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Defending Human Rights During the Pandemic and the State of Emergency Conditions

2020 marks the 72nd anniversary of the adoption of the Universal Declaration of Human Rights (UDHR). We are committed to protect our rights in a global crisis that has political, social, economic and ethical dimensions brought about by the COVID-19 pandemic that has taken the world by the storm. We keep on defending peace, justice, equality, liberty, and human dignity and the fight for democracy because the only way out of this global crisis that indeed is a threat to the very existence of humanity is to defend these values.

The drafting of the UDHR commenced on 29 April 1946 with the establishment of the Commission on Human Rights within the United Nations. The UDHR, with a preamble and 30 articles, was drafted by the commission, and adopted and proclaimed by the UN General Assembly assembled in Paris on 10 December 1948. The UDHR went into effect in Turkey after having been published in the *Official Gazette* of 27 May 1949. The UDHR has been translated into more than 500 languages. It also remains the most translated human rights document in the world. The formal inception of Human Rights Day dates back to 4 December 1950, after the General Assembly passed resolution 423 (V) inviting all States and interested organizations to adopt 10 December of each year as Human Rights Day.

The UN was founded with a goal to establish an international system based on ideals of peace, human rights and democracy in order not to ever go through the massive human destruction created by World War II. We, unfortunately, lag far behind in reaching these ideals. Such an international system based on the rights and freedoms enshrined in the UDHR has yet to be established. The UN, in contradiction to its very grounds for existence, cannot be effective enough in preventing and putting an end to wars and civil wars that account for the major causes of rights violations, in intervening into refugee crises, in protecting natural and cultural heritage worldwide, in fighting poverty and injustice, and in eliminating all kinds of discrimination particularly against women. Herein the military and economic partnerships set up by powerful countries have become setbacks against individuals' exercise of rights and freedoms. Specifically, the fact that the states have gradually been leaving their pledges for democracy and rule of law behind has led to the emaciation of human rights both as a reference system and a control mechanism. The pandemic in 2020 has laid bare all the weaknesses and ineffectiveness of the international system while it, at the same time, has shown the path towards which this alarming course of events may evolve.

In spite of all these setbacks peoples all over the world have been raising their voices demanding freedom, justice, equality and human rights. The response of the states and governments to these demands has been the systematization and generalization of all kinds of violence and imposing them as the sole truth of life on societies. Promoting and protecting human rights along with revitalizing their founding role in the face of this massive crisis that the world has been going through are our primary duties.

This state of crisis that has further been aggravated by the pandemic is faced in Turkey with all its might and intensity. The country has been governed by a state of emergency (SoE) regime directly since

2016 and indirectly since 19 July 2018 by this very same regime claimed to have been lifted but rendered permanent and ordinary through the introduction of numerous legal amendments. This state of affairs/process has led to the abandonment of the principle of constitutionalism, which limited the power of the government, thus, resulting in the dominance of arbitrariness and uncertainty over the public space by making both law and institutions “apparatuses” of the oppressive regime. The power to create uncertainty, to which the political power specifically resorts as a method of governance, has provided it to translate the conditions of the pandemic to an opportunity. It has further centralized its power by associating the extraordinary nature of the pandemic with the SoE to exacerbate its repression and control over the society. The political power, handling its response to the pandemic as a security problem rather than an act of prevention and protection, opted for undermining human rights first -as it has always done under such conditions. The outcome of such conduct is the systematic violation of all fundamental rights and freedoms, prominently the right of access to information, right to life, right of access to healthcare, right to work, freedom of expression, freedoms of assembly and association.

Policies of the political power that render all the issues of the country ranging from the economy to public health as security problems, that polarize the society, that are predicated upon violence both at home and abroad, and that make conflict and war the only methods -particularly for the resolution of the Kurdish issue along with international problems- constitute the major causes of the violations of the right to life in 2020. Nevertheless, violations of the right to life are not merely limited to violations committed by the state’s security forces. They also cover violations committed as products of structural violence and/or by third parties that arise through the failure of the state to undertake its responsibility to “prevent and protect.”

We would particularly like to pay tribute to healthcare workers who have put extraordinary efforts to control the pandemic and to protect public health since the very beginning and who have lost their lives due to the want of necessary measures. Healthcare workers’ demand from the authorities to recognize COVID-19 as work accident and occupational disease should be fulfilled without delay.

Torture has remained the most dominant human rights problem in 2020 in Turkey as well in spite of the fact that it is a crime against humanity and is absolutely prohibited by the Constitution and universal law, which Turkey is a part of. Acts of torture at official custodial centers and extra-custodial places, in the streets, in prisons and almost everywhere, along with the “extreme and disproportionate interference” of the law enforcement amounting to the level of “torture” in assemblies and demonstrations have come to bear a novel dimension and intensity. One can assert that the whole country has virtually become a space of torture today as a result of the political power’s mode of government based on repression and control.

It is also quite alarming that enforced disappearance/abduction, which accounts for one of the most disgraceful human rights violations in recent history and qualifies as a crime against humanity, has also been witnessed in 2020 and the number of such cases has gone up again since 2016 when the state of emergency was declared. Thus, the Council of Europe’s Committee of Ministers delivered a new resolution to keep Turkey under enhanced supervision about enforced disappearance cases within the framework of *Bati and Others* group application.

Prisons, which are an unmediated sign of a state’s respect for human rights, have become extremely overcrowded today as a result of the political power’s abuse of law as an instrument of repression and intimidation in Turkey. Prisons are places where gross and serious violations are committed ranging from the right to life to torture, to right of access to healthcare. Prisons top the list of riskiest places with regards to the COVID-19 pandemic. Prisoners’ rights, which had already been restricted, have further been restricted on the grounds of the pandemic and the authorities have been attempting to create a new “normal.” Despite warnings and calls by international human rights authorities referring to universal standards and norms; only journalists, academics, human rights defenders, lawyers, elected politicians along with those who expressed their critical or dissident views, who have been

incarcerated without sufficient legal grounds, and particularly elderly and critically sick prisoners who are especially vulnerable to COVID-19 were denied eligibility for the latest amendment introduced to Law No. 7242 on the Enforcement of Sentences and Security Measures as the authorities justified such exclusion on the grounds of the Anti-Terror Code (ATC). When one takes into account the devastating toll that the pandemic has taken, new regulations should immediately be introduced in line with the warnings and calls by the above-mentioned authorities to prevent further losses and rights violations.

The political power's restrictions on freedom of expression and opinion, specifically its pressure and control over the press that has alarmingly increased with the declaration of the SoE, have held out in 2020 as well. Although the exercise of freedom of expression in Turkey has been problematic regarding almost all forms of expression including political, artistic, commercial, academic, religious and moral ones, restrictions and violations have primarily targeted political criticism. Authorities have been trying to suppress all kinds of criticism or demands for checks and balances about the activities of the political power while investigations and lawsuits are initiated into them. Especially in 2020, investigations and lawsuits have been brought against numerous individuals and organizations that found the measures taken within the scope of the country's response to the COVID-19 pandemic as meager and insufficient, thought that the publicized information on the number of cases and mortality rates were inaccurate, thus, demanding more information and transparency, and were critical of and objected to the handling of the process.

2020 has been a year during which restrictions on and violations of freedom of assembly have been the rule, while the enjoyment of freedoms has been the exception just like the previous year. In 2020 individuals and groups from almost all social segments, notably political party members, workers, villagers, students, lawyers, women, LGBTIQ+ and human rights defenders, have not been able to exercise their right to peaceful assembly and protest due to bans imposed by civilian authorities and/or actual interventions by the law enforcement. The fact that the consecutive bans on protests and events imposed by the governor's office in Van amounted to 1,274 days (4 years) or the cruel and infamous violence by the law enforcement against HDP members, heads of bar associations, women and mine workers constitute the concrete instances of such violations.

Citizens in Turkey cannot enjoy their freedom of association either because they are not allowed to act collectively and express their ideas while they cannot get involved in the civic and public space in an organized manner to shape their collective futures. Numerous members and executives of human rights organizations, associations, foundations, labor and professional organizations, and political parties have been arrested, detained, and attempts at repressing them through lawsuits, i.e. through judicial harassment, have also been in play in 2020. Co-mayors, local municipal council members have been removed from office and replaced by state appointed trustees. Members of the parliament have been detained following the lifting of their parliamentary immunity. Offices of political parties and civil society organizations have been attacked.

The Kurdish issue remains one of the most fundamental challenges before Turkey's democratization. The armed conflict that broke out again immediately after the general elections of 7 June 2015 is still going on not only due to the fact that the government primarily failed to take sincere and coherent steps for the peaceful and democratic resolution of the Kurdish issue, but also with the impact of developments in the Middle East and is bringing about gross human rights violations, notably violations of the right to life.

We, as human rights defenders, have always argued for the democratic and peaceful resolution of the Kurdish issue. We are persistent in our belief. We, therefore, want the conflict to end right now. Following the establishment of a non-conflict environment, this state of non-conflict should be strengthened and monitored as well as genuine and effective programs should be developed by all parties in order to establish social peace. Within this context, the status of elected Kurdish politicians as political hostages in the person of Selahattin Demirtaş should be put to an end, political prisoners'

immediate release should be provided, and isolation on İmralı Prison should be ended in order for a new peace process to commence.

There has unfortunately been no setback and no development that could be considered positive in gender-based violence against women in 2020. Yet, the political power has targeted the Istanbul Convention, which sets forth the basic standards for the prevention of and combatting gender-based and domestic violence against women along with states' responsibilities to this end, on the grounds that the convention "disrupted the Turkish family structure," "provided legal grounds for homosexuality," etc. Further, the conditions brought about by the COVID-19 pandemic that left numerous individuals unemployed or enclosed at home have brought along much more severe conditions for women. Lockdowns in almost all countries around the world led to an escalation in sexual, economic and physical violence against women. Observation reports published in Turkey also point to a similar state of affairs for women. All these reveal once again how vital is the Istanbul Convention for women.

Asylum-seekers/refugees/immigrants that have now become a part, a primary component of the society in Turkey are still being intensively subjected to all kinds of discrimination and abuse, hate speech and economic exploitation. Asylum-seekers and refugees, who have been subjected to racist hate crimes and violence by the law enforcement and civilians, lost their lives. Human traffickers, too, have led them to death. Asylum-seekers and refugees faced the physical, psychological, social and economic impacts of the pandemic in the most severe manner while becoming lives ignored and even sacrificed by our society.

Turkey is going through one of its most devastating economic crises in the last four decades. Poverty, precarity and non-organization created by debt-based neoliberal economic policies that have been implemented for years have become deeper and continuous through the state of emergency practices. Such state of affairs has become even more alarming with the COVID-19 pandemic. Today there are millions of people in the country who have to work under the pandemic conditions in order to both biologically survive and to maintain their social lives. The rights violations that these persons -who do not have the chance to stay at home but have to work under inadequate measures taken at building sites, factories, markets and the like- vary greatly. Occupational murders top the list of these violations. The rate of workers who have lost their lives due to COVID-19, in spite of all the challenges before collecting data, is substantial among the total number of occupational murders. Unemployment and poverty affect women, children and refugees the most.

The statements of the political power about human rights and reforming the judiciary should not be regarded as a promise that can be materialized under such circumstances. If the authorities opt for a real reform, it is an obligation that a novel democratic constitution based on the principle of separation of powers should be drafted and a genuine conflict resolution process that will provide for facing the past should be initiated. Any proposal without these steps can be nothing but mere window dressing in response to international demands.

Lastly, İHD and HRFT, whose *raison d'être* is to create a country and a world where there are no more human rights violations and where justice, peace and democracy prevail, are 34 and 30 years old respectively. We, as sister organizations, will keep on documenting and reporting human rights violations to make them visible, therefore, preventing them; continue fighting against impunity and promoting respect for human rights.

Human Rights Association

Human Rights Foundation of Turkey

Appendix: An Overview of Human Rights Violations in Turkey in 2020

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I. RIGHT TO LIFE

Policies of the political power that render all the issues of the country ranging from the economy to public health as security problems, that polarize the society, that are predicated upon violence both at home and abroad, and that make conflict and war the only methods -particularly for the resolution of the Kurdish issue along with international problems- constitute the major causes of the violations of the right to life in 2020. Nevertheless, violations of the right to life are not merely limited to violations committed by the state's security forces. They also cover violations committed as products of structural violence and/or by third parties that arise by the failure of the state to undertake its responsibility to "prevent and protect."

According to data collected by the Human Rights Association (İHD) and the Human Rights Foundation of Turkey (HRFT), within the first 11 months of 2020:

- 12 persons were killed while 10 were wounded due to summary executions, on the grounds that they did not abide by stop warnings, or random fire by the law enforcement;
- A total of 225 persons, including at least 45 security officers (32 soldiers, 11 police officers and 3 village guards), 160 militants and 20 civilians, were killed because of the armed conflict in the country. A total of 79 persons were wounded including 50 security officers (46 soldiers, 2 police officers, 2 village guards) and 29 civilians;
- At least two persons were killed, while another was wounded due to armored vehicle crashes by security forces and/or official vehicles;
- One person was killed while 3 others were wounded due to mine and unclaimed bomb explosions, etc.;
- According to İHD's data, at least 49 persons died in prisons due to various causes like diseases, suicide, violence, negligence, etc.;
- 10 persons lost their lives while 22 others were wounded due to racist attacks and hate crimes. At least 14 persons, including members of the parliament, executives of political parties, authors, journalists and artists, were threatened with death;
- At least 20 persons were killed while 20 others were wounded in accidents, explosions and/or under suspicious circumstances while serving their compulsory military service or on active military duty;
- According to data provided by the Health and Safety Labor Watch/Turkey, at least 2,032 workers lost their lives because of occupational accidents/murders;
- At least 260 women were killed by male violence;
- According to official data, 13,746 people lost their lives due to the COVID-19 pandemic as of 30 November 2020;
- According to data collected by the Turkish Medical Association (TMA), 185 healthcare workers lost their lives due to the COVID-19 pandemic as of 28 November 2020.

Turkey maintained its military campaigns in 2020 in Syria, Libya and Northern Iraq Kurdistan Regional Government (KRG) in spite of the COVID-19 pandemic. According to data collected, during these campaigns:

- A total of 149 persons were killed, including 21 security officers (19 soldiers, 2 village guards), 12 civilians and 116 militants while a total of 18 persons were wounded including 10 soldiers and 8 civilians due to armed conflict within the borders of KRG;
- A total of 79 persons were killed, including 78 soldiers and one civilian personnel while 82 soldiers were wounded due to armed conflict in Syria.

We would like to express another concern about possible violations of the right to life. Law No. 7245

on “Bazaar and Neighborhood Guards,” which went into force having been published in the *Official Gazette* of 18 June 2020 after being ratified at the Grand National Assembly of Turkey’s (GNAT) Plenary, extended these guards the power to use force and fire arms, take preventive measures against protests, rallies and disorder that qualify as disruptive of public order until the general law enforcement presents, stop people on reasonable grounds, ask to see identification cards or other documents, frisk people in case of suspicion, ask people to open up vehicles’ unseen parts, etc. Such powers bring along the concern that increases might be seen in the number of violations of the “right to life” and “security of person,” similar to those seen after amendments introduced to the Law on Police Powers in 2007.

II. TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Torture has remained the most dominant human rights problem in 2020 in Turkey as well in spite of the fact that it is a crime against humanity and is absolutely prohibited by the Constitution and universal law which Turkey is a part of. One can assert that the whole country has virtually become a space of torture today as a result of the political power’s mode of government based on repression and control.

There has been a serious increase in the number of acts of torture and other ill-treatment cases in official custodial centers because of the violation of procedural guarantees due to such reasons as avoidance of law, rule and norm control, arbitrariness, conscious negligence, long-term custody periods, rendering of monitoring and prevention mechanisms dysfunctional or the sheer absence of independent monitoring and prevention, etc. that have become prevalent at various levels of the state power in direct proportion with the rising political authoritarianism. Within the first 11 months of 2020:

- A total of 573 people applied to the HRFT alleging that they were subjected to torture and other forms of ill-treatment. 295 of the applicants stated that they were subjected to torture and other forms of ill-treatment in the same year;
- According to data collected by the Documentation Center at İHD, at least 417 people were subjected to torture and other forms of ill-treatment at official custodial centers;
- According to data collected by the Documentation Center at the HRFT, at least 174 people were subjected to torture and other forms of ill-treatment at official custodial centers.

Acts of torture and ill-treatment during the intervention of the law enforcement into peaceful assemblies and demonstrations, in the streets and outdoors or at places like homes and offices, i.e. in unofficial detention and extra-custodial places, have also come to bear a new dimension and intensity under the conditions of the COVID-19 pandemic in 2020. Illegitimate, uncontrolled, unpunished violence by the law enforcement, which goes way beyond the power to use force prescribed in universal law and domestic laws while being ignored and even encouraged by the political power, increased in 2020 and became a part of everyday life. Numerous citizens were exposed to the brutality of the law enforcement that amounted to torture and other acts of ill-treatment specifically on the grounds that they did not abide by the measures taken in response to the COVID-19 pandemic.

Within the first 11 months of 2020:

- At least 1,929 persons were subjected to torture and other forms of ill-treatment, while 65 persons were wounded due to interventions of the law enforcement into peaceful protests and events staged within the scope of freedom of assembly, according to data collected by HRFT’s Documentation Center. During the same period, 159 persons were subjected to torture and other forms of ill-treatment in the streets and outdoors, while 32 persons were subjected to torture and other forms of ill-treatment in house raids.

- At least 2,190 persons were subjected to torture and other forms of ill-treatment due to interventions of the law enforcement into peaceful protests and events staged within the scope of freedom of assembly, according to data collected by İHD's Documentation Center.

It is also quite alarming that enforced disappearance/abduction, which accounts for one of the most disgraceful human rights violations in recent history and qualifies as a crime against humanity, has also been witnessed in 2020 and the number of such cases has gone up again since 2016 when the state of emergency was declared. The act of enforced disappearance under custody is not one that is momentary, it covers a specific period of detention usually accompanied by torture, and generally results in death. Therefore it leads to multiple and consecutive violations.

- According to HRFT's Documentation Center, 10 enforced disappearance cases were observed within the first 11 months of 2020. It was subsequently learnt that the people abducted had been under custody and subjected to torture and other forms of ill-treatment before their release.
- The faith and whereabouts of Yusuf Bilge Tunç, who disappeared in Ankara on 6 August 2019, are still not known although 16 months have passed after the fact.

Further, it was reported that numerous people -notably university students, journalists and political activists- were taken under custody off-the-record and were forced to become informants through coercion and threats while some of those who refused to become one were later detained on charges of "membership in an illegal organization" or were abducted and subjected to torture and other forms of ill-treatment for some time before being released.

Within the first 11 months of 2020:

- 160 persons were identified by İHD's Documentation Center who stated that they were forced to become informants through coercion and threats and were subjected to torture and other forms of ill-treatment while 45 of these persons lodged applications before İHD's central office or its branches.
- According to data provided by HRFT's Documentation Center, 14 persons claimed that they were subjected to torture and other forms of ill-treatment while being forced to become informants.

Prisons have always been spaces where torture and other forms of ill-treatment were intensively committed. Specifically the period covering the fall of the peace process in the Kurdish issue and the restart of armed conflict in July 2015 in Turkey, followed by the quenching of the military coup attempt and the declaration of the state of emergency witnessed extraordinary increases in acts of torture and other forms of ill-treatment against prisoners. Prisons remained the same in 2020 as well.

According to a statement by the Ministry of Justice on 19 June 2020 in response to a parliamentary question, 396 prisoners have lodged applications concerning torture and other forms of ill-treatment since 1 October 2019.

Procedural guarantees of due process, which play a significant role in preventing torture but have been mainly disregarded in practice for years, have been terminated to a large extent due to legislative modifications introduced by decree laws during the state of emergency. These procedural guarantees include informing the detainee about the grounds of custody, informing third parties, access to defense counsel, access to a medical doctor, appropriate physical examination under appropriate conditions and obtaining medical reports in due form, speedy applications to judicial authorities for lawfulness review, proper handling of custody records, and possibility of independent observations. One can argue also based on such amendments that procedural guarantees have recently been terminated in no small measure and a thoroughly arbitrary situation has been created about this issue.

The problems that form the basis of critiques of the Human Rights and Equality Institution of Turkey (TİHEK) authorized as the “National Prevention Mechanism” which is supposed to be an effective and significant instrument for the prevention of torture have also remained the same as of 2020. No steps were taken to make TİHEK operate in line with the Paris Principles and OPCAT provisions. There are errors with regards to principles and methodology in the visit reports issued by the institution as well. The fact that TİHEK has taken no material steps about prisons and other detention places, which posed great risks in terms of the pandemic, other than publishing some abstracts from statements made by UN organs on the institution’s website during the COVID-19 pandemic proves to be an important signifier of TİHEK’s dysfunction.

Impunity still proves to be the most significant obstacle before the struggle to end torture. Impunity is still witnessed as one of the most basic elements that make torture possible because of such reasons as the failure to initiate investigations into perpetrators, the fact that initiated investigations are not translated into prosecution, drafting indictments based on charges that require lesser sentences instead of torture in cases where lawsuits were brought against suspects, failure to sentence suspects or sentencing them for offenses other than torture and deferring their sentences.

According to the “2019 Legal Statistics” data provided by the Ministry of Justice’s General Directorate of Criminal Records and Statistics, investigations were initiated into 2,715 persons under Articles 94 and 96 of the Turkish Penal Code (TPC) which designate torture and ill-treatment offenses, while decisions to file criminal cases were delivered against merely 926 persons. Yet investigations were initiated into 38,582 persons under Article 265 of the TPC, which proscribes “resisting a public officer” while decisions to file criminal cases were delivered against 28,843 of these persons. The huge gap between the number of cases brought against persons in torture and resistance charges clearly demonstrates the dimensions of impunity and how impunity is maintained as a systematic policy.

The reality of torture in Turkey has also been expressed in reports drawn up by international mechanisms and organs. But the political power, which does not want to limit itself with any law, rule or norm, particularly the Constitution itself, does not take into account any kind of criticism and warning by international prevention and monitoring mechanisms either. Turkey’s Periodic Review of the 3rd cycle by the UN’s Universal Periodic Review (UPR) process, which is currently the most extensive international human rights monitoring mechanism, was conducted in January 2020. One of the focal points in the report drafted by the UN Office of the High Commissioner for Human Rights within the scope of the periodic review was torture. The report handled torture in Turkey in a comprehensive manner, while criticism and recommendations on the subject were communicated to the authorities.

III. PRISONS

Prisons, which are an unmediated sign of a state’s respect for human rights, have become extremely overcrowded today as a result of the political power’s abuse of law as an instrument of repression and intimidation in Turkey. The exact number of prisoners in Turkey, however, is not known. The Ministry of Justice has long been failing to share reliable data on the subject, while statistics of the Turkish Statistical Institute (TurkStat) are not current.

According to data provided by the Ministry of Justice, there were 55,870 inmates in Turkish prisons in 2005. This figure went up to 291,546 as of 31 December 2019 according to TurkStat. As one can see, the number of prisoners has almost multiplied six fold over the course of 14 years. Although the number of prisoners who were released under Law No. 7242 on the Enforcement of Sentences and Security Measures, which went into effect because of the COVID-19 pandemic, has not been shared with the public, it is estimated that the figure is about 90,000. According to data by the Ministry of Justice, 71,193 convicted prisoners were on COVID-19 leave as of 3 November 2020. According to TurkStat data, while the number of prisoners per 100,000 persons in Turkey was 163 in 2010, this figure went up to 323 in 2018 and amounted to 351 in 2019. When one takes into account 12 year old and

older prisoners, the number of prisoners per 100,000 persons goes as high as 430. According to TurkStat data, while 281,605 persons were admitted into prisons as convicted prisoners between 1 January 2019 and 31 December 2019, 291,212 convicted prisoners were released between the same dates. Such high circulation in prison turnover, increase rates in prison population and complaints by prisoners are handled together, it can be suggested that the number of prisoners in Turkey is way over capacity.

Practices like beating prisoners for various reasons (strip search, medical examination in handcuffs, forced reporting at standing roll-calls) at the time of and after admission to the prison, labeling those who were imprisoned for political offences as “terrorists” and beating them for this reason, all kinds of arbitrary treatment and disciplinary actions, solitary confinement, banishment, and involuntary transfers have recently reached unprecedented levels.

Other problems that have been pending for a long time include restriction of access to healthcare services, denial of the right to visit the prison infirmary, ill-treatment practices including handcuffed transfers to the Forensic Medicine Institute, courthouses and hospitals, failure to provide timely and effective solutions to prisoners’ medical problems. Banishment of a majority of prisoners, who hardly have the opportunity to continue their treatments, to other prisons has severely endangered the right to access healthcare services especially in recent years. Such practices have further deteriorated during the COVID-19 pandemic.

Prisoners’ rights, which had already been restricted, have further been restricted on the grounds of the pandemic and the authorities have been attempting to create a new “normal.” Prisoners’ right to visitation by their families has thoroughly been eliminated, while conferences with lawyers have been restricted on the grounds of the pandemic. Further, serious restrictions have been imposed on use of fresh air and the enjoyment of other sportive, social and cultural rights. It has also been observed that measures that would actually protect prisoners from the pandemic have not been sufficiently taken. While overcapacity in prisons is a gross rights violation on its own, such material conditions in prisons also pose a serious risk with regards to the COVID-19 pandemic and give way to health problems. There are numerous complaints that point to the insufficiency of masks, gloves, disinfectants, and other hygienic products handed to prisoners and restrictions on the use of water, the failure to carry out regular and adequate COVID-19 tests, and failure of the guards to abide by physical distancing rules during roll calls and searches. Holding prisoners in quarantine wards on their return from hospitals also proves to be a problem on its own. As the quarantine period is reinitiated each time a new prisoner is placed in the quarantine ward in some prisons, prisoners back out from visiting hospitals while they are being deprived of their right of access to healthcare services.

- According to data collected by İHD’s Documentation Center, at least 49 persons lost their lives in prisons due to various reasons like illness, suicide, violence, negligence, etc. while 8 of these persons lost their lives in quarantine wards where they had been placed on their return from hospitals.

The insufficiency of measures taken in response to the COVID-19 pandemic combined with restrictions on access to healthcare further deteriorate the conditions of sick prisoners which is one of the most important problems in prisons. Along with such problems as failure to have adequate access to health care and failure to obtain independent and qualified medical evaluation reports that these individuals face, the expression “public safety” in the amendment that read “[prisoners] who are evaluated to pose no severe and concrete threat against public safety” in Law on the Enforcement of Sentences and Security Measures of 28 June 2014 tied the release of sick prisoners to sheer arbitrariness although they might have been given medical reports pointing to a “positive life-threatening condition.”

- The total number of sick prisoners, according to İHD’s Documentation Center data, is 1,605, including 604 in critical condition.

Despite warnings and calls by international human rights authorities like the European Committee for the Prevention of Torture (CPT) and the UN High Commissioner for Human Rights, Michelle Bachelet, referring to universal standards and norms; only journalists, academics, human rights defenders, lawyers, elected politicians along with those who expressed their critical or dissident views, who have been incarcerated without sufficient legal grounds, and particularly elderly and critically sick prisoners who are especially vulnerable to COVID-19 were not allowed to make use of the latest amendment introduced to Law No. 7242 on the Enforcement of Sentences and Security Measures.

- According to data collected by HRFT's Documentation Center, at least 8 prisoners died of COVID-19 within the first 11 months of 2020.

Solitary confinement or isolation in small groups, which has been in practice since 2000 and has seriously been impairing the physical and psychological integrity of prisoners, has become a chronic problem. Although the circular letter of 22 January 2007 (45/1) by the Ministry of Justice prescribes that 10 prisoners could get together 10 hours a week to socialize is still in force, its provisions are not implemented. This problem has become even more challenging with measures taken in prisons in response to the COVID-19 pandemic. Thus, one should underline once again CPT's standard principle: *"The CPT considers that one should aim at ensuring that prisoners in remand establishments are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature. Of course, regimes in establishments for sentenced prisoners should be even more favorable."*

A special form of isolation has been in place in İmralı Prison. Continuous family and lawyer visitation bans that have been imposed since 2011 are still maintained despite three family visitations in 2019 and one in 2020 (on 3 March 2020) and five lawyer conferences in 2019. It is seen that Turkey has not been abiding by CPT's recommendations in its reports drafted following its visits to prisons in Turkey in 2017 and 2019. Prisoners went on indefinite and alternate hunger strikes once again on 27 November 2020 in order to lift isolation in İmralı Prison.

Hunger strikes, which have been held since 8 November 2018 on various grounds including increasing human rights violations in prisons, have become a special agenda for the country. The fact that prisoners have resorted to hunger strike during the year demanding solutions to different problems that can be handled within the context of human rights is a sign of how unbearable these problems have become for prisoners. Those who govern the country are primarily responsible for the fact that individuals were forced to lay down their lives by going on hunger strike. While it is quite possible to find solutions for hunger strikes predicated on the value of human beings and life, death of individuals as a result of the insensitivity of the political power, to say the least, leads to irrecoverable wounds in public conscience.

- Folk music band Grup Yorum went on hunger strike on 17 May 2019 demanding their right to a fair trial and to perform their music freely while band members Helin Bölek and İbrahim Gökçek who continued their hunger strike after their release from prison died on 3 April 2020 (on the 288th day of her hunger strike) and 7 May 2020 (on the 323rd day of his hunger strike) respectively.
- Mustafa Koçak, who went on hunger strike on 3 July 2019 in order to provide for the protection of fundamental freedoms including the right to a fair trial and prevention of arbitrary and unlawful repression and bans, died on 24 April 2020 (on the 297th day of his hunger strike).
- Lawyer Ebru Timtik, a member of Progressive Lawyers' Association, who went on hunger strike on 3 February 2020 in order to provide for the protection of fundamental freedoms including the right to a fair trial and prevention of arbitrary and unlawful repression and bans, died on 27 August 2020 (on the 238th day of her hunger strike).

IV. FREEDOM OF OPINION AND EXPRESSION

The political power's restrictions on the freedom of opinion and expression following the declaration of the state of emergency, particularly its alarmingly increasing oppression and control over the media, has held out in 2020 as well.

Although the exercise of freedom of expression in Turkey has been problematic regarding almost all forms of expression including political, artistic, commercial, academic, religious and moral ones, restrictions and violations have primarily targeted political criticism. Authorities have been trying to suppress all kinds of criticism or demands for checks and balances about the activities of the political power while investigations and lawsuits are initiated into them. The political power's non-transparent conduct that disregarded democratic and participatory methods especially during the country's response to the COVID-19 pandemic has led to grave concerns in the public. Access to healthcare and protection require effective and accurate information. The right of access to information and the requirement that the state of affairs needs to be clearly known by everyone, regardless of its dimensions and consequences, is a fundamental civil right. Investigations and lawsuits have been brought against numerous individuals and organizations that found the measures taken within the scope of the country's response to the COVID-19 pandemic as meager and insufficient, that thought that the publicized information on the number of cases and mortality rates were inaccurate, thus, demanding more information and transparency, and that were critical of and objected to the handling of the process. Investigations initiated into professional and expert organizations, most notably the Turkish Medical Association, into trade unions and civil society organizations, most notably the Trade Union of Public Employees in Healthcare and Social Services, and their representatives are violations of the right of access to information.

The systematic violation of freedom of expression inevitably eliminates freedom of press as well. Numerous journalists faced police custody and detentions, investigations and lawsuits, threats and physical assaults in 2020 because of their news reports. Journalists and media outlets also faced a wide range of sanctions (advertisement bans, publication/broadcast suspensions, etc.)

- According to the report published by the International Press Institute (IPI) on 2 December 2020, 79 journalists are imprisoned in Turkey. This figure goes as high as 127 according to data provided by Progressive Journalists Association.

According to data collected by HRFT's Documentation Center, within the first 11 months of 2020:

- 62 members of the press and 2 authors were taken into custody. While 25 press members were detained, 14 were released on judicial control.
- 5 journalists were assaulted. 3 journalists faced assault attempts. 4 journalists were threatened. 1 journalist was forced to become an informant by persons who identified themselves as intelligence officers.
- 2 media outlets, and 1 vehicle belonging to the Journalists' Association were attacked. The police raided the office of a news agency twice.
- 253 journalists and members of the press stood trial in 132 lawsuits brought against them. 32 journalists were sentenced to a total of 131 years, 8 months and 22 days imprisonment and fined 14,660 TRY in finalized cases. A journalist was fined to pay 20,000 TRY in compensation. Further, investigations were initiated into 41 journalists.
- The Public Advertising Agency (Basın İlan Kurumu -BİK) delivered advertisement bans to 7 newspapers for a total of 135 days. The Supreme Board of Radio and Television (RTÜK) delivered a total of 29 program suspensions to 30 media outlets, 5 days of broadcast suspensions, and 34 administrative sanctions and fines.

The press cards of 28 journalists, including those worked for *Evrensel*, *Birgün* and *Cumhuriyet* newspapers, were cancelled by the Directorate of Communications of the Office of the President on 24 January 2020. Communications director, Fahrettin Altun, stated that 894 applications for press cards were pending in a statement on journalist accreditations on 27 January 2020. Journalists Union of Turkey's Ankara branch head Esra Koçak said that these applicants in question have been made to wait for a year under the pretext of "inquiry."

The political power's almost always first "measure" in many issues like earthquakes, accidents, economic crises, cross-border military operations, corruption, and pandemic that are of interest for the whole society proves to be imposing restrictions on social media applications and start inquiries about posts on social media about the agenda in question. Numerous news reports, websites and social media accounts were denied access and faced publication bans within this framework. Especially after the ratification of the Bill on Amendments to the Law on the Regulation of Publications on the Internet and Combatting Crimes Committed through these Publications at the GNAT's Plenary on 29 July 2020, it has been observed that control and pressure over social media posts and publications on the Internet have increased:

- According to data provided by the Interior Ministry, inquiries were initiated into a total of 29,019 social media accounts while judicial action was taken against 12,163 social media users between 1 January 2020 and 1 November 2020.
- According to a statement issued by the Interior Ministry on 5 May 2020, inquiries were initiated into a total of 7,127 social media accounts only about the COVID-19 pandemic all over Turkey. 496 individuals were taken into police custody while 10 of them were detained on the grounds of their social media posts about the COVID-19 pandemic.

According to data collected by HRFT's Documentation Center, within the first 11 months of 2020:

- 4 individuals were sentenced to 19 years, 5 months and 27 days imprisonment within the scope of 7 lawsuits brought on the grounds of social media posts.
- On 4 November 2020, the Information Technologies and Communications Authority fined social network providers with over 1 million daily access from Turkey, namely Facebook, Twitter, YouTube, TikTok, Periscope and Instagram, with 10 million TRY each on the grounds that they failed to carry out their responsibility to assign a representative and notify the authorities to this end. These networking services were further fined 30 million TRY each on 3 December 2020 on the same grounds.
- Courts delivered denial of access rulings against 165 news reports, 862 websites, 10 social media accounts and 71 internet content.
- 3 books published by the main opposition party CHP entitled *21 Soruda FETÖ'nün Siyasi Ayağı* (FETÖ's Political Branch in 21 Questions), *Kıdem Tazminatında Fon Aldatmacası* (The Funding Hoax in Severance Pay), *Arpalık Aile Şirketi* (Family Corporation) were taken off the shelves. A court ruling also banned an unpublished book and a newspaper issue.

Certain regulations, which are vague in content and can be interpreted in many ways, constitute the major obstacle before the active use of freedom of expression in a manner that makes political criticism and citizens' supervision possible. There are provisions, notably in the ATC, and in at least 15 articles in the TPC along with articles in some special laws that limit and punish freedom of expression. Article 301 (denigrating the Turkish nation and the state), Article 299 (insulting the president), Article 216 (inciting the public to hate and enmity) and Article 220 § 6 (committing a crime in the name of an illegal organization as a non-member) of the TPC and Articles 6 and 7 § 2 (making propaganda for a terrorist organization) of the ATC top this list of provisions.

According to data collected by HRFT's Documentation Center, within the first 11 months of 2020:

- At least 28 persons were taken into custody, 3 were detained, and an investigation was initiated into one person on the grounds of violating Article 299 of the TPC that proscribes

insulting the president. Within the scope of a lawsuit brought against one person on the same grounds, the person was sentenced to 5 months imprisonment not under Article 299 that proscribes insulting the president but under Article 125 that prescribes the offense of insult.

- 5 journalists stood trial in lawsuits brought against them on charges of insulting the president, while 2 journalists were acquitted 1 was sentenced to 11 months and 20 days imprisonment. 10 people were sentenced to 12 years 1 month and 10 days imprisonment while 2 were fined within the scope of lawsuits finalized as of 30 November 2020.
- Former deputy Fikri Sağlar was sentenced to 10 months in prison for insulting the president.
- Former chairperson of People's Democratic Party, Figen Yüksekdağ, was fined 1,740 TRY for insulting the president by Van 7th Penal Court of First Instance.

Within the 5-year term between 2014 when President Recep Tayyip Erdoğan took office and the end of 2019, lawsuits were brought against 63,041 persons on charges of insulting the president. 9,554 persons were convicted in these lawsuits. According to data provided by the Ministry of Justice, chief public prosecutors' offices initiated investigations into 36,066 persons on charges of insulting the president in 2019 while criminal cases were brought against 11,371 persons.

There has also been an alarming increase in the number of investigations and lawsuits brought on the grounds of violating the Anti-Terrorism Law No. 3713 over the years. According to data by the Ministry of Justice, chief public prosecutors' offices initiated investigations into 39,833 persons for violating the ATC, criminal cases were brought against 12,417 persons.

Similarly, investigations were initiated into 15,044 persons for violating Article 216 of the TPC (inciting the public to hatred and enmity) while 2,300 of these persons faced criminal cases.

Since the Ministry of Justice has not yet shared its 2020 data with the public, we unfortunately cannot specify the number of investigations and lawsuits brought this year under articles that curb freedom of expression.

Alevis' demands for equal citizenship have not been met in 2020 either. The requirements of ECtHR judgments to repeal compulsory religion courses in schools and to recognize Cem Houses as places of worship were not fulfilled. Yet the Court of Cassation has started to deliver judgments in favor of Alevis since 2018.

Alevis, Christians and Jews continued to be targeted by racist and hate crimes, hate speech and threats.

The fact that the right to conscientious objection has not been accorded yet maintains its place as a significant violation of human rights.

Within the first 11 months of 2020, lawsuits were pending against 22 artists brought on such grounds as "making propaganda for a terrorist organization" and "insulting the president" while two plays that would be staged in Kurdish were banned.

V. FREEDOM OF ASSEMBLY

2020 has been a year during which restrictions and violations regarding freedom of assembly have been the rule, while the enjoyment of freedoms has been the exception just like the previous year. In 2020 individuals and groups from almost all social segments, notably political party members, workers, villagers, students, lawyers, women, LGBTIQ+ and human rights defenders, have not been able to exercise their right to assembly and protest due to bans imposed by civilian authorities and/or actual interventions by the law enforcement.

Civilian authorities have recently been delivering ban decisions on individual or collective protests and events based on their power granted to them by Article 11 § C of Law No. 5442 on Provincial Administration and Article 17 of Law No. 2911 on Assemblies and Rallies, while such bans constitute one of the biggest obstacles before the right to peaceful assembly and protest. These bans can be

imposed not only on single protests and events but also on all protests and events within a certain period. Nevertheless civilian authorities in many parts of the country have recently been rendering bans on protests and events, which in fact are limited to at most 30 days by law, non-stop and indefinite in practice by delivering successive ban decisions. Such concerning practices actually qualify as unnamed and perpetual SoE practices although the SoE was lifted on 19 July 2018.

These bans were imposed on such grounds as the protection of national security, securing the public order, prevention of protests against the ongoing military operation in Syria, “the possibility that the coronavirus pandemic might lead to fear/panic within the public and the fact that all kinds of collective protests/events pose a risk for the spread of the virus in question,” etc. and they covered peaceful assemblies and events held by citizens from all segments of the society ranging from political parties to women, from workers to the LGBTIQ+, to environmentalists.

According to data provided by HRFT’s Documentation Center, within the first 11 months of 2020:

- A total of 61,520,385 citizens, according to TurkStat 2019 data, were deprived of their right to freedom of peaceful assembly and protest, which is “enshrined” in the Constitution, due to 115 ban decisions delivered by governors’ and district governors’ offices in 35 cities, the shortest ban being one day and the longest being 30 days.
- The most extreme instance of such irrational and unlawful series of bans has been witnessed in Van. The Governor’s Office in Van has been imposing non-stop bans on assemblies and events since 21 November 2016 which has further been extended to a total of 1,474 days with its latest 15-day ban on 20 November 2020. In other words, about 1,136,000 citizens residing in Van have been robbed of their fundamental democratic rights and freedoms for 4 years non-stop.
- Governors’ and district governors’ offices have also imposed 29 bans on specific days and/or protests during the same term.

Another important obstacle before the de facto exercise of the right to freedom of peaceful assembly and protest proves to be the arbitrary, excessive and disproportionate use of force by the law enforcement. Such use of force resorted to by the law enforcement during their interventions into peaceful assemblies and protests has amounted to an act of anomalous and uncontrolled violence that goes way beyond the power to use force which is described in universal law and domestic law. One can even argue that such brutality by the law enforcement against persons exercising their right to peaceful assembly and protest often amounts to torture and other forms of ill-treatment. The cruel and infamous violence by the law enforcement against HDP members, heads of bar associations, women and mine workers who wanted to hold rallies on a number of occasions during the year exercising their right to peaceful assembly and protest, which constitute the foundations of a democratic society and guaranteed by the Constitution itself, form the concrete instances of such violations.

According to data by HRFT’s Documentation Center, within the first 11 months of 2020:

- 1,929 persons were taken into custody having been subjected to practices amounting to torture and other forms of ill-treatment as a result of interventions of the law enforcement into at least 731 peaceful assemblies and protests, while 65 persons were wounded and 9 persons, including a child, were detained. 100 persons were released on judicial control, while at least 88 persons were fined.
- According to data collected by İHD’s Documentation Center, on the other hand, at least 2,190 persons were subjected to torture and other forms of ill-treatment due to interventions by the law enforcement into peaceful assemblies and events held within the scope of freedom of assembly and protest.

Interventions into peaceful assemblies and protests held by different social groups in 2020 by the law enforcement, though included in the above-stated overall data, are as follows:

- 76 persons were taken into custody having been subjected to practices amounting to torture and other forms of ill-treatment as a result of interventions by the law enforcement into at least 11 assemblies and protests against measures taken in response to the COVID-19 pandemic and increasing police brutality. 24 persons taken into custody were fined.
- 151 persons were taken into custody having been subjected to practices amounting to torture and other forms of ill-treatment while 13 were wounded as a result of interventions by the law enforcement into at least 24 assemblies and protests by political parties and organizations. 24 assemblies and protests were de facto restrained.
- Law enforcement intervened into at least 14 peaceful assemblies and protests held for women's and LGBTIQ+ rights, while restraining 9 de facto. At least 153 persons were taken into custody having been subjected to practices amounting to torture and other forms of ill-treatment while 27 were wounded. 10 persons taken under custody were fined. Further, 18 women were fined 3,150 TRY each for their participation in press conferences about the Istanbul Convention.
- 84 persons were taken into custody having been subjected to practices amounting to torture and other forms of ill-treatment while at least 3 persons were wounded as a result of interventions by the law enforcement into at least 12 assemblies and protests about the right to environment and urban rights. Further, 9 persons who participated in these protests were taken into custody following raids to their homes, while 5 of these persons were released under judicial control, 4 persons who took part in nature watch were fined.

Another important obstacle before the exercise of the right to freedom of peaceful assembly and protest proves to be investigations and lawsuits launched against persons who want to enjoy this right. According to data provided by the Ministry of Justice, chief public prosecutors' offices launched investigations into 7,331 persons for violating Law No. 2911 on Assemblies and Rallies in 2019 while delivering decisions to bring civil lawsuits against 3,962 of them. Such a high number of investigations and lawsuits not only does point out to the severity of the repressive climate but also creates a deterrent impact on citizens' enjoyment of their right to assembly and protest.

According to data collected by HRFT's Documentation Center, within the first 11 months of 2020:

- Lawsuits were pending against 507 persons on the grounds of their participation in various assemblies and protests. 130 persons standing trial were sentenced to a total of 253 years and 6 months imprisonment, while 61 persons were acquitted.

The report entitled "Perpetual Emergency: Attacks on Freedom of Assembly in Turkey and Repercussions for Civil Society"¹ released by the Observatory for the Protection of Human Rights Defenders (FIDH-OMCT) and İHD (a member of FIDH and of OMCT's SOS-Torture Network) in July 2020, documented and exposed the restrictions affecting the right to freedom of assembly, particularly restrictions and rights violations against women's rights defenders.

Bans on peaceful vigils "Let the Disappeared Be Found, Perpetrators Be Tried" held by Saturday Mothers in İstanbul and Peace Mothers in Diyarbakır along with human rights defenders were sustained in 2020 as well. Even the symbolic protest on the occasion of Saturday Mothers' 800th sit-in anniversary was not allowed, while 3 human rights defenders and a relative of one of the disappeared were taken into custody.

¹ <https://ihd.org.tr/en/a-perpetual-emergency-attacks-on-freedom-of-assembly-in-turkey-and-repercussions-for-civil-society/>

VI. FREEDOM OF ASSOCIATION

Citizens in Turkey cannot enjoy their freedom of association either because they are not allowed to act collectively and express their ideas while they cannot get involved in the civil and public space in an organized manner to shape their collective futures. Numerous members and executives of human rights organizations, associations, foundations, labor and professional organizations, and political parties have been arrested, detained, and attempts at repressing them through lawsuits against them have been made in 2020. Co-mayors, local municipal council members have been removed from office and replaced by state appointed trustees. Members of the parliament have been detained following the lifting of their parliamentary immunity. Offices of political parties and civil society organizations have been attacked.

Repressive policies and threats were also maintained notably through the judiciary against human rights defenders in 2020.

Imprisonment sentences were delivered against human rights defenders including Amnesty International Turkey's Honorary President Taner Kılıç, Günal Kurşun, İdil Eser and Özlem Dalkıran within the scope of a trial commonly known as the "Büyükada Trial."

Dr. Serdar Küni, a physician at HRFT's Cizre Reference Center and head of Şırnak Medical Chamber, was sentenced to imprisonment.

Dr. Şeyhmus Gökalp, a physician and member of the High Disciplinary Committee of the Turkish Medical Association, was detained.

İHD's co-chairperson Eren Keskin was threatened with bullets left at her home, İHD's central office and Ankara branch executives were threatened on the grounds of a press release issued against hate speech by the Director of Religious Affairs, İHD's Aegean Representative Mehmet Aker was targeted by a local newspaper in İzmir, İHD's Ağrı branch chairperson Atilla Özbey and Balıkesir branch chairperson Fahri Semizoğlu, Adıyaman branch chairperson Bülent Temel were taken into custody, İHD's Malatya branch chairperson Gönül Öztürkoğlu had to leave the country because of an aggravated imprisonment sentence. İHD's former Muş branch chairperson Saim Atılğan was detained. İHD's central executive board member M. Raci Bilici and former chairperson of its Ağrı branch Abdulhadi Karakurt were sentenced to imprisonment. Hundreds of investigations and lawsuits are pending against İHD's executives and members as well.

The Interior Ministry went on with its activity audits on human rights organizations including İHD in 2020.²

HRFT's former president and current executive board member Dr. Şebnem Korur Fincancı has become the target of all kinds of threats when she was elected the Central Council President of the Turkish Medical Association. The Court of Appeals ruled for a retrial requesting sentencing within the scope of a trial she had been acquitted, thus, subjecting Dr. Korur Fincancı to a policy of judicial harassment.

9 out of 16 persons who stood trial within the scope of the "Gezi Trial" were acquitted, while separation of files was held for 7. Although Osman Kavala had been acquitted within the scope of this trial with a ruling for his release, he was taken into custody again without being released from prison under an investigation into the 15 July coup attempt and was detained by the court.

According to data collected by HRFT's Documentation Center, within the first 11 months of 2020:

- At least 337 executives and members of various associations, foundations, trade unions and professional chambers were taken into custody, while 87 were detained and 139 were released on judicial control.

² See İHD's Special Report "Human Rights Advocacy and Pressures on İHD." 13 April 2020. < <https://ihd.org.tr/en/ihd-special-report-on-human-rights-advocacy-and-repressive-policies-against-ihd/>

- Lawsuits brought against 74 executives and members of various associations, foundations, trade unions and professional chambers were pending in 2020, while investigations were launched into 4. In finalized cases, 3 persons were sentenced to 11 years and 8 months imprisonment. Further, investigations were initiated into 3 organizations.
- A court ruled for the closure of a trade union for retirees, namely Tüm Emekli-Sen, a trustee was appointed to a foundation (Bilim ve Sanat Vakfı) by the state.

The Court of Cassation upheld rulings, except for two lawyers, within the scope of a file in which the chairman of the Progressive Lawyers' Association Selçuk Kozağaçlı and 17 other lawyers who were executives and members of the association were incarcerated as prisoners on remand. A court ruled for the suspension of Atty. Aytaç Ünsal's sentence's enforcement due to his hunger strike.

Anti-Terrorism Law No. 3713 tops the list of legislation that makes freedom of association unexercisable. Elected local administrators, members and executives of trade unions, associations or foundations are not allowed to enjoy this right due to investigations and court rulings delivered under various articles of this law.

According to data collected by HRFT's Documentation Center, within the first 11 months of 2020:

- At least 1,145 persons were taken into custody, 174 persons were detained, 277 persons were released on judicial control while 23 were released on home arrest on such grounds as "aiding and abetting a (terrorist) organization," "making propaganda for a (terrorist) organization, and "membership in a (terrorist) organization.
- Previously brought lawsuits against at least 916 persons on such grounds as "aiding and abetting a (terrorist) organization," "making propaganda for a (terrorist) organization, and "membership in a (terrorist) organization" were pending.
- According to a statement by the Interior Ministry on 28 November 2020, 641 persons were taken into custody within the scope of PKK/KCK investigations leading to operations conducted in 42 cities on 27 and 28 November 2020.

Another important practice that leads to gross violations of freedom of association, along with many other rights and freedoms, is the regulation that provides the state to appoint trustees to local governments. State of emergency Decree No. 674 issued on 1 September 2016 introduced amendments to some articles in Law No. 5393 on Municipalities and provided for the appointment of state trustees to local authorities. Yet this decree was passed into law on 24 November 2016 and appointment of state trustees to replace mayors and councillors or local assembly members, who were removed from office and into whom investigations and prosecution were launched on terrorism charges, was made permanent. This practice follows a simple procedure. First an investigation is launched into an elected local administrator on the grounds that they violated the ATC, then they are taken into custody or even detained, followed by the appointment of a state trustee to replace the elected who have been removed from office by the Interior Ministry.

According to data collected by HRFT's Documentation Center, within the first 11 months of 2020:

- 104 elected local authorities, including 40 co-mayors, 2 elected co-mayors who were not allowed to obtain their election certificates on the grounds that they were fired by emergency decree laws, 54 municipal assembly members, 1 provincial general assembly member and 7 mukhtars, were taken into custody. Further, 11 municipal workers were taken into custody within the scope of these investigations.
- While 20 persons, including 12 co-mayors, 7 municipal assembly members and 1 mukhtar, were detained, 27 were released on judicial control.
- A total of 15 mayors, including 3 in cities, 11 in districts and 2 in sub-districts, were removed from office and trustees were appointed to replace them by the Interior Ministry. Since the 31 March 2019 local elections, state trustees were appointed to 48 municipalities from HDP and 1 from CHP including those in 5 metropolitans, 3 cities, 33 districts, and 7 sub-districts.

- 33 co-mayors who were elected in the 31 March local elections were detained, while 14 co-mayors are still in prison. Further, 1 mayor from CHP who was removed from office was also detained.
- 1 mayor of a city was removed from office by the Interior Ministry, the election certificate of an elected district mayor was cancelled by the Supreme Board of Elections on the grounds that there was a finalized imprisonment sentence against them.
- 22 municipal council members and 7 provincial general assembly members were removed from office by the Interior Ministry.
- 5 mukhtars and 1 mukhtar associate were removed from office.
- Investigations were launched into two mayors (İstanbul Metropolitan Mayor and Mayor of Rize's Fındıklı district) by the Interior Ministry on different grounds.
- Previous lawsuits brought against 42 co-mayors stood pending.

The constitutional amendment that lifted parliamentary immunity also leads to serious violations of the right to freedom of association. This constitutional amendment, which was ratified at the GNAT's Plenary on 20 May 2016 having been tabled by the ruling AKP, terminated GNAT membership for many members of the parliament, including HDP co-chairpersons Selahattin Demirtaş and Figen Yüksekdağ, on the grounds that there were finalized court rulings against them.

According to data collected by HRFT's Documentation Center, within the first 11 months of 2020:

- The parliamentary membership of 3 members of the parliament were terminated based on finalized court rulings against them and they were subsequently detained.
- 4 former members of the parliament were taken into custody, 3 were detained.
- 1 former, 4 current members of the parliament faced investigations on various grounds.
- 1 member of the parliament was sentenced to 6 years 3 months imprisonment on charges of "membership in an illegal organization."
- 12 former members of the parliament stood trials that had been brought against them.
- 260 parliamentary motions were drafted against 64 members of the parliament; including 2 motions against 2 from AKP, 12 motions against 9 from CHP, 13 motions against 1 from DBP, 217 motions against 42 from HDP, 6 motions against 5 from İYİ Party, 1 motion against 1 from MHP, 1 motion against 1 from TİP, and 8 motions against 3 independent members of the parliament.

Repressive policies against opposition parties were sustained in 2020. According to data collected by HRFT's Documentation Center, within the first 11 months of 2020:

- At least 492 members and executives of political parties were taken into custody, including 412 from Peoples' Democratic Party (HDP), 11 from Democratic Regions Party (DBP), 3 from Labor Party (Emek Partisi -EMEP), 52 from Socialist Party of the Oppressed (ESP), 5 from Future Party (Gelecek Partisi), 1 from Republican People's Party (CHP), 4 from Labor Movement Party (Emekçi Hareket Partisi), 1 from Socialist Reconstruction Party (SYKP), 1 from İYİ Party, 1 from Labor Party of Turkey (Türkiye İşçi Partisi), and 1 from Revolutionary Party (Devrimci Parti).
- At least 144 persons were detained; including 121 members and executives from HDP, 2 from DBP, 19 from ESP, 1 from CHP, 1 from SYKP.
- 7 party offices in various cities and districts were attacked by unknown assailants. 1 assailant who turned himself to the police was detained.
- At least 112 members and executives of political parties continued to stand trial. Investigations were initiated into 11.

VII. THE KURDISH ISSUE

The Kurdish issue remains one of the most fundamental challenges before Turkey's democratization. The armed conflict that broke out again immediately after the general elections of 7 June 2015 is still going on not only due to the fact that the government primarily failed to take sincere and coherent steps for the peaceful and democratic resolution of the Kurdish issue, but also with the impact of developments in the Middle East and is bringing about gross human rights violations, notably violations of the right to life. These violations also reveal the fact that the political power has been using its violent policies against the Kurdish issue in order to maintain its power at the same time. Therefore the resolution of this issue is a requirement for the development of democracy in Turkey as well.

The policies of the political power that regard everything as a security problem, are polarizing and marginalizing those who hold different political views, faiths, ethnic identities, genders and sexual orientations encourage the spread of discrimination and hatred, thus, violence in the society. It especially paves the way for an increase in destructive hateful attacks against the Kurds while upsetting the will to peaceful coexistence.

According to data presented in İHD's special report on "Hate Speech and Hate Crimes in Turkey,"³ 7 persons lost their lives while 32 others were wounded in 14 racist attacks within the first 10 months of 2020.

According to data collected by HRFT's Documentation Center, within the first 11 months of 2020:

- 2 persons were killed, while 7 others were wounded in 9 separate racist and hateful attacks against the Kurds. 2 of these attacks were committed against persons on their compulsory military service by other soldiers.

Anti-democratic practices like the detention of elected Kurdish politicians and trustee appointments by the state, disregarding the results of the 31 July 2019 local elections that referred to a strong objection to the destruction and denial policies of the power block against the Kurdish issue, perpetuated in 2020 as well. Violations, which are presented in detail under freedom of association, were committed. Will of the voters and democratic values were trampled upon.

The detention of many elected Kurdish politicians, notably HDP's former co-chairpersons Selahattin Demirtaş and Figen Yüksekdağ, or imprisonment sentences against them and forced transfers to remote prisons provide the basis for many fundamental rights and freedoms including the right to a fair trial, right to political participation, freedoms of association, opinion, and expression.

We have always argued for the democratic and peaceful resolution of the Kurdish issue. We are persistent in our belief. We, therefore, want the conflict to end right now. Following the establishment of a non-conflict environment, this state of non-conflict should be strengthened and monitored as well as sincere and effective programs should be developed by all parties in order to establish social peace.

VIII. GENDER-BASED VIOLENCE

There has unfortunately been no setback and no development that could be considered positive in male violence against women in 2020. 260 women were killed within the first 11 months of 2020. At least 92 women were raped, while 136 women were harassed and 731 women were subjected to violence.

The conditions brought about by the COVID-19 pandemic that left numerous individuals unemployed or enclosed at home have brought along much more severe conditions for women. Lockdowns in

³ <https://ihd.org.tr/en/ihd-special-report-on-hate-speech-and-hate-crimes-in-turkey/>

almost all countries around the world led to an escalation in sexual, economic and physical violence against women. Observation reports published in Turkey also point to a similar state of affairs for women. According to April and May 2020 reports⁴ published by the We Will End Femicide Platform, the rate of women who called the support lines increased by 55% and 78% in April and May respectively.

Many events planned for the 8 March International Women's Day faced bans and interventions this year too. The 8 March Feminist Night March that has been held since 2003 but intervened into in 2019 was also banned by the İstanbul Governor's Office in 2020. The police used tear gas and rubber bullets against women who assembled in Siraselviler Street in İstanbul. At least 32 women were taken into police custody.

The police intervened into the protest held on 15 May 2020 in İstanbul, Kadıköy on the occasion of the International Day Against Homophobia, Biphobia and Transphobia and took two persons into custody using physical violence.

The police also intervened into a sit-in staged in Batman's Atatürk Park to protest the sexual assault of a young girl by a specialist sergeant in Batman and took 10 persons into custody including children.

The police intervened into a march following a press conference, to protest the murder of Pınar Gültekin by a man called Cemal Metin Avcı, held by Women Are Strong Together Platform in İzmir, Alsancak on 21 July 2020 while taking 12 persons into custody using physical force.

Moreover, in February 2020 at a meeting with AKP deputies and central executive board members, President Recep Tayyip Erdoğan stated that the İstanbul Convention would be reviewed. In the disputes that followed, statements like "(the convention) disrupted the Turkish family structure" and "provided legal grounds for homosexuality" made the İstanbul Convention a target. The Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, a.k.a. the İstanbul Convention, which sets forth the basic standards for the prevention of and combat gender-based and domestic violence against women along with states' responsibilities to this end, had been ratified by the GNAT on 24 November 2011. Numerous women staged mass protests stating that the standards against violence, which have already been implemented insufficiently, would be terminated in their entirety if Turkey withdraws its signature from this convention.

The police did not allow a forum on the İstanbul Convention scheduled to be held on 26 July 2020 in İstanbul, Beşiktaş Abbasağa Park by the Women Are Strong Together Collective on the grounds of a ban decision delivered by the governor's office. The police took 8 persons into custody by using physical violence following the end of the forum.

The police intervened into a march organized by İzmir Women's Platform demanding the implementation of the İstanbul Convention on 5 August 2020 in İzmir and took 16 persons into custody using physical violence and rear-handcuffing the protestors. It was reported that following the sit-in staged for the release of those in custody, 5 more people were taken into custody.

The police intervened into a press conference held on 12 August 2020 by Ankara Women's Platform to protest Turkey's withdrawal from the İstanbul Convention and took 33 persons into custody using physical violence.

The police did not allow a press conference and march scheduled by Women's Committees on the occasion of 25 November International Day for the Elimination of Violence Against Women in İstanbul, Taksim. The police blockaded women who staged a sit-in before the police barricades for about 5 hours, then took 10 women into custody rear-handcuffing them and using physical violence. It was reported that a woman was wounded during the intervention.

⁴ <http://kadincinayetlerinidurduracagiz.net/aciklamalar/2912/nisan-2020-basvuru-karsilama-raporu>

IX. RIGHTS OF THE CHILD

While the Convention on the Rights of the Child maintains its status as the most commonly adopted human rights document worldwide, violation of the rights of children are still being intensively committed all over the world.

The COVID-19 pandemic that has taken the world by the storm has been negatively affecting children's living routines as well. According to reports by the World Health Organization, although the mortality rate due to COVID-19 in children is quite low, it was again children who were affected the most during the pandemic. Children have long been kept in confined spaces in a way inconsistent with their natures. The fact that acts of violence escalate in enclosed spaces has re-emerged in the 27.8% increase in cases of violence against women and children during the pandemic.

Distance learning, which has been put into practice following the closure of schools within the scope of measures taken in response to the pandemic, has also rendered the problems of the education system more visible. A great majority of children have been deprived of their right to education due to such reasons as lack of access to the Internet, of computers, tablets, or mobile phones or of appropriate time and space. Participation to online courses offered through the Education Information Network (Eğitim Bilişim Ağı –EBA) in Turkey remained as low as 15-20% due to such reasons. The right to education, which is indeed a constitutional right, has been rendered inaccessible. In İstanbul 8-year-old Çınar Mert went up the roof with his father to install Internet connection to access EBA. He lost his life as he slipped and fell from the fourth floor.

Child workers in the agricultural sector went on working during the pandemic. While the Minister of National Education, who is responsible for making sure children enjoy their right to education, was contended with taking photos with child laborers working in the fields and sharing these on social media, 15-year-old seasonal agricultural worker, Ayşe Daş, lost her life as the minibus carrying workers toppled in an accident.

The Enforcement Law that went into effect in response to the COVID-19 pandemic did not cover children in prisons directly. Authorities have not issued information about children released upon reductions in their sentences. Authorities running children's prisons have not released any kind of sufficient information either. Further, authorities have not been sharing information on the number of children held in prisons with the public.

During the curfews in May, declared within the scope of pandemic measures, a police officer went after children playing in the yard of an apartment compound in Nusaybin by firing into the air. The officer in question was subsequently suspended from duty as a video of the incident was shared with the public.

A specialized sergeant attempted to sexually assault a 13-year-old girl in Şırnak in July. The sexual offender specialized sergeant was apprehended by people in the neighborhood upon hearing the child scream.

A bill that granted impunity to perpetrators of abuse through marriage was shelved upon receiving much pressure from children's rights and women's organizations.

27 children lost their lives in the 30 October earthquake in İzmir, while numerous children were injured or suffered the loss of a parent. The images and identity information of children as they were rescued from under the rubbles were released with utter disregard for their rights. Children were neglected and abused during this traumatizing process rather than being protected.

X. REFUGEES/ASYLUM-SEEKERS/IMMIGRANTS

Asylum-seekers/refugees/immigrants that have now become a part, a primary component of the society in Turkey are still being intensively subjected to all kinds of discrimination and abuse, hate

speech and economic exploitation. Asylum-seekers and refugees who have been subjected to racist hate crimes and violence by the law enforcement and civilians lost their lives. Human traffickers have led them to death. Asylum-seekers and refugees faced the physical, psychological, social and economic impacts of the pandemic in the most severe manner while becoming lives ignored and even sacrificed by our society.

The number of registered Syrians in Turkey under temporary protection has reached 3,635,410 as of 18 November 2020.⁵ 1,699,107 of these persons (46.7%) are children between the ages of 0 and 18. The total number of children and women is 2,565,823 (70.5%). Further, about 330,000 registered refugees and asylum-seekers from other nations live in Turkey.⁶

The most significant implication of Turkey's "bargaining" policy towards asylum-seekers and refugees was seen in March 2020. Turkey opened its borders to Europe as of 28 February 2020 in parallel to the armed conflict in Syria's Idlib between Turkish Armed Forces and armed groups in Syria. Thousands of refugees/asylum-seekers went to Pazarkule Border Gate, some by their own means some by buses provided by municipalities. One asylum-seeker was shot and killed, while 5 others were wounded as they were waiting for the border to open on 5 March 2020. Edirne Governor's Office stated that 2 other asylum-seekers had been shot and killed by Greece before.⁷ Interior Minister, Süleyman Soylu, indicated in a Twitter post on 6 March 2020 that the number of asylum-seekers who crossed to Greece over the Meriç River (Evros) was 142,175.⁸

Economic and social problems faced by refugees/asylum-seekers living in Turkey have further deepened by measures taken in response to the COVID-19 pandemic. While unemployment and loss of income, precarity, problems in access to right to health have deteriorated, hate speech and racist attacks against refugees/asylum-seekers have also become more prevalent.

According to data provided by HRFT's Documentation Center, within the first 11 months of 2020:

- 85 people lost their lives in 3 separate incidents in İzmir and Van due to the sinking of boats carrying refugees/asylum-seekers/immigrants and freezing to death in Van.
- 6 persons, including 4 children, lost their lives while 5 others were wounded in 9 separate incidents due to racist and hateful attacks.
- 5 persons lost their lives in 2 separate incidents by gun fire or intervention by security forces.
- 33 persons were subjected to torture and ill-treatment under custody in 3 separate incidents.
- One woman was sexually assaulted under custody.

According to data provided by the Health and Safety Labor Watch/Turkey, at least 84 refugees/asylum-seekers/immigrants lost their lives in occupational accidents/murders within the first 11 months of 2020.

XI. ECONOMIC AND SOCIAL RIGHTS

Turkey is going through one of its most devastating economic crises in the last four decades. Poverty, precarity and non-organization brought about by debt-based neoliberal economic policies that have been implemented for years have become deeper and continuous through the state of emergency practices. Such state of affairs has become even more alarming with the COVID-19 pandemic. Today there are millions of people in the country who have to work under the pandemic conditions in order to both biologically survive and to maintain their social lives. The rights violations that these persons -

⁵ <https://multeciler.org.tr/turkiyedeki-suriyeli-sayisi/>

⁶ <https://www.unhcr.org/tr/wp-content/uploads/sites/14/2020/11/UNHCR-Turkey-Operational-Update-October-2020.pdf>

⁷ <http://www.edirne.gov.tr/basin-aciklamasi->

⁸ <https://twitter.com/suleymansoylu/status/1235857052548730880?s=20>

who do not have the chance to stay at home but have to work under inadequate measures taken at building sites, factories, markets and the like- vary greatly.

Occupational murders top the list of such violations. According to data provided by the Health and Safety Labor Watch/Turkey, at least 2,032 workers lost their lives due to occupational accidents/murders within the first 11 months of 2020. The rate of workers who have lost their lives due to COVID-19, in spite of all the challenges before collecting data, is substantial among the total number of occupational murders. Unemployment and poverty affect women, children and refugees/asylum-seekers/immigrants the most.

Regulations should immediately be introduced for COVID-19 to be recognized as occupational accident and work-related disease for healthcare workers.

The vested rights of workers and laborers should not be touched, minimum wage should be ascertained by taking into account a 4-member family's poverty line and should be exempt from taxes in a Turkey where poverty is gradually increasing. Inflation figures should not be manipulated and severance or seniority payments should not be taken away. Authorities should not ban workers' protests seeking their rights, the rights to strike and collective action should be guaranteed.