

FREEDOM OF PEACEFUL ASSEMBLY MONITORING REPORT

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TURKEY



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Introduction

In Turkey, avenues for the defense of human rights and civil liberties are being increasingly inaccessible to activists, due to the increasing political polarization in the country, coupled with the State of Emergency entering its fifth month. There are problem areas in all democratic checks and balances, from the eroding independence of the judiciary to the jailing of opposition journalists. An ongoing civil war leading to civilian curfews, spillover from the Syrian civil war, the arrest of democratically elected Parliamentarians and local authorities, and trustees appointed to local governments are creating new sentiments in the public, and new reasons for protest.

Concurrently, dissent is being suppressed in all platforms, from civil to political to economic, for the goal of national unity. Rights violations are being justified by security concerns or societal calm when plurality of thought is most direly needed. A new constitution is being proposed to the Parliament by the government, death penalty is back on the table a decade after its abolishment, and relations with the EU have come to a halt. In this environment, the right to peaceful assembly is a crucial tool through which societal tensions can be relieved, and political speech can be expressed. However, the monitoring activities have demonstrated that freedom of peaceful assembly is being restricted with extensive force, and a double standard is applied to the right according to the political side of the protesters. As the democracy in Turkey is being reduced to majoritarianism and the ballot box, those of minority status or opinion are being stripped of internationally protected rights of expression.

During the monitoring period, AMER has established five problem areas to be addressed in the use of freedom of peaceful assembly in Turkey.

- The national laws regulating freedom of assembly in Turkey are incompatible with international standards.
- The discretionary powers of public authorities are too broad and overarching
- The use of excessive force by security forces is too common
- Charges directed against those detained in assemblies are exaggerated
- There is discriminatory treatment in how public authorities and security forces recognize the right to peaceful assembly.

Background of the Overall Situation

Effects of the Military Coup Attempt

A military coup attempt occurred on the night of July 15th, 2016, where approximately 250 coup-opponents, 173 of them civilians, lost their lives. The coup-attempt was stopped by civilians, who were asked by the President Recep Tayyip Erdoğan to take to the streets against the military faction. The government has accused the Fethullah Gülen Organization for conspiring to overthrow the government. The AKP government declared a State of Emergency (SoE) to last for three months on July 20th, which came into effect on July 21st. When the 90 days were completed, the SoE was extended for another three months, effective on October 19th.

During the SoE, the government has legislated through executive orders that carry the same legal force as laws, bypassing the Parliament. The executive orders approved by the Council of Ministers are discussed in the Parliament within 30 days. Since July 21st, 12 executive orders have been put into force. The domestic remedy mechanisms are unavailable for the consequences of executive orders. The main opposition party, CHP, has applied to the Constitutional Court for two of the executive orders, but the Court rejected application on the grounds that it does not have jurisdiction over the merits of executive orders.

Following the coup attempt, an anti-Gülenist crackdown began on the Turkish Military, National Security Forces, the Judiciary, the media, the academia, the private sector, the education sector, and the civil society. The operations are ongoing, and increasingly not limited to the Gülen Organization. Through the executive orders, the government is dismissing members of opposition civil servant unions, and those who are working for the peaceful resolution of the Kurdish issue from their posts, and some of those are being arrested.

Due to operations on the judiciary, courthouses have grinded to a halt, the principle of natural judge, where extraordinary tribunals cannot be established to override the national courts has been lifted, and the judiciary has effectively lost its separation and independence from the government.

Along with the allegedly Gülenist media organs, other opposition radio and television channels, and newspapers were closed down, and many opposition journalists were arrested. Currently, 128 journalists are under arrest and placed in prison. Many Kurdish TV channels, including one that airs children's cartoons were shut down for alleged involvement with the PKK or the Gülen Organization.

Executive order number 667, issued on July 22nd, has closed down 35 health facilities and institutions, 1.043 private education and dorms, 1.229 foundations and associations, 19 union federations and confederations, and 15 private universities. Most of the executive staff of these organizations were arrested. With the executive order dated November 22nd, 375 more associations from civil society were closed, increasing the number of foundations and associations shut down to a total of 1.604.

Suppression of Political Dissent

Ten Parliamentarians belonging to the third biggest political party in the Parliament are currently under arrest awaiting trial. This group includes the co-chairs of the People's Democratic Party (HDP). A myriad of international leaders and rights associations have criticized the arrests due to the damaging nature of the arrests to Turkey's democracy. Following the arrests, remaining HDP MPs have declared that they would boycott the Parliamentary commission meetings until the release of their colleagues.

The context of these arrests show significant symptoms of systemic deterioration of democratic safeguards. The general elections of June 7th, 2015 was the first time a pro-Kurdish party surpassed the 10% threshold for a party to enter the Parliament. HDP's entry into the Parliament also jeopardized AKP's majority to form a one-party government. Following the election, the peace process between

the Turkish government and Kurdish insurgents collapsed, and a period of operations and curfews in Kurdish-majority areas began. The rhetoric of peace and reconciliation left its place to the rhetoric of war and counter-terrorism.

Governmental authorities adopted increasingly inflammatory rhetoric towards all supporters of peace, from academics to news organs and civil society. Supporting peace was declared to be synonymous with supporting terrorism. Parliamentary immunity in Turkey was an important mechanism to ensure free speech in the Parliament and beyond for all representatives. In April 2016, the inviolability of MPs were lifted in the Parliament, despite of strong cautionary opinions by international actors (see attached: Venice Commission Opinion on Parliamentary Inviolability). Given the strong opposition of HDP to this move, and the targeted rhetoric of the AKP government, the arrests are assessed to be politically motivated by critics.

The crackdown on the pro-Kurdish political establishment also impacted the elected local representatives in the Kurdish majority areas in Turkey. The elected co-mayors of Amed (Diyarbakır), a city of 1.670.000 people, were arrested a week before Demirtaş and Yüksekdağ. Following the imprisonment of the co-mayors, a district governor from Ankara was appointed to run the Diyarbakir Metropolitan Municipality

Freedom of Peaceful Assembly

While elected representatives and local authorities are placed under arrest and are dismissed from their duties, avenues for dissent in civil spaces are also being seriously hindered. People's right to protest is suppressed, along with democratic principles of plurality of thought. Any attempt to peacefully assemble on any issue has been triggering severe response, legitimized by the state of emergency regime in effect. The Turkish government, which is already reprimanded by the European Court of Human Rights for its systemic violations of the right to peaceful assembly and association, has doubled down on protests of all forms, from sitting strikes to union marches.

Another troubling aspect of these developments is that the suppression of representation rights overwhelmingly affect minority groups, mainly Kurdish citizens, a historically underrepresented and disenfranchised ethnic group in Turkey. However, the targeting does not only affect Kurdish groups. Other fundamental democratic rights, such as the freedom of media, freedom of association and of expression are also attacked, whether through newspaper editors being arrested, operations of associations being halted without any legal action, or charging citizens for anti-government criticism with antiquated insult laws. The state of emergency provides a legal and procedural shield to these undemocratic measures. As opposing ideas and voices are being drowned, political claustrophobia creates a fractured and tense public environment.

With the arrest of mayors and MPs and the violent crackdown on protesters, Turkey is experiencing a drastic shift away from rule of law, representative democracy, and civil rights. The targeting of an ethnic minority and the inflammatory rhetoric adopted by senior politicians towards opposition factions of the society are adding an extra urgency to the situation. As this is also a time when important issues, such as the discussions of a new constitution, the possibility of restoring capital punishment, and a possible regime change are undergoing, the absence of elected politicians and leaders in legitimate political platforms is most dangerous for the future of Turkey.

Legislative Background

Turkey has signed and ratified the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Charter of Fundamental Rights of the European Union (ECFR). Turkey has furthermore consolidated these international commitments with an article in its Constitution recognizing the legal precedence of international covenants it is party to. Article 90 of the Turkish Constitution states: “International agreements duly put into effect have the force of law. No appeal to the Constitutional Court shall be made with regard to these agreements, on the grounds that they are unconstitutional. In the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail.”. This article ensures that, even if the national laws are not compatible with international commitments, the articles of the covenants trump the national laws.

Despite the daring nature of this commitment, the laws governing right to peaceful assembly in Turkey are woefully restrictive. Article 34 of the Constitution protects the right to hold meetings and demonstration marches. The law states: “Everyone has the right to hold unarmed and peaceful meetings and demonstration marches without prior permission. The right to hold meetings and demonstration marches shall be restricted only by law on the grounds of national security, public order, prevention of commission of crime, protection of public health and public morals or the rights and freedoms of others.” Once again, this article appears to be unequivocal in its commitment to protecting the freedom of assembly. The criteria for exceptions are compatible with those listed in ECFR. However, this protected right is regulated in other laws, or secondary legislations, in quite a restrictive way.

The main law that regulates the right to assembly is Law Number 2911, Law on Demonstrations and Public Meetings (Law on Assemblies). This law does not uphold the international standards of freedom of assembly. Article 6 gives the power to designate what rules and spaces are suitable for assemblies every year to city governors. In Istanbul, for instance, 8 places were designated as suitable in 2016. Article 10 subjects the enjoyment of the right to assembly and demonstration to notification given 48 hours in advance, even though the Constitution states that permission are not required for assemblies. Article 23 suggests that all assemblies are illegal if the notification is not submitted, and forces authorities to intervene. Articles 15-19 give public authorities the power to postpone or ban assemblies under governorate territory. The reasons why assemblies could be banned are phrased quite vaguely, and often restated by governors verbatim. According to Article 22, places such as roads, parks, places of worship, public office buildings and a km vicinity of the Parliament are absolutely forbidden venues for assemblies and demonstrations. Articles 28-34 put forth rather extensive punitive measures. Attempting to exercise one’s right to peaceful assembly could lead to up to two years in prison if the variety of ‘hidden obstacles’, as phrased by the ECtHR on Turkey’s restrictive practices, are encountered.

The Law on Assemblies is a regulatory framework that stifles a right protected by the Constitution. The increasing powers of public authorities before, during, and after the assembly threaten an overarching chilling effect where dissenting and minority ideas refrain from using their right to peaceful assembly.

Methodology

AMER has been monitoring the right to peaceful assembly since October 2015. The monitoring includes analyzing the Turkish legislation on freedom of peaceful assembly with international standards of the right, violations to the right to peaceful assembly in practice, and discrimination in the implementation of the law.

The data collection occurs through media scans and coding of the news articles according to indicators reflecting the international standards of the right. The categories include the group organizing the protest, type of assembly, methods used in police intervention, number of people detained, the reason for the use of force, etc. AMER also collects data on the specific and general bans on assemblies by governmental authorities. This data is disaggregated and visualized, and later analyzed according to international standards and national laws.

AMER also collects qualitative data from its monitoring CSO network, which includes Bar Associations and unions. Although this data is sparse, it usually gives more information on the context of interventions. AMER monitors social media (through twitter handle @toplantigosteri) and shares data on violations to the right to assemble for visibility.

Due to capacity issues, AMER is not able to collect data on all assemblies that occur or is planned to occur but does not materialize due to bureaucratic hurdles or chilling effect. Therefore, the data collected only gives information on the assemblies that are intervened by the security forces, and does not inform on the extent of discrimination in practices of the state, or the extent to which these measures deter potential assemblies. However, the use of public spaces banned by governors are known to be used by assemblies initiated by the government. Such overarching conclusions are derived from information AMER collects from its CSO network spanning across Turkey.

Monitoring Findings

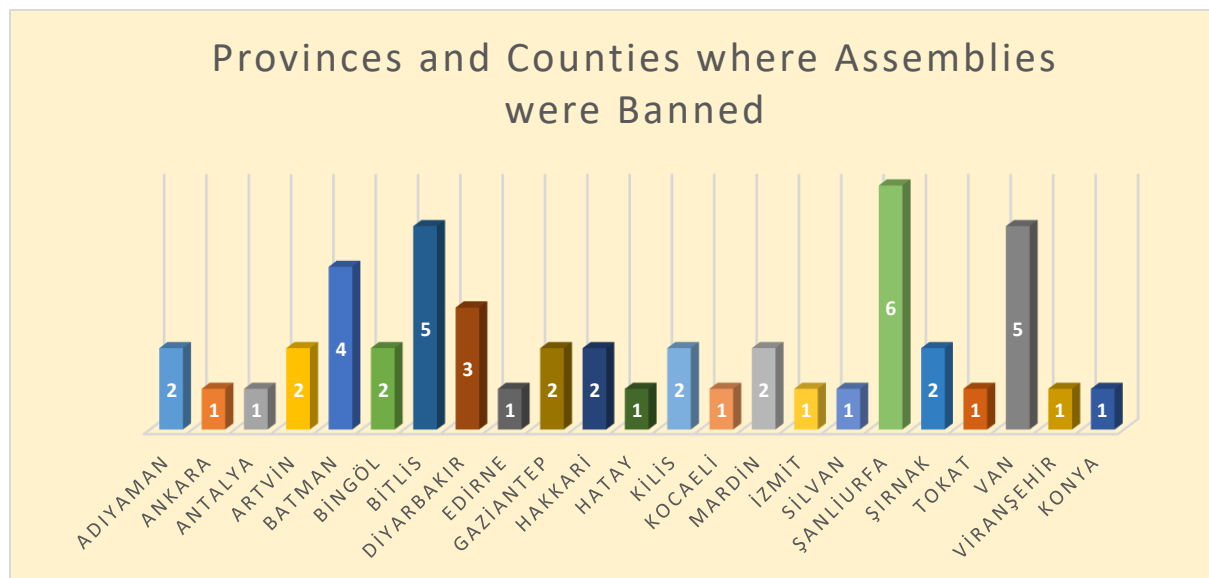
AMER conceptualizes violations to the right to peaceful assembly in three phases: before the assembly, during the assembly, and after the assembly.

Before the Assembly

As explained above, freedom of assembly is a Constitutional right in Turkey. However, legislation allows authorities significant powers to declare overall bans on assemblies, bans on specific assemblies, and bans on spaces for assemblies.

During the monitoring period, 49 bans on assemblies were recorded. Most bans includes the entire city territory. The duration of the bans varied from one day to indefinitely. The planned events were most commonly banned for ‘potential acts of violence that could occur before, during, or after the event’. Similarly, overarching reasons outlining conditions under which assemblies could be banned, stated in Article 34/2 of the Constitution, such as ‘national security, public order, prevention of criminal activity, preservation of public health, public morals, and others’ rights and freedoms’ are often used to justify assembly bans with no context or specification.

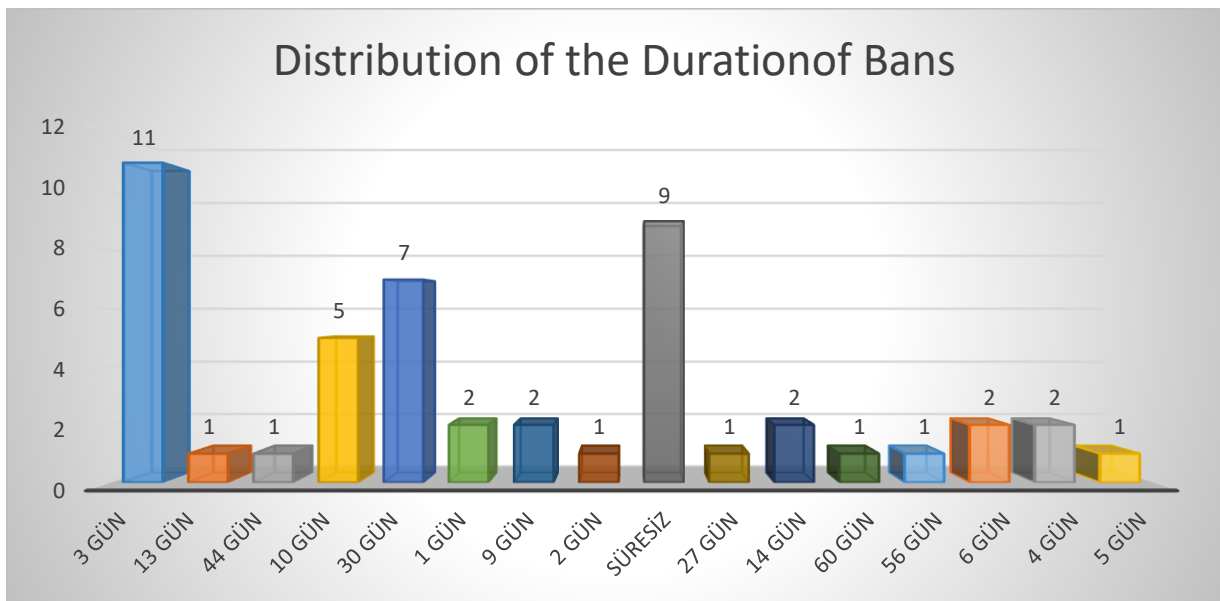
For instance, the Governor of Konya banned all possible events and collective actions on December 17th, 2015, due to celebrations of Şeb-i Arus, a religious holiday of the Sufis. The justification of the ban was stated as: “Information was gathered that various protests could take place by certain marginal groups during the events and memorial ceremonies to be attended by senior members of the government. In light of the terror activities inflicting our country, it was determined that such protests could lead to clashes between opposing groups and jeopardize the safety and security of esteemed members of the government, representatives of foreign nations, and our citizens visiting our city”. The vague suggestion of intelligence received on potential conflict, prioritization of the comfort of the members of the government, and reference to marginal groups and terror activities exemplify the preemptive and arbitrary nature of most of the bans on freedom of assembly.



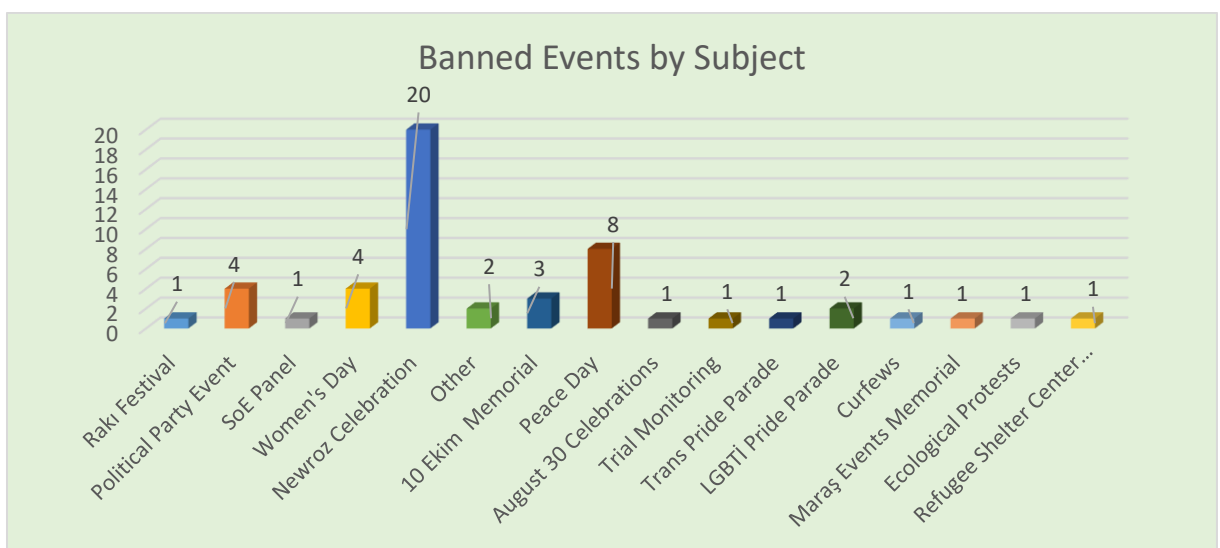
Another interesting overall ban was announced in Kilis: “Due to the start of student registrations to the 7 Aralık University on 15/08/2016, all closed or open assemblies, marches, demonstrations, setting up stands and tents, making press statements, putting up posters, handing out brochures and leaflets

etc. activities near the university and the dorms are BANNED for thirty (30) days, starting on 13/08/2016”. Bans were also sometimes announced a day after they started, and included any action remotely resembling protest or assembly. Interesting bans included ‘chaining oneself’, ‘collectively closing commercial establishments’, ‘collectively reading the newspaper’.

The announcement of the State of Emergency was observed to have an important effect on the bans on assemblies. Of the 49 city-wide bans on assemblies, 31 referenced the Law on State of Emergencies (Legislation No. 2935). In 13 provinces, all assemblies, press statements, concerts, theater performances, collective actions, and forms of protest were made subject to permission due to the State of Emergency. In the city of Tunceli, all events under the purview of the Law on Assemblies were banned for the duration of the State of Emergency. On the other hand, bans with references to laws that regulate assemblies and the role of governors were 25 and 24 respectively, which suggests that systematic issues on the regulation of assemblies exist in Turkish legislation.



Of all the general bans, 9 were for an indefinite time period. 11 bans were for three days, and 7 were for 30 days.



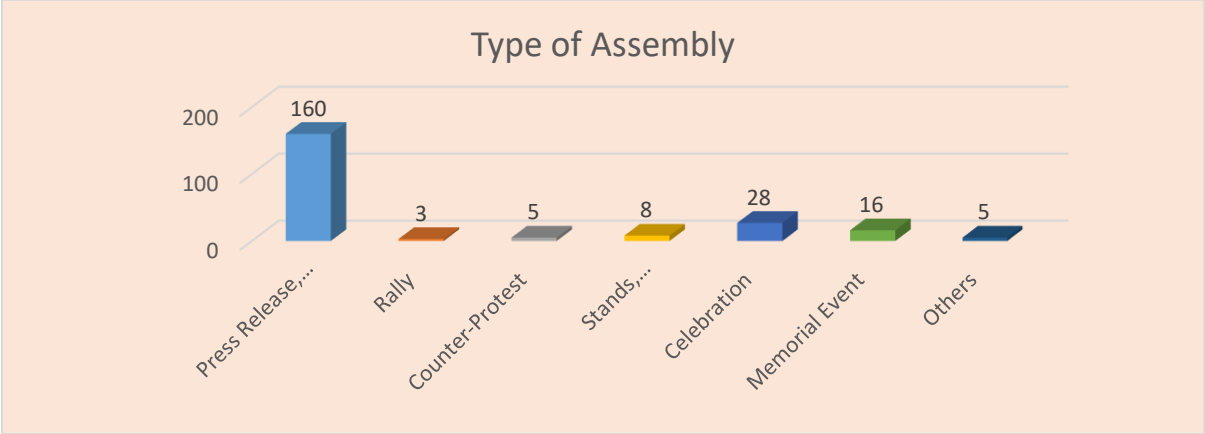
During the monitoring period, 52 specific assemblies were banned. Most banned events were Newroz celebrations, a day celebrating the start of the spring, overwhelmingly celebrated by Kurds in Turkey. Even though permissions are not necessary for assemblies, there is a notification requirement to the Governor. Often, events are banned during this process of notification, where the Governor states reasons why the assembly cannot be held on the time and place it is envisioned. There were some exceptions, however. For instance, the Trans Pride Parade, as a political stance, has never made a notification to the relevant authority in its 7 year history in Turkey. However, the Governor preemptively banned the event, stating,

“It is acknowledged that calls are made on certain news channels, websites and social media by LGBT members to attend a parade to be held on 19-26 June 2016 in Taksim. Our Governorship will not allow the organization of such an assembly or parade on the stated days, bearing in mind the security of firstly the participants and our citizens, and public order. The places where such events can be held were previously announced, as per the relevant law. We would like to ask the honorable citizens of İstanbul to ignore such calls, be helpful towards the security forces and attend to their warnings on this issue”.

Another banned event was the World Rakı Festival¹, which has been held annually since 2000. The Governor of Adana banned the event this year, stating that social and economic organizations should be held instead of festivals. Thus, the name of the festival was changed to ‘Kebab and Shalgam Festival’² and was allowed by the Governorship.

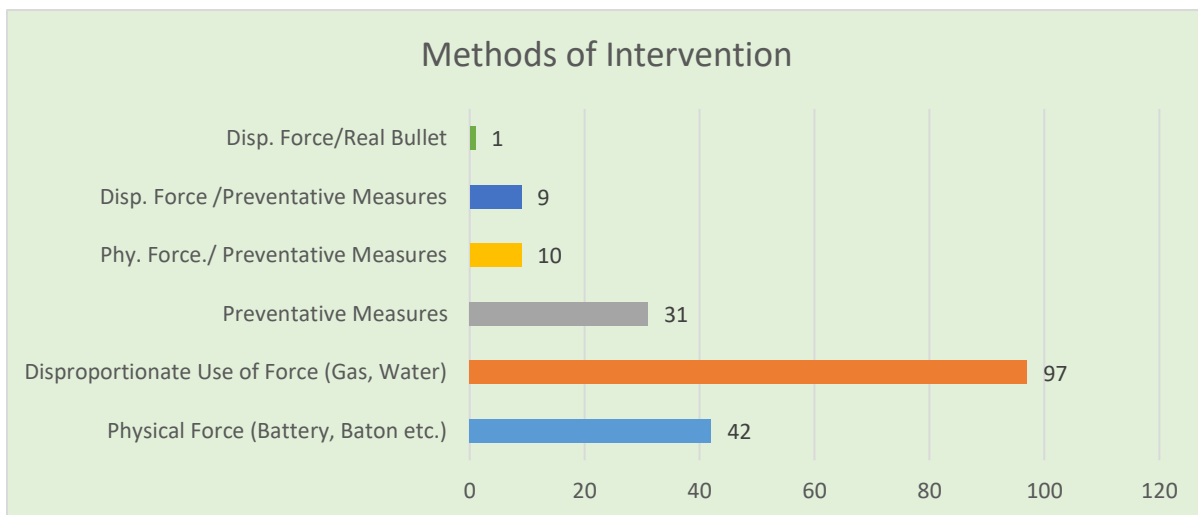
During the Assembly

The number of assemblies that were intervened by security forces during the monitoring period was 225. 32 of the assemblies were ongoing when the police started dispersing the participants, and 183 of the protests were intervened before they had started.

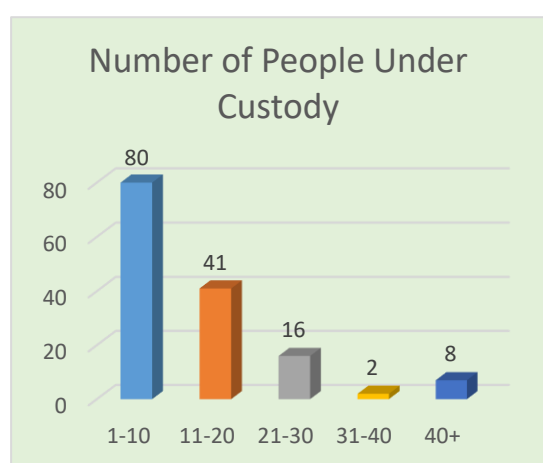
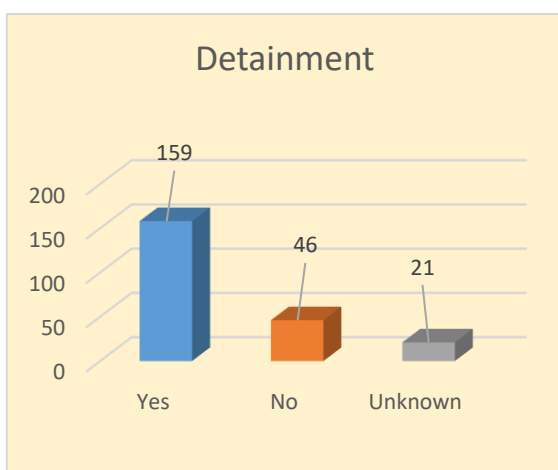


Most of the assemblies, 160 in total, were press releases, parades, marches, and other demonstrations for the purpose of political expression on a smaller scale. 28 were celebrations of holidays and other special days. 16 were events held in memorial of the death of notable persons or explosions inscribed on public memory, 8 were attempts to put up stands, hand out brochures, and set up tents, 5 were counter protests and 3 were political rallies.

¹ Rakı is an anise-flavored alcoholic beverage popular in Turkey. It is considered to be a national drink of Turkey.
² Shalgam is a turnip-based drink popular in Adana and Mersin, often served alongside Rakı.



An analysis on the methods of intervention of the security forces on assemblies reveals that the police usually intervenes with the use of disproportionate force, often using tear gas and pressurized water to affect entire masses instead of targeting individuals disrupting order. By choosing immediately the method of dispersal of the entire group, the police violates the right to peaceful assembly of nearly all participants in most cases. The security forces also use multiple methods together, this was established in 19 out of 225 interventions. Physical force on protesters is also quite common, and real bullets were established to be used in one case during the monitoring period.



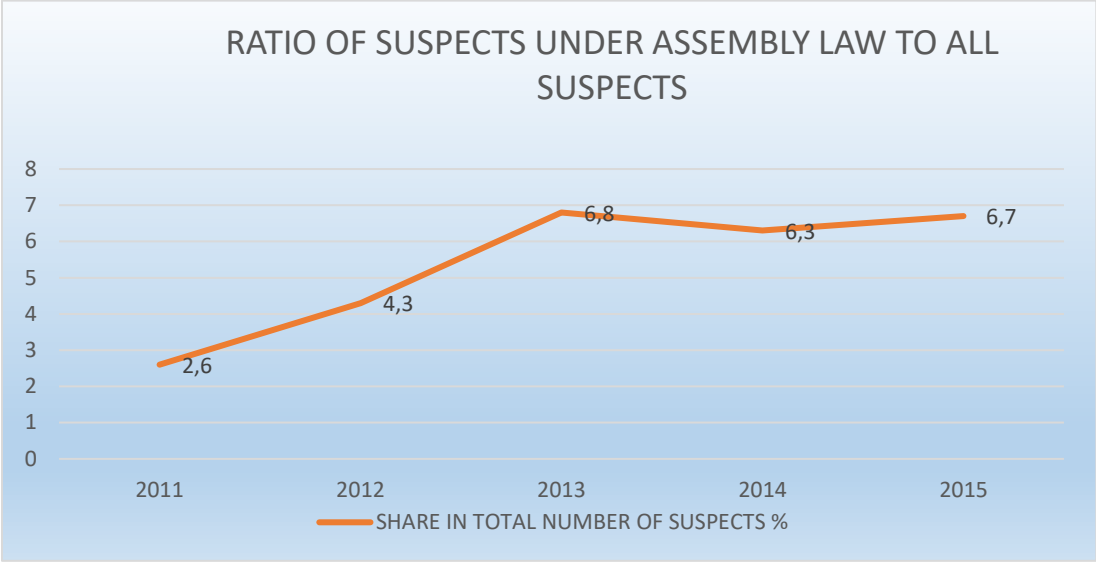
In 159 out of 225 assemblies, an instance of detainment by the police was observed. In the 159 assemblies with detainments, a total of 2088 people were taken into custody by the police. The number of people taken into custody varies between 1 and 231.

After the Assembly

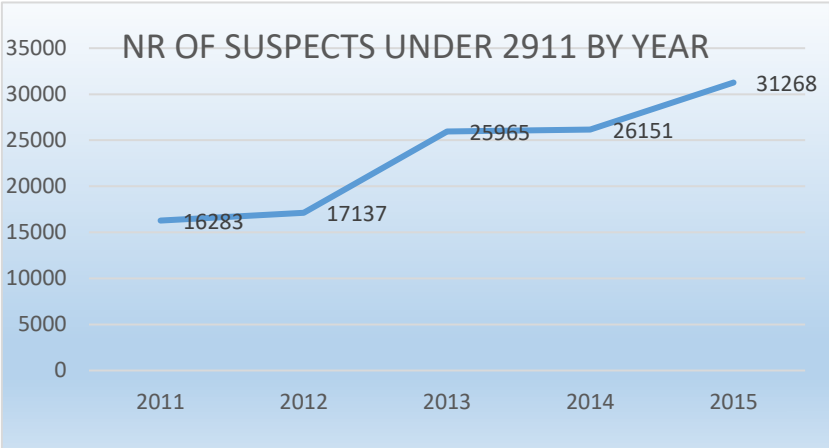
AMER find the monitoring of rights violations after the assembly is completed very important, due to their long-term consequences and tremendous imbalance of power it creates between protesters and law enforcement. It has been observed that law enforcement officers attempting to disperse crowds in assemblies quite frequently use detainment as a threat, and takes multitudes into custody, regardless of whether the protesters are members of the parliament, journalists, representatives of foreign nations etc. However, monitoring the violation of the freedom of assembly is quite difficult methodologically in Turkey, since news articles rarely follow up on detainments, and the judicial data is not available to

the public. Therefore, only high profile cases, cases that are accepted by the ECtHR, and data from the Ministry of Justice are available for analysis.

According to data from the Ministry of Justice, the ratio of suspects, defined by people against whom some form of judicial procedure was started, increased significantly in 2013 and has maintained the high ratio of 6,7.³ This group of people includes protesters who are detained and referred to the prosecutor, those who are not detained but called to give testimony, and those against whom a criminal complaint was lodged.



This stark increase could be explained by the adoption of new laws giving broader authorities to civil servants in deploying police units to assemblies, banning certain actions from being performed at assemblies, and giving the security forces more power to ‘remove’ protesters from the scene, strip



search suspects, use firearms at lower thresholds of threat etc.

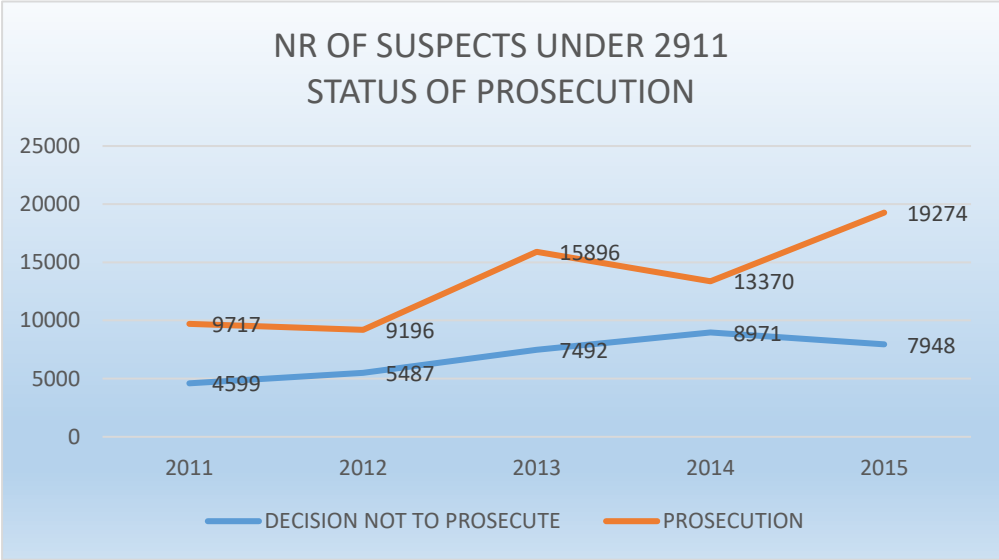
Similarly, the number of people taken into custody, and therefore entered into the justice system, for their participation in assemblies or violation of the Law on Assemblies multiplied twofold from 2011 to 2015. The number of suspects detained under Law on Assemblies was

31,268 in 2015, and this number is projected to have increased in 2016.

From the media scans, of the 2088 people who were taken into custody, 147 were established to have been arrested by the court, on charges of violation the Law on Assemblies. It is not known if investigations are continuing on those who were released by the court, or whether those arrested by the court were found guilty at the end of the judicial process. Similarly, it is not known if there were any other form of punishment for attending an assembly, such as being fired or demoted from one’s

³ The peak in 2013 could be explained by the Gezi Park protests, which took place from May 2013 – August 2014 and was spread to all provinces in Turkey.

job. However, it was observed that civil servants and academics were forced by their employers to attend government-organized rallies following the coup-attempt, and that those who did not attend were labeled as coup supporters. Overall, the increase of those prosecuted under the Law on Assemblies had a stark increase from 2011 to 2014, and this upwards trend is expected to have continued during the monitoring period.



Conclusion

The freedom of peaceful assembly is a constricted right in Turkey, both in laws and in practice. The violations have been categorized under five headings:

- **The national laws regulating freedom of assembly in Turkey are incompatible with international standards.**

The Turkish Constitution recognizes the right to peaceful assembly, and only prescribes national security, public order, prevention of commission of crime, protection of public health and public morals as appropriate grounds of restricting this right. This article is consistent with European Convention article on the freedom of assembly. However, the law regulating the specifics of the right is overarching and surpasses the grounds prescribed by the Constitution and international standards.

The law places general bans on assemblies in certain public spaces, such as parks, roads, and public office buildings. Even though the Constitution and international standards recognize this right as for everyone, the Law on Assemblies legislates that foreign country citizens have to get authorization from the Interior Ministry to organize meetings and demonstrations. The law also has a notification obligation for assemblies, which means that spontaneous assemblies are automatically considered as illegal. The regulations also give unlimited power to security forces in intervening with assemblies. Authorities can set up video recording equipment on the venue of the assembly and record the event. The law also gives the police the authority to end assemblies if the ‘aim and purpose’ of the assembly exceeds that stated in the notification, and if ‘order and peace’ are disrupted. The laws also regulate the content of the assemblies. “[Wearing] symbols of illegal organizations, or attires resembling uniforms with these symbols... carrying banners, posters, placards, pictures, signs, tools and equipment defined to be illegal by the laws, or chanting or broadcasting such messages with a sound device slogans of this nature” are illegal, according to the law. The vague wording of these laws allow for any content in opposition to the government or current policies grounds for interference by the law enforcement.

These laws form the foundation on which actions of public authorities act. Therefore, they are the first obstacle in exercising the right to assemble. Although the discrepancies within Turkish law and with international obligations regarding the freedom of assembly is widely pointed out⁴, the Turkish government suggests that the right to peaceful assembly is protected by the Constitution, and the other laws on the issue are hierarchically below the Constitution, and therefore no improvements on compatibility are needed in this area.⁵

- **The discretionary powers of public authorities are too broad and overarching**

The assembly laws in Turkey are overly vague and the power to interpret them are given to public authorities instead of the judiciary, severely hampering the right to peaceful assembly. The governors are given the power to postpone, and to cancel assemblies, they select the few areas available for assemblies each year, and they can even order for investigations to be started against those who hold assemblies despite of these bans.

Although peaceful assemblies do not require permissions, they do require notifications. Notifications are given 48 hours in advance, with photocopies of the IDs, home and work addresses of organizers, starting and ending times of the assembly, and the purpose of the assembly. This already burdensome notification requirement works as a permission requirement in reality, since the governors also have the authority to ban events based on vague criteria of threat. Thus, most assemblies are intervened for being ‘illegal’, or not allowed by the governor. This problem has reached such an extent that many

⁴ EU Turkey Progress Report 2013 (53-54), 2014 (53-54), 2015 (65)

⁵ A/HRC/29/15/Add.1 Report of the Working Group on the Universal Periodic Review, Turkey, 150.23

organizers do not notify the authorities, knowing that the assembly would not be approved and security forces would be placed at the venue to disperse the ‘illegal assembly’ even before it begins.

The governors also have broad powers of banning any form of assembly, demonstration, or marches for a period of time. During the State of Emergency, this power was extended to ban any form of protest speech or action for any duration of time. This power has led to interesting restrictions, such as a ban on reading newspapers collectively or creating a car convoy to protest or celebrate something. As pointed out in the 2014 EU Progress Report, “concepts such as ‘general morality’, ‘Turkish family structure’, ‘national security’, and ‘public order’ were used widely and allowed too large a margin of discretion to authorities, hindering the respect in practice of **freedom of association**. Two LGBTI associations faced closure requests based on ‘general morality’.”⁶ The power to interpret laws and make discretionary decisions on the fate of assemblies significantly problematize the exercise of the right to assemble in Turkey.

- **The use of excessive force by security forces is too common**

Although international standards dictate that even in violent assemblies, the individuals perpetrating the violence should be targeted by the security forces for the preservation of the peace within the assembly. Therefore, in police interventions to assemblies, the burden of proof to demonstrate the need to intervene with the particular individual rests with the State. However, the overwhelming trend was the indiscriminate use of dispersive tools, such as tear gas and pressurized water, on protesters. Given the recent collective memory on protesters losing their eyes, and sometimes their lives, with targeted gas canisters by the police, this factor creates an especially strong chilling effect on the right to assemble in Turkey.

An important ECtHR judgment on this issue is *Oya Ataman v. Turkey* (2006), which has since created its own group of judgments against Turkey, based on the excessive use of force by the police on protesters. In these groups of cases, “the ECtHR found that the amount of suffering and pain inflicted on the protesters amounted to torture, inhuman and degrading treatment in violation of Article 3. Instances including use of tear gas on an apprehended protester, hitting those gathering on the head with truncheons and pulling the hair of a protester over a stair step, and facial injuries were deemed to violate Article 3.”⁷ In the monitoring period, in nearly half of the assemblies intervened by the police, there was use of excessive force. A video recording of an assembly that occurred in November shows a police chief ordering his officers to not be afraid of firing with real bullets. Such evidence shows the extent to which these interventions are discretionary and out of proportion.

According to the international standards of the positive obligations of the state, the communication between the organizers of the assembly and the security forces to ensure the safety of the protesters. In the data collected by AMER, however, organizers were often charged for assemblies where ‘illegal’ banners were opened and ‘illegal’ slogans were shouted. Additionally, in the 2016 Pride Parade for instance, the organizers attempting to communicate with the police to allow for some of the event to take place were detained. Police officers and dispersive equipment are transferred to the venue of the assembly in preparation, point their cameras and weapons of tear gas are directed at the protesters, and all available means of intervention are used on peaceful protests. The use of force has been found to be a systemic problem by international authorities and the European Court; this monitoring report confirms that finding.

⁶ EU Turkey Progress Report 2014, pg.53

⁷ Çalı, Başak. THE EXECUTION OF THE ATAMAN GROUP CASES (Application No. and Judgment Date: 74552/01, 5 December 2006) MONITORING REPORT (December 2014)

- **Charges directed against those detained in assemblies are exaggerated**

The ECtHR rules that the prosecution of peaceful protesters is a violation of the right to assembly. Although data gathering on this issue is quite difficult, the volume of ECtHR cases on this claim and the Ministry of Justice statistics offer a grim picture. The number of people against whom legal procedural action was started, and the number of those charged with the violation of Law Number 2911 have increased significantly since 2011. One reason for this trend is the legislative background. The law has extensive punitive measures for noncompliance with the broad restrictions on assemblies. For instance, assemblies are banned in places other than the routes announced by the Governorate at the beginning of the year. Therefore, participating in an assembly peacefully in any place other than the designated route could lead to prison sentences of up to 2 years.

Other criminal charges are also commonly directed at protesters, such as laws related to terrorism and laws against ‘resisting civil servants’. Reprisals against protesters in courts has become frequent, another addition to the chilling effect on assemblies. The most recent ECtHR decision on the issue demonstrates this trend. In *Gülcü v. Turkey*, a minor was detained for two years and convicted of being a member of a terrorist organization after he attended a demonstration supposedly called by a group recognized as a terrorist organization by the state and threw rocks at the police. Other charges directed at him were supporting a terrorist organization and resisting the police. ECtHR overturned his judgment. These techniques transform into a systematic problem in which the individual taking part in protests deemed ‘illegal’ by the state authorities risk being labeled as criminals and are given aggravated sentences that don’t fit the crime.

- **There is discriminatory treatment in how public authorities and security forces recognize the right to peaceful assembly.**

In the monitoring process, discriminatory treatment was observed based on the political affiliations of the organizers, and content of assemblies, often against groups who hold opposition views and dissenting positions. Pro-government rallies and assemblies organized by public authorities had heavy security measures, and yet no interventions. Dissenting assemblies, on the other hand, faced with administrative hurdles, overbearing security measures, and disproportionate use of force. The space and time restrictions were also only applied inconsistently as well. Assemblies supporting government policies were held in all restricted areas, starting at midnight, while the Law on Assemblies bans assemblies after sunset.⁸ Given how important freedom of assembly is to pluralist democracies as a means of collective self-expression, the stifling of this right is not only a violation of international standards, it is also an assault to the democratic values in Turkey.

⁸ İHH Walk in Taksim in 28.05.2016, Syria and Russia Protest in Ankara Hacibayram Camii on 30.09.2016, and assemblies held after the coup attempt on 15.07.2016