



Conference Report

“Media Freedom and Freedom of Expression in Turkey: Current Developments”

24 November 2012
Point Hotel Taksim, Istanbul

Introduction

The following report presents a summary analysis of the discussions that have taken place during the conference “Media freedom and freedom of expression in Turkey: Current Developments” jointly organized by Friedrich Ebert Stiftung, Bianet, Umut Vakfi and the European Federation of Journalists on 24 November 2012 in Istanbul. The conference aimed at providing a forum to discuss the current negative developments regarding media freedom and freedom of expression in Turkey, the causes that are behind these developments and possible steps that can be taken to improve the situation. Various representatives of NGOs, journalists, experts and academics from Turkey and Europe took part in the discussion.

The content of this report is based on the talks and discussions that have taken place during the conference and relies solely on the information provided by the speakers and the participants.

Assessment of media freedom and freedom of expression in Turkey

This section presents the current state of media freedom and freedom of expression in Turkey as evaluated by the speakers and participants of the conference as well as the factors that cause, support or strengthen the situation at hand. Overall, while some of the speakers also noted a few positive developments¹, the snapshot of the state of freedom of expression in Turkey that emerged from the discussions is a bleak one. Moreover, the factors that shape and drive the situation seem to be interdependent and multilayered and thus hard to tackle.

As of November 2012, there are around 70 journalists in Turkey who are in jail because they have engaged in journalistic activities and expressed their opinions, along with hundreds of students, activists and academics. This number puts Turkey on top of the “jailed journalists list”

¹ For example, the ability to talk about certain topics, such as the Armenian issue, that were previously considered a taboo.

in the world. Nowhere in Europe do journalists face such a high risk of being detained for journalist activities as in Turkey. Based on provisions of the Turkish Criminal Code (for example Article 220; paragraphs 6-8), journalistic activities are often interpreted as terrorist acts and journalists can be taken into custody as a terrorist. Many examples were given for journalists who were taken into custody and who face criminal prosecution on the grounds of research that they have undertaken as journalists. These investigations and jailing of journalists send a clear signal to others and create a climate of fear. And those signals are perceived not just by the journalists but also by the bureaucracy, who then often acts accordingly. Relatedly, there also seems to be increasing self-censorship, along with hopelessness, as journalists are afraid of losing their jobs, livelihood, and freedom.

What this picture presents is a multifaceted attack to democracy and basic freedoms – and the government remains inactive, to say the least, in trying to safeguard freedom of expression and the public's right to get news. Several participants claimed that this was happening in a broader context of “democratic regression”, meaning the declining quality of democracy in Turkey. The democratization process that the AKP government followed between 2002-2004 has stalled and some speakers warned of the recurrence of authoritarian tendencies. A few participants even suggested that the current government might aim at a regime shift to preserve a long-term hegemony. There is an illiberal climate in which the government creates significant pressure not just on media but also on other political actors such as trade unions and the opposition parties in parliament.

Actors/factors affecting the state of freedom of speech and media freedom in Turkey

What explains this problematic picture? Participants pointed to various actors within the state and society in Turkey, and the relationship between these actors as either causing or contributing to the problematic situation at hand, along with larger structural and cultural factors. The section below discusses these major societal actors and the relations between these actors within domestic politics that create or contribute to the situation.

Executive Branch

As it has been mentioned above, the current government, even the prime-minister himself, has publicly put pressure on the media on several occasions. Threatening and targeting journalists in public speeches and attempting to dictate what can and cannot be published are alarming signals for a political climate growing ever more illiberal.. These actions cast doubts on whether the government can really meet its own democratic standards. Instead of ensuring the independence of the media, it seems that the state is attempting to influence and dominate the media.

Judicial System

The problems related to the judicial branch affecting freedom of expression and media are serious and can be divided into two main categories: 1) the content of statutory legislation; 2) the interpretations of laws by judicial authorities. Overall, while the judiciary should function as a

check on the executive, what is more and more seen is the judiciary willingly allying with or taking action according to the executive's will.

First, participants underlined the blatantly problematic clauses in both the Turkish Criminal Code and the Turkish Anti-Terrorism Act (Act No. 3713) as well as the Internet Act (Act. No. 5651) that are being repeatedly used to curb freedom of expression. These issues are well-known and were for example documented in European Councils' Hammerberg Report on freedom of expression and media freedom in Turkey². The need for reform is obvious; however, several participants emphasized that changing the legislation might not be enough to prevent the malfunctioning of the domestic judicial system.

Second, there are also problems emanating from the approach and practices of the judges and prosecutors in the interpretation of the law and administration of justice. Violations of freedom of expression also stem from a lack of proportionality in the interpretation and application of these laws and lack of restraint on the part of prosecutors. In fact, there seems to be resistance by the judges and prosecutors to internalize European Court of Human Rights' standards. While Turkey is the country with the second most cases brought to the European Court of Human Rights after Russia, it is the leading country in Europe in cases involving freedom of speech. ECHR has repeatedly found Turkey guilty of violating the Article 10 of ECHR, which is about freedom of expression and includes freedom to hold opinions, freedom to impart ideas and information, and freedom to receive ideas and information.

Media Landscape

While media freedom is under attack, the media landscape, also contributes to the problem. The participants noted issues of ownership - the domination of mainstream media by media conglomerates -, the problematic relationship of these media conglomerates to the state and the government, and thus the role of mainstream media in creating and shaping the new hegemony with detrimental effects on freedom of expression.

The mainstream media landscape in Turkey has reshaped itself within the emerging neoliberal context in the 1990s with new structures. The current landscape is dominated by large media conglomerates that basically own all major print and broadcasting media. Quite often, the owners of these conglomerates have close links to the government through common interests, which some participants interpreted as a patron-client relationship. This specific clientelistic link between the state and media bosses works to create even more pressure on journalists and adds to the "chilling effect." The editorial freedom of the media is questionable under these circumstances and there are numerous examples of journalists getting reprimanded or even being fired because of too critical stances.

Within this context, there is very little space left for critical approaches or opposition in mainstream media and critical journalists are marginalized and pushed out. Social media and internet are the venues that take over the role of opposition and criticism. However, as participants have pointed out, the mainstream media is the main venue that the public follows to

² Thomas Hammerberg was the Council of Europe's Commissioner for Human Rights from April 2006 until March 2012. The report can be accessed at <https://wcd.coe.int/ViewDoc.jsp?id=1814085>.

get news. The public intellectuals in the mainstream media who accept and participate in this situation are well-respected and play a crucial role in shaping public opinion. Thus, the mainstream media contributes to the strengthening of the new hegemony by shaping the reaction of the masses and creating public consent.

Civil Society

Civil society in Turkey is relatively pluralistic and lively. However, while civil society can play a crucial role in pushing for democratization, there are various obstacles for the civil society to push for reform regarding freedom of expression and media. First, trade unions, which are crucial in their opposition roles, have been weakened to such an extent that they are nowadays practically non-existent in the media sector. Second, especially when it comes to organizing journalists and the media, there is fragmentation that obscures attempts to put up a united front in defense for the protection of freedom of expression. This was seen as a crucial weakness by a number of speakers. Moreover, some speakers thought that the state was rather disinterested and dismissive towards dialogue with civil society.

Public

Mass reaction can be a crucial factor for democratization; however, participants wondered about the lack of public reaction against the blatant abuses regarding freedom of expression in Turkey. Some claimed that there is no demand from the public for actual, fact-based information and that the public was not questioning what they were getting from the mainstream media. Thus, there seems to be a catch-22 situation: without the free media as an agent of democratization, informing the public and creating awareness, and given a public with weak democratic reflexes, there seems to be no strong demand for free media.

It was controversially discussed whether there are – beside the structural factors – also cultural factors that impede a more outspoken demand for broader freedoms. As some participants noted, the democratic reflex in Turkey seems to be weak, not just among the public, but among the bureaucracy as well. The public does not have a clear understanding as to what freedom of expression is and why it might be important. Also, prosecutors and judges often interpret laws to the detriment of free speech and thus tempt to curb freedom of expression instead of protecting it. Moreover, patron-client relationships are part and parcel of the journalistic tradition and media bosses and journalists high up in mainstream media use their powers not to protect the right of fellow journalists and media personnel but to protect own interests. These widespread and habitual practices are problematic for the protection of freedoms in Turkey.

Kurdish conflict

Lastly, a number of participants underlined the ongoing Kurdish issue as a major factor affecting the state of freedom of expression at hand. They pointed out that a significant portion of jailed journalists are Kurds or their cases relate to the Kurdish issue. The Anti-Terrorism Act is regularly used to suspend Kurdish newspapers and prevent activism. Participants presumed that without some progress regarding the Kurdish issue in Turkey, problems about freedom of expression would not be resolved.