

EXHIBIT 1

Rule of law and freedom of press under attack in Turkey

May 9, 2014



In light of recent steps taken by the ruling Justice and Development Party (AK Party) to restrict freedoms and tamper with the judicial system, rule of law and freedom of media are under attack from the government, participants of the Justice and Rule of Law International Symposium have underlined.

Turkey keeps media watchdog the International Press Institute (IPI) “extraordinarily busy,” Alison Bethel McKenzie, the executive director of IPI, said on Friday, the second day of the symposium in İstanbul.

In the final session of the symposium, which dealt with media and the Internet in a democratic state, McKenzie said that the state of media Turkey is evident in incidents of violence against journalists, misuse of criminal laws by the state and self-censorship in media outlets.

McKenzie said that Prime Minister Recep Tayyip Erdoğan himself admitted, after voice recordings showing that he had interfered in the media were leaked onto the Internet in the wake of an anti-graft operation in December last year, that he had called media outlets to give instructions, adding that direct government interventions are causing journalists to live in fear.

The Constitutional Court’s decision to overturn a ban on Twitter played a central role in the discussions at the symposium. The Organization for Security and Cooperation in Europe’s (OSCE) representative on freedom of the media, Dunja Mijatovic, called the decision “historic,” adding that in many countries, including Turkey, authorities still regard the Internet as a threat.

According to Mijatovic, who referred to criminal cases opened against journalists by the prime minister — including a case against Önder Aytaç, who was sentenced to a 10 months in prison over a tweet — another urgent problem is Turkey’s new intelligence law. She described the new law on the National Intelligence Organization (MİT) as “very worrisome,” especially its clauses that establish jail time to journalists who publish confidential documents.

US District Judge Richard Berman told Today’s Zaman that rule of law is under attack in Turkey because the independence of the judiciary has been challenged. Referring to the corruption probe that started on Dec. 17, 2013, Berman said that the legal proceedings have been interrupted. “It is inappropriate to change the rules of the game while the game is taking place,” he said, calling attention to the changes that the Turkish government made to laws regulating the judicial system after the corruption investigations went public.

According to Berman, the concerns of EU officials about developments in Turkey are legitimate, because the changes to the Supreme Board of Judges and Prosecutors (HSYK) and the government’s granting increasing powers to the justice minister within the body are a mistake.

There is “complete separation of powers between the executive and the judiciary” in the United States, Berman said, adding that it is inappropriate for a minister to have a supervisory role over judges.

Finding the April 25 speech of the Constitutional Court President Haşım Kılıç “very impressive,” Berman said it is wrong for senior officials to disparage the decisions of the courts. “It sends a bad message to the citizens” he said, referring to Erdoğan’s remark that he did not respect the Constitutional Court’s ruling against a ban on Twitter.

Arguing that there is always tension between freedom of speech and the state's duty to protect national security, Berman said that the Turkish Constitutional Court's decision to strike down the ban was correct.

A judge from the European Court of Human Rights (ECtHR), Paul Lemmens, in response to Erdoğan's statement that the ruling was "not national," said that the judgment was founded in Turkish law.

Sharing her observations on the Turkish judicial system, United Nations Special Rapporteur on the Independence of Judges and Lawyers Gabriela Knaul said that in Turkey there is too much proximity between judges and prosecutors. She stressed that the judiciary must be independent to be effective.

Judicial independence was the main theme of the symposium. According to Işıl Karakaş, a judge at the ECtHR, an independent and impartial judiciary is a prerequisite to having a fair trial. She said that the Turkish judiciary has structural problems, such as lengthy trials and detention periods. For Karakaş, however, the larger problem is one of mentality. The judiciary has always acted to protect the rights of the state and the regime rather than those of individuals, she said.

She said that according to one survey, over 50 percent of judges and prosecutors said that their basic mission is to protect the state and its institutions.

Throughout the symposium speakers emphasized the importance of public confidence in the judiciary. Lord Harry Woolf, former lord chief justice of England and Wales, said that politicians should be careful about starting wars against judges, since it might undermine the public's confidence in the judiciary.

Regarding media-state relations, McKenzie said that there is lack of transparency in Turkey, and that who owns what is not clear. She said that the government interference is growing due to the financial dependence of the media owners on the government.

Both Mijatovic and McKenzie said that they welcomed the recent decrease in the number of the jailed journalists. McKenzie went on to call on the US and the EU to step up and demand in clear terms that rule of law and freedom of expression be reinstated in Turkey.

Source : (Today's Zaman)