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Turkey Elections: What Does the Future Hold for Freedom of Speech?

**PEN Norway's Interview with MP for the
Turkey Worker's Party (TİP) Ahmet Şık**

Published: 9 May 2023

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Since 2020, as part of the Turkey Indictment Project, PEN Norway has examined 25 separate indictments focused on freedom of expression in Turkey and has produced reports on these indictments in cooperation with expert lawyers from different European countries. The PEN Norway Turkey Indictment Project reports of 2020 and 2021 revealed that every one of the 25 indictments in question failed to comply with Turkey's domestic legal provisions and also international provisions and contracts such as the European Convention on Human Rights and the UN Guidelines for prosecutors.

PEN Norway's in-person, recent, observations of such trials as the Gezi Park trial, the We Will Stop Femicide Platform case and trials of Turkey's chief physician Prof. Dr Şebnem Korur Fincancı, activist Pınar Selek and journalist Sedef Kabaş all demonstrate the lack of independence of the judiciary as well as serious fundamental flaws in the preparation of indictments.

Historic elections take place in Turkey on May 14th, 2023, in which the candidates for both the President and Turkey's Parliament will be determined. A month before the elections PEN Norway's Turkey Adviser travelled to Istanbul to interview representatives of the major political parties to question them about issues such as freedom of expression, the freedom of the press, the rule of law, and the right to a fair trial in Turkey.

As part of this interview series, we conducted face-to-face and written interviews with the following:

- Dr. Canan Kaftancıoğlu, the Istanbul Regional Chair of the Republican People's Party (CHP),
- Lawyer Züleyha Gülüm, Istanbul's MP for the People's Democratic Party (HDP),
- Former journalist and now MP for the Worker's Party (TİP) Ahmet Şık,
- Lawyer Bahadır Erdem, Vice Chair of the İyi Party,
- Bülent Turan, Vice Chair of the Justice and Development Party (AKP),
- Selahattin Demirtaş, imprisoned former co-chair of the People's Democratic Party (HDP),
- Serhan Yücel, Secretary-General of the Democrat Party,
- Mustafa Yeneroğlu, Justice and Legal Affairs Policy Chairman of the Democracy and Progress Party (DEVA),
- Muharrem Erkek, Vice President of the Republican People's Party (CHP)
- Zeynep Esmeray Özadikti, candidate for MP from Turkey's Worker Party (TİP)
- Bülent Kaya, Legal Affairs Chairman of the Saadet Party.

None of the content of the interviews has been altered by PEN Norway, the views expressed are those of the individual politicians.

We hope that these historic elections in Turkey will be instrumental in strengthening fundamental rights and freedoms for all.

Caroline Stockford, Turkey Adviser, PEN Norway
Şerife Ceren Uysal, Legal Adviser on Turkey, PEN Norway

PEN Norway's Interview with MP for the Turkey Worker's Party (TİP) Ahmet Şık

Our observations on the current situation of freedom of expression and freedom of the press in Turkey are very concerning. Considering your role as an MP but also as a journalist, we think it is important to hear your opinion of the overall picture. Would you say that the rights to freedom of expression and the press exist in Turkey today? What do you think are the prominent problems?

The answer to the question is actually very short: Those rights definitely do NOT exist. I am telling you that not just because I am a member of the opposition, but you'll also know that this is the case when you consider the number of journalists in prison, the grounds for their arrest and the fact that the investigation and prosecution processes did not involve an independent and an impartial judiciary and violated the legal principles and universal legal norms. People who use their right to protest and their right to criticise on social media channels, on television channels or in some way in a public space are arrested and faced with pressure or the television channels that are not pro-government are fined by the Radio and Television Supreme Council (RTÜK). Turkey was a country that already had widespread censorship, but now self-censorship has become ubiquitous. Taken together, all these things tell us about the political position of the government and how backward the state of freedom of the press and freedom of expression is in this country. Even just the number of imprisoned journalists shows us the level of democracy, freedom of the press and freedom of expression in a country. We are way behind.

If the 14 May elections are followed by a change of government, will the obstacles to freedom of expression and freedom of the press be removed? What do you foresee will change or stay the same in Turkey?

Now, elections are coming up soon and some surveys and studies are being published. There is a widespread belief that the government has become unpopular or has been losing votes. After the elections, we will find out whether this holds true or not. But Kemal Kılıçdaroğlu, presidential candidate of the National Alliance, may become the president in the event of a possible change in government, as everyone knows that in such a case the prospective government will consist of the elements within the National Alliance. They will form a bureaucracy based on the alliance they forged together. And in the last few months before the elections, they made some pledges to us. I mean they offered a social contract. About the things that will change, in the judiciary, in the law, etc., in other words, in terms of the normalisation of the country. Because right now, we are indeed experiencing something hardly normal. When we look at those promises of normalisation, we are offered hopes



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that things will change, and change in a positive sense. But to what extent this will be the case in practice is for me a question mark. Because the political positions of the government and opposition in Turkey are not informed by a culture of democracy and peace. Because they have a political line and a political positioning based on seizing power. And Tayyip Erdoğan or the AKP government is a very good example of that. They are kind of political parties that could easily be carried away by the poison of power. But I honestly think it will be better than the current situation. Most probably there will be some legal changes. Because this process has been very instructive for everyone. I think the constituents of the ruling party have also realised the value of the independence of the judiciary, freedom of the press and freedom of expression and the press as a whole for a country. Because if the laws remain unchanged and the government changes, the system as it is in Turkey will victimise the current government once they become the opposition. Therefore, a total change is necessary. Of course, our role there, as the members of the Labour and Freedom Alliance, that is, as the left-wing, is to act like a driving force to bring both sides as close as possible to the line of democracy and peace. That's why we're there.

Do you think that the violations of rights that were committed during the State of Emergency can then be eliminated?

Since the state of emergency in question was declared after the 15 July coup attempt, there is a new group that has been stigmatised into everyone's common devil and common evil; I am talking about the Fethullah Gülenists. It is necessary to distinguish between the sociological base of the Fethullah Gülenists and those who were involved in some criminal relations. This was not done in that period in question. We could say that a basket was opened and was labelled FETÖ. It became a basket where everyone who was not pro-government was put in. I believe there are many innocent people among them; thousands of people who do not agree with us, who are actually Gülenists but who were not involved in any criminal offence, are now in prison. Certain legal arrangements about their situation are absolutely needed. In this country, the State of Emergency laws were already in force before the State of Emergency itself. The coup attempt gave them a legal cover and paved the way for an unchallenged and undisputed process. And it ushered in a dark period in which anyone could be accused, imprisoned and forced into exile. In other words, there is a definite need to make a legal arrangement in that regard, and I believe it will happen. But how much further can we take it? That's where we need a common will. The opposition must also be involved. And even if the current government becomes the opposition, they should be listened to as well. Because any mistake could lead us back to a process similar to 15 July, when the attempted coup took place. Something similar may happen again. It is also possible that the new government imposes on us this fascist regime that was previously imposed by the Justice and Development Party, the Government of the Presidential Palace. That is why we have the parliament. You have a certain budget and you explain your citizens what you intend to do. The role of the opposition is to avoid mistakes through dialogue. But the political culture in Turkey is not shaped around this idea; that is why people tend to reject criticism out of hand. I think a dialogue will be the beginning of such a process. Now to be honest, whether in parliament or not, whoever says something in the name of the opposition in Turkey is in a more progressive position than the current regime, that is certain.

“ One, the regime of lawlessness faced by Kurdish politicians represented by Selahattin Demirtaş, and two, the lawlessness of the Gezi trial represented by Osman Kavala. The Cumhuriyet newspaper case is one of them too. FETÖ trials involving people whose names we do not know, KCK trials, trials conducted with the allegations against some leftist organisations. All created their own victims. ”

Our indictment project brought to light a recurring pattern of flaws in indictments aimed at journalists and civil society, and we identified the need for a holistic reform of the indictment writing process in order to avoid serious harm. Do you believe that such reforms will be carried out on indictment preparation processes and on prolonged detentions that themselves become a punishment?

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It will happen, it has to happen. Let me give you a very simple example. An example of two lawsuits. But let me also point out that this is true for all those who have been victimised by this regime of lawlessness. One, the regime of lawlessness faced by Kurdish politicians represented by Selahattin Demirtaş, and two, the lawlessness of the Gezi trial represented by Osman Kavala. The Cumhuriyet newspaper case is one of them too. FETÖ trials involving people whose names we do not know, KCK trials, trials conducted with the allegations against some leftist organisations. All created their own victims. One must have a holistic view and go beyond the mere practices of indictment preparation; there is only one thing to be done here: The aim will be to bring the members of the judiciary and judges in Turkey up to the standards of universal legal norms. There are actually very reactionary laws in Turkey, in the Turkish Penal Code. Its constitution is very reactionary. But there are also the right to protest, the right to freedom of the press and freedom of expression, the right to disseminate one's ideas, all of which have constitutional and legal guarantees. In Turkey, such laws are not enforced. In other words, certain laws that are flawed, that are against the citizens, are strictly enforced. And these are enforced by judges who are themselves not independent and impartial. These people have nothing to do with legal norms. They file lawsuits under instructions and conduct a series of trials all within the chain of command. The unlawful Gezi trial is at the top of the list. The Kobane trial and the KCK trials are among them. All of this needs to change. Look, in Turkey, even the Constitutional Court delivered certain progressive judgements. Even such judgements are not implemented. We are talking about a country that does not comply with the judgements of the European Court of Human Rights. It is wrong to discuss whether or not there is rule of law in Turkey. There isn't even the rule of a particular law, because Turkey violates its own laws as well. Even a very simple legal arrangement would pave the way to address certain unlawful practices. If it is about the change of government, it would be enough to say, for example: The detainees ought be released in cases where the Constitutional Court and the European Court of Human Rights have ruled on violations. That would be nice. It's a day's work, and I think it's going to happen.

On this topic, we would also like to ask about the right to protest. Do you think there will be merely symbolic changes in that regard or will people's rights to assembly and demonstration be recognised?

At the beginning, yes, but I'm worried for what could happen afterwards. Because no government wants to listen to criticism and admit its mistakes once it has seized power. But I think it will be "more free" a period than it is now. But for how long? Or will it become permanent and established? This is important. Now, the common concern that all citizens in Turkey suffer from is justice. Inequality and injustice... The right to protest will certainly expand if things get better in those areas. By that I mean a peaceful protest of course. As long as you do these things and the power is fragmented in a way that it is independent of a single centre. In underdeveloped

democracies like Turkey, the best form of government has to be a coalition. Because this is not a country that has established close ties with democracy. The previous democratic legal arrangements that have been made in the past have always been made under the pressure of the European democracy that we want to be a part of, and not thanks to a demand from the grassroots. However, there is now a demand from the grassroots due to the unlawfulness they have been witnessing during this period. It is all about making the laws that are progressive, liberating, and that embody the democratic and legal norms stable and established. This has to be the focal point of our efforts.

We know that you and the MPs of your party sometimes had to organise protests even inside the parliament in order to be able to take the floor and speak. Why did you feel the need to do this?

Because, in fact, the situation of the opposition parties in parliament, parties like us that do not have a group... Because according to the legislation in Turkey, there is only one condition for a party to be able to take the floor and speak in the parliament: To have 20 deputies, i.e. to be able to form a parliamentary group. Parties without a group have no say whatsoever. We sometimes make speeches from the lectern. This is possible only if the deputies of CHP and HDP yield the floor to us. Or sometimes we start a fight and try to get a disciplinary penalty so that we would earn the right to defence. There's only one reason for that. The parliament's Rules of Procedure are very reactionary. In other words, I think the Rules of Procedure of the Parliament has to be the first place to look if one wants to assess the use of freedom of the press, freedom of expression and the right to protest. I have checked and analysed the rules of procedure of the parliament. The Rules of Procedure that was adopted nearly 100 years ago had been the most progressive and democratic charter so far. A century later, however, members of the opposition are forced to resort to strange and bizarre means in order to have their say. We also brought that up when we met with Kemal Kılıçdaroğlu. The rules of procedure must be worked out as well. Throughout the AKP's rule, the rules of procedure of the parliament were amended again and again. And each change was aimed at restricting the opposition's right to speak. It is the same for those who have a parliamentary group. But there is a serious problematic field there. The person you call an MP is there to represent the people. And she is there to give voice to the citizens. The new government has the primary responsibility to restore that.

“ For 4 days, I heard the voices of all the people who were under the rubble. We could not save any of them. I am still having nightmares about it. Every one of those people could have been saved. Or at least we'd know where to look if there weren't any communication issues. But none of that happened. ”

During the earthquake, you were constantly in the earthquake zone with your deputies and members of your party. And meanwhile, you strongly criticised the restriction of access to the internet during the ongoing search and rescue operations. Why did the government restrict internet access after the earthquake?

I think there are two reasons. One is really about technology. Because the buildings where the base stations were installed - in Turkey they always install them on top of the buildings - were destroyed. But it was a matter of weak of technological infrastructure, because the earthquake was very severe. But was there a mechanism to address this problem? Yes there was. How do we know it? In Turkey, network operators provide mobile base stations during important football matches of any club to avoid network congestion. I didn't see that in Antakya. I didn't see that

for days. And if this could have been done there, I believe that we could have saved the lives of hundreds more people on the first day. Because communication was essential there. We were there for 10-12 days with zero communication. I was in Antakya for 12 days and I had no idea what happened in Istanbul. Because we had no telephone communication. And we were already very busy with something else. Of course, the issue with telephones and communication, etc., it is all about where you stand. But we also need to discuss that fact that the government was the reason why the destruction caused by the earthquake became an unmitigated disaster. Because for 4 days, I heard the voices of all the people who were under the rubble. We could not save any of them. I am still having nightmares about it. Every one of those people could have been saved. Or at least we'd know where to look if there weren't any communication issues. But none of that happened. And I believe that the network operators dodged the issue under the instructions of the state. I am certain that they did not want this information to reach the outside world as it was the central government who was responsible for the destruction and devastation caused there. That's capital for you.

“ Here we need a real reconstruction, not a restoration. Such a process of confrontation and reckoning is a minimum requirement for every person, without exception, who has been wronged, who has become a victim of unlawfulness, whose freedom has been usurped, or who has been sent into exile. ”

It is also possible that the outcome of the election won't align with your expectations. In such a case, what do you foresee will happen to fundamental rights and freedoms in Turkey, such as freedom of expression, the press, and the right to freedom of assembly and demonstration? We would like to ask again about the State of Emergency, because not only people who support Gülen, but everyone such as Nedim Türfent and İlhan Sami Çomak are affected by the prison regulations. Certain methods came forward during the State of Emergency: No notebooks or no newspapers were allowed in the prisons, etc... Do you think the such State of Emergency regulations will be different?

I certainly think that there will be some positive changes if the election produces the outcome the opposition hopes. Otherwise, that is, if the current regime maintains its hold on the power, we may probably have to hold our next interview in a European city. As no one in this country has legal security, and plus people's lives will be in jeopardy. Because I really do not mean to insult this palace regime when I call them a mafia or a gangster. These are the best words to describe them. And even this is an inadequate description. We are talking about an organised crime group here. Anyone sitting in Recep Tayyip Erdoğan's seat, leading such a criminal organisation and committing every kind of crime we can imagine would do what he is doing now. This is what all dictatorial regimes do to survive. This is a system that is more oppressive, more tyrannical, more cruel, and that wants to silence and even kill everyone who is not one of them, who stay out of their criminal relations. This is how all dictators survive. But I think it will come to an end, so I am not hopeless. At least there are high hopes in this election. We will get rid of this tyrannical regime unless some mistakes are made in the last 40 days, 39 days. But it is not only about the change of government. We need to think hard about whether or not the change of government will lead to a transformation that will be truly democratic and legal for all citizens, all political movements, all the religious and non-religious people in Turkey. That is the position I will assume. This is what our friends in Turkey who are engaged in journalism and work with journalistic principles should do... And this is what the parties and their representatives who believe in democracy and legal norms,

regardless of their political worldviews, should do. Because Turkey needs normalisation.

If the outcome of the elections align with your expectations, how can the consequences of the previous rights violations that spread over a long period of time be remedied? Do you expect a permanent recovery without a comprehensive restoration process? Where and how do you think we should start?

First of all, I don't think a restoration process is the way to go. Because what we call restoration means consolidating the old again. Turkey's pre-AKP past itself is problematic enough. Had it not been for all the evils of the extensive period of the Republican regime, we might not have met such a plague as the AKP at all. Here we need a real reconstruction, not a restoration. Regarding the examples you mentioned and referred to, yes, some reforms need to be made there. And I think this can be done very easily. And such a process of confrontation and reckoning is a minimum requirement for every person, without exception, who has been wronged, who has become a victim of unlawfulness, whose freedom has been usurped, or who has been sent into exile. You cannot instill a sense of belief in Turkey's transformation unless you do so. I believe it can be done. Even if it is not done, but if we can enter the parliament or our friends who could do so without me, they'll be able to build a political line that could do something about it. I am sure of it. That's what we have been talking about. ■

Ahmet Şık

Ahmet Şık was born in Adana on 9 May 1970. He graduated from Istanbul University, Faculty of Communication, Department of Journalism. He started his career as a trainee reporter at Milliyet newspaper when he was in his first year at university. Between 1991 and 2007, he worked as a reporter for Cumhuriyet, Evrensel and Yeni Yüzyıl newspapers and Nokta magazine, and as a photojournalist for Reuters news agency.

In 2005, while working at Radikal newspaper, he was dismissed from his job because he filed a lawsuit against Doğan Group. Afterwards, he was dismissed from Aktüel magazine, where he had started working, on the grounds of the lawsuit he had filed.

In the 2018 general elections, he ran as a parliamentary candidate from HDP and was elected as Istanbul MP and entered the parliament. On 4 May 2020, he announced his resignation from his party. On 19 April 2021, he joined the Workers' Party of Turkey.