



## **Turkey Tribunal Webinar: The State of Impunity in Turkey Today**

22 January 2021

- Turkey Tribunal in collaboration with International Observatory of Human Rights organize 3<sup>rd</sup> of a series of webinars discussing the grave state of human rights in Turkey
- The webinar attracted a large number of attendees from both inside and outside Turkey, with total attendees reaching nearly 2500 across various platforms

On 21 January 2020, the Turkey Tribunal held a webinar in collaboration with the International Observatory of Human Rights (IOHR) to consider the state of impunity in Turkey. The speakers included political and legal figures Marie Arena, MEP (Belgium), Michael Polak, Barrister (UK) and Orsola Casagrande, Co-author of "Fight Impunity" report (Italy), and Turkish activists Emre Turkut, co-author of "Impunity in Turkey Today", and Natali Avazyan, a Turkish human rights activist. Finally, a video statement was given by Ercan Kurkut, brother of Kemal Kurkut, a university student who was killed by Turkish police in 2017.

### **Context of Turkey's impunity**

Hosted by Johan Vande Lanotte, the webinar discussed Turkey's disturbing human rights record, specifically the arbitrary imprisonment of political figures, journalists and activists, who are ostracised by the Turkish government and authorities. Emre Turkut began by saying that, whilst impunity in Turkey has been a longstanding problem, recently, especially in the aftermath of the 2016 coup, there have been widespread systemic abuses and impunity practices used to dismiss allegations of torture by Turkish officials. The Turkey Tribunal's report concludes there is no effective sanctioning tool in Turkey for such crimes, instead there is an organised institutional impunity problem. Impunity in Turkey is due to a number of factors: gaps in the Turkish legal structure, laws protecting state officials, lack of political will to hold state officials accountable, the political rhetoric reinforcing patterns of impunity, ineffective and delayed investigations by prosecutors, and the complicit Turkish judiciary.

Turkey's insistence on giving impunity to government officials, or affiliates involved in human rights abuses, violates obligations to international human rights laws, allowing for torture and arbitrary punishment to go unchecked. Turkey has ignored two binding rulings by the European Court of Human Rights to release Selahattin Demirtaş, the former co-chair of the People's Democratic Party (HDP) of Turkey,

who has been in arbitrary detention since November 2016. Jailed for unsubstantiated terrorism-related charges, Selahattin had voiced his opposition to President Erdogan's authoritarianism and is considered a political prisoner. On 7 January 2021, the Turkish Court accepted a new indictment against him and 107 others, calling for 38 counts of life sentences.

**"Unfortunately, impunity is the common denominator in many countries around the world, the pandemic has helped impunity to walk without being persecuted", said Orsola Casagrande.**

Like many others, Selahattin's detention is based on political motives. As a member of the Council of Europe, Turkey is violating its obligations to release Selahattin, as well as violating the UN set of principles for the protection and promotion of human rights, through action to combat impunity. Under these principles, states are under an obligation to "combat impunity as a matter of justice for the victims, as a deterrent with respect to future human rights violations and in order to uphold the rule of law and public trust in the justice system."

### **Culture of repression**

A frequently raised point during the discussion was that often the lack of action is partly due to the fear of repression and consequence to those who speak up. One comment on the event's YouTube live broadcast said, "a lot of people in Turkey are afraid even to watch the live broadcast. People in Turkey can be a terrorist for participating in this broadcast, the situation is that bad." Accounts from Turkish citizens spoke of arrests of innocent people for accusations of being a doctor, or a teacher in Gulen-affiliated schools and hospitals.

Human rights activist Natali Avazyan spoke about her personal experiences with this. "Turkey is passing through a difficult period, if you are against the government, then you are a terrorist, you face investigation." Natali's house was raided by 18 police officers because she is critical of the government. "I am raising my voice for women and children, and because of this, police have raided my house several times and there are various court cases against me." She described how women are forced to strip naked when being searched, and how the jails do not provide free food for children, forcing mothers to choose between food for themselves, or for their children. "You may face terrorism-related charges for helping your neighbour who is hungry," she said.

Such abuse by officials goes unchecked, both in prisons and outside of them. The police officers suspected of shooting Kemal Kurkut dead, were released after one day of arrest, and video footage from journalists was seized by the police to be destroyed. Kemal's death was portrayed by the Diyarbakir governor's office as the police neutralising a suicide bomber.

**"The police officers were acquitted and the governor's offices were never investigated for lying about the incident. We will not give up, we will pursue and look for justice," said Erkan Kurkut.**

The case resulted in impunity for the police and officials from the governor's office, which Erkan said "gives birth to more and more new murders."

## **A problem for Europe**

The discussion also highlighted that Europe has not been reacting the way it should to Turkey, for various political and economic reasons.

MEP (Belgium) and chairwoman of the European Parliament Subcommittee on Human Rights, Marie Arena, assured the audience that the human rights committee are working hard against impunity, and it is a top priority as, "there is no peace or democracy without justice". She notes that it is difficult for civil society under such an authoritarian regime, and there needs to be more instruments to support civil societies. A further issue is accountability of companies, some of whom are aligned with the government and benefit from them, therefore injecting money into keeping the regime going. Marie suggests that more mechanisms are needed at the European level to prevent both European and international companies from working in countries such as Turkey with widespread human rights violations. "Obliging by human rights is a responsibility of companies too."

Unity within the European Council is also an issue, due to two main factors: the migration issue and geostrategic issues. Erdogan leverages the migration issue to deter European countries and officials from taking action against his government. Maria argued that by externalising migration policy to other countries, European countries are then linked to their power, and if they complain about Turkey it provokes Erdogan to force migrants out into Europe. Additionally, Turkey's geostrategic position in both Syria and the Mediterranean is to be considered. Sanctions were only imposed on Turkey after their ventures into the Mediterranean for gas and energy purposes, not because of human rights.

## **Maria urged EU states to change their position to make human rights "the core of our relations with other countries."**

She pushed that Europe needs its own, more flexible global sanctioning mechanism for those who are responsible for human rights violations, restricting their access to European visas and ability to have European assets. Something separate to the Magnitsky Act, Europe needs its own tools to do this on a multilateral level. Her hope for the Biden administration is a return to a more multilateral approach to international affairs, with stronger alliances and defence of the International Criminal Court, which Trump attacked during his presidency.

UK Barrister Michael Polak supported this viewpoint that the law is vital for combatting the problem of impunity. "Because the UN system is failing us, because of the veto power of countries like Russia and China, there seems to be a trend towards non-UN actions," he said, "the UK and EU need to work together to coordinate their efforts."

The UK has recently introduced its own sanctions as a result of leaving the EU, and now has a more deciding role in who should be targeted, with UK ministers able to apply domestic and UN sanctions. One of the criteria for the new UK sanctions is to "provide accountability or be a deterrent against violations of human rights, or encourage compliance with human rights", something that Michael believes is a positive new development.

In Turkey, lawyers are punished for the beliefs of their clients, particularly if the client is a critic of the government. Michael spoke of widespread arrests across Turkey, from presidents of bar associations, judges, and high profile civil society

members, all arrested for not following government orders. The Arrested Lawyers initiative has kept track of the situation for lawyers in Turkey, which jails the most lawyers in the world.

**“They touched every area of the law, no one has been spared”, he said.**

From this, looking at Turkish prosecutors is something that should be done in the fight against impunity. “They have a huge amount of power and have a legally mandated obligation to look after people in custody, so if those detained are being tortured, then prosecutors are liable,” Michael said. One of the circumstances in which the UK government can sanction someone, is of those who fail to prosecute others for human rights abuses. In theory, a prosecutor in Turkey acting on behalf of the government can be sanctioned for either failing to protect a detainee, who was tortured or killed in detention, or for failing to investigate such torture, creating a dual liability. Also, police chiefs of police station heads and politicians who have been involved in torture and mass suppression may be liable as well. The Arrested Lawyers initiative is producing a list of those they believe should be sanctioned in Turkey to present to the UK government later this year.

**“The effect of sanctions is to send a strong message and to the international community to not accept what is going on. We hope if we put together strong submissions in the UK sanctions regime, these can be pushed over to the European sanctions as well, as the wider they are applied the more impact they have,” Michael concluded.**

Watch the webinar on Turkey Tribunal’s YouTube channel linked below:  
<https://youtu.be/y3rHfB4QARg>

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