these, pandemic prohibitions, the right to assemble and demonstration is severely restricted.

It is obligatory to amend the relevant articles of the **Law No. 2911**. The authorities of local governments hold great power to cancel or ban assembly and demonstration. At this point, it is necessary to concretize the relevant articles. In this regard, the Law Proposal made by HDP, the second opposition party, in October 2019 to amend the **Law No. 2911** was not accepted.¹⁵

Another issue is the harsh police interventions during the demonstrations. The use of force should be regulated in conformity with the recommendations of the European Court of Human Rights, and the margin of decision of law-enforcement agents in the policing of assemblies should be reduced.¹⁶

Aside from the authority power based on **Law No. 2911** and the Circulars issued by Minister of Interior, *the most important problem is the double standard practice* of the government and its subordinate local administrations against the assembly and demonstrations to be organized. Laws and other legislation are applied arbitrarily. Unless the President displays an impartial administration, it seems that this problem will remain unresolved. ■

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¹⁵ <https://www.evrensel.net/haber/389258/hdpden-toplanti-ve-gosteri-yuruyusleri-kanunu-degistirilsin-teklifi>

¹⁶ The Right To Hold A Peaceful Assembly in Turkey, pg. 8