

ACADEMICS FOR HUMAN RIGHTS

“SUPPORTING ACADEMICS AS A HUMAN RIGHTS ACTOR IN
A CHALLENGING CONTEXT”

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TURKEY’S ACADEMY
UNDER THE STATE OF EMERGENCY



Turkey's Academy under the State of Emergency

Universities and academics in Turkey have been facing severe political pressure for more than two years now, giving way to a variety of human rights violations against members of the academic community, including imprisonment, prosecutions, undue treatment, dismissals and travel bans. The Human Rights Foundation of Turkey's (HRFT) EC-funded Project, "Supporting academics as a human rights actor in a challenging context", aims to support and empower academics, who have been facing political, judicial and administrative pressures due to their work and statements as human rights defenders¹.

The Project's newsletter "Academics for Human Rights" aims to provide updated information on human rights violations against academics in Turkey and disseminate project outcomes, raising awareness on both national and international scales to help strengthen solidarity for taking an effective stance against human rights violations in Turkey's academia.

The first issue of Academics for Human Rights published in April 2018 focused particularly on the "Peace Petition Affair", the threats to Turkey's Academics for Peace and the resulting human rights violations. Yet, human rights violations have not only affected the Academics for Peace, but also a high number of other academics, particularly in the context of the on-going state of emergency. The current issue of Academics for Human Rights brings Turkey's Academy under these extreme conditions in light, for highlighting the pressed need for increased public awareness and providing HRFT and its partners with a foundation from which to evaluate the destruction in Turkey's academia and take effective stance against it.

¹ European Commission, European Instrument for Democracy and Human Rights (EIDHR) Country Based Support Scheme (CBSS) Turkey Programme, 2017-2019, Reference: EuropeAid/154567/DD/ACT/TRP. More information on the Project is available at: <http://www.tihvakademi.org>.

1. Turkey's State of Emergency Regime

As mentioned in the first issue of *Academics for Human Rights*, the Peace Declaration affair has marked the beginning of a new era of oppression in the Turkish academia. Yet, the oppression on Turkey's academics has evolved into a new phase with the state of emergency enforced following the coup attempt in July 2016.

The prolonged state of emergency has created a governmental regime run by emergency decrees that are outside of judiciary oversight. The emergency decrees had a twofold function: first, they introduced permanent changes to various laws and institutional arrangements, many of which were not directly or even indirectly related to the official justification of the state of emergency; secondly, they were used to impose various harsh sanctions on public sector employees, institutions, and NGOs, as a result of which various institutions have been closed and over 100 000 public sector employees have been ordered dismissed based on allegations that affiliated them with terrorist organisations². Decrees provided that the dismissed public sector employees are banned for life from taking civil service position and are to have their passports invalidated indefinitely.

The prolonged state of emergency was brought to terms on 19 July 2018. However, the law passed on 25 July 2018 made exceptional rules passed during the state of emergency prolong for at least three more years, assuring that the logic and procedures of the state of emergency become the norm³ and posing huge risks specifically in terms of further limitations and blockages to, and bans on human rights.

The institutional academic environment in Turkey has undergone a severe destruction under these extreme conditions. In what follows we shall bring this destruction in light. To do so, we shall first provide an account of the measures imposed on Turkey's academics and the resulting purge in Turkey's academia. We shall then investigate the regulatory changes concerning higher education. We shall finally evaluate their implications for university autonomy and academic freedom as well as for its complex individual and societal traumatic impacts.

2. Academic Purge under the State of Emergency

As part of the prolonged state of emergency, 37 emergency decrees have been enacted (no.s 667-703) from 1 September 2016 to 9 July 2018, as a result of which 15 universities

² For a full list of regulatory changes concerning higher education see İsmet Akça vd., When State of Emergency Becomes the Norm: The Impact of Executive Decrees on Turkish Legislation, https://tr.boell.org/sites/default/files/ohal_rapor_web.pdf (accessed: 7 June 2018). For a full account of dismissals by institutions see İHOP, *21 Temmuz 2016-20 Mart 2018 Olağanüstü Hal Uygulamaları: Güncellenmiş Durum Raporu*, http://www.ihop.org.tr/wp-content/uploads/2018/04/Olağanüstü-Hal_17042018.pdf (accessed: 8 July 2018).

³ İsmet Akça vd., When State of Emergency Becomes the Norm: The Impact of Executive Decrees on Turkish Legislation. https://tr.boell.org/sites/default/files/ohal_rapor_web.pdf (accessed: 7 June 2018).

were closed down, 300 graduate students who were studying abroad were expelled, 1427 administrative personnel and 6081 academics were dismissed from their jobs without explanation or due process of law⁴.

2.1. Dismissals by Emergency Decrees

As Figure 1 shows, an unprecedentedly high number of academics have been dismissed from public universities by emergency decrees, which has had dramatic impacts on the academic environment as well as the quality of academic work in general, and on social sciences and humanities and applied sciences in particular. Of the 6081 academics who were ordered dismissed, 2493 were from social sciences and humanities, while 1886 were from health sciences and 828 from engineering. The dismissal of an unprecedentedly high number of academics from health-related fields severely affected the quality of public health services provided by universities. The number of dismissed academics from basic sciences, and sports and arts was 342 and 81, respectively.

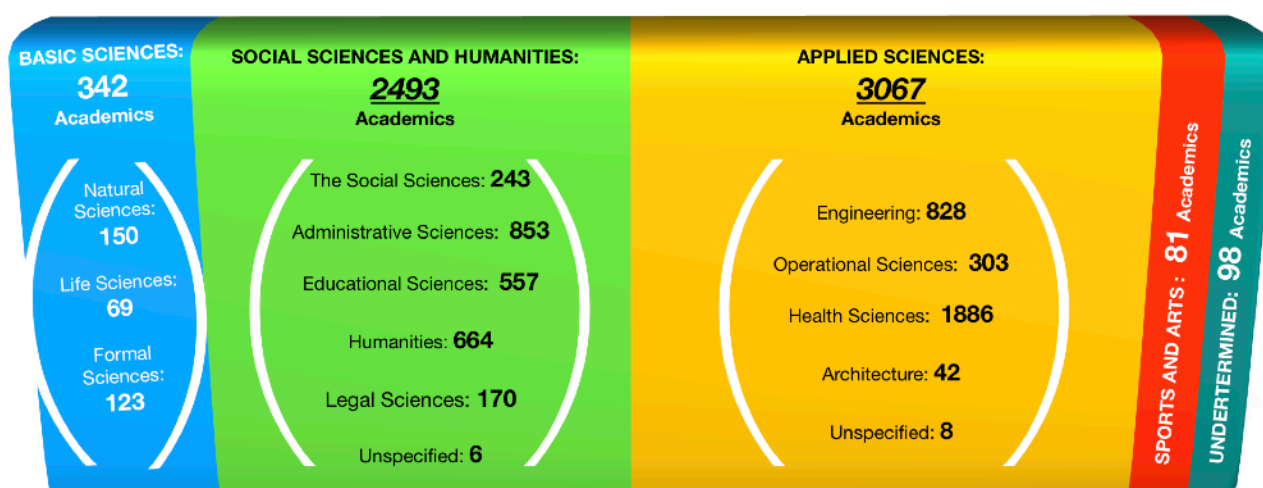


Figure 1: Number of dismissed academics by academic fields

As Figure 2 shows, 29.4% of the dismissed academics were professors and associate professors, while 27.6% were assistant professors and 10.9% were instructors. The share of lecturers and specialists was 3.2% and 1.4%, respectively. A significant share (27.5%) of the academics ordered dismissed was research assistants who had been enrolled in graduate programs at the same time.

407 of the academics ordered dismissed from their positions at universities were signatories of the Peace Petition. 68 (16.7%) of these academics were professors and 44 (10.8%) associate professors, while 102 (25.1%) were assistant professors, 18 (4.4%) instructors, 7

⁴ European Commission for Democracy through Law (Venice Commission). Turkey— opinion on emergency decree laws nos. 667–676 adopted following the failed coup of 15 July 2016, adopted by the Venice Commission at its 109th Plenary Session, 9-10 December 2016. [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)037-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)037-e) (accessed on 25 February 2018).

(1.7%) lecturers and 5 (1.2%) were specialists. Importantly, 163 (40%) of the Academics for Peace dismissed by emergency decrees under the state of emergency were research assistants.

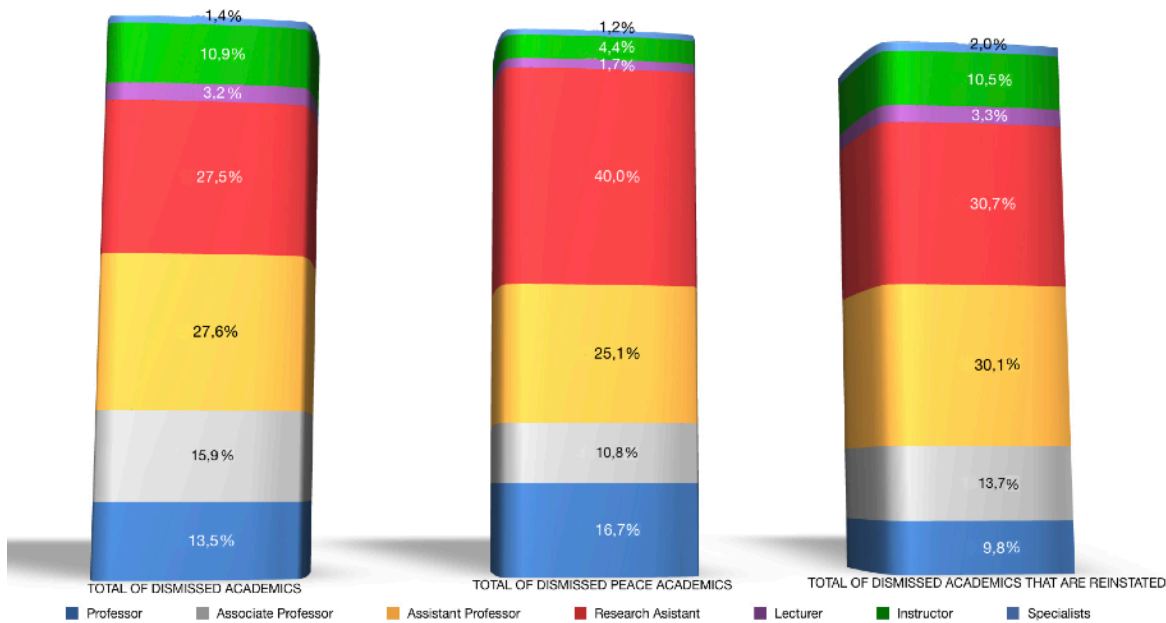


Figure 2: Distribution of dismissed academics by academic titles

Emergency decrees also involved orders to reverse expulsions and dismissals. Yet, relatively few number of students and academics have benefited from these orders. Only 32 students, 31 administrative personnel and 153 academics named in emergency decree lists have had their student status or academic position reinstated by emergency decrees. Of the 153 academics whose academic position was reinstated, 15 were professors, 21 were associate professors and 46 were assistant professors. The number of instructors, lecturers and specialists was 16, 5 and 3 respectively, while 47 research assistants have seen their positions reinstated. However, the procedural process and the evidentiary basis of these reversals remain unclear.

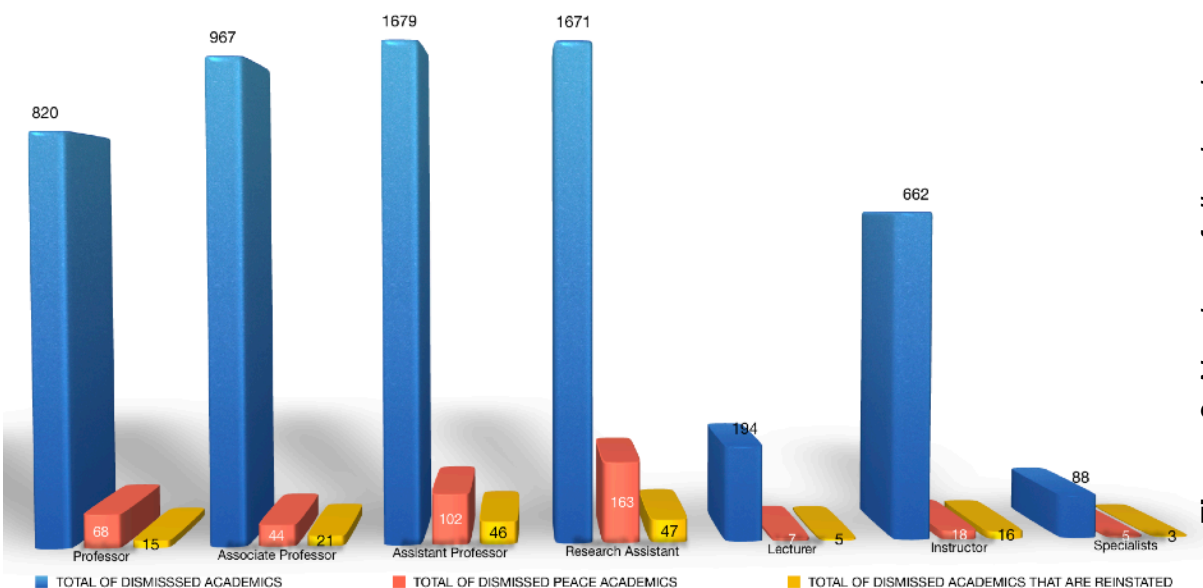


Figure 3: Number of dismissed academics by academic titles

The geographical distribution of dismissals across Turkey indicates the pervasiveness of academic purge and the resulting human rights violations all over the country. An outstanding number of academics were dismissed not only from universities in Istanbul (522) and Ankara (498), but also from other universities across the country like Isparta (271), Çanakkale (205), Denizli (181), Diyarbakır (171), İzmir (171), Kütahya (168), Antalya (159), Kayseri (158), Erzurum (155), Manisa (139), Gaziantep (128), Maraş (126) and Samsun (126). A detailed account of the dismissals may be followed at <http://www.tihvakademi.org/english-2/>

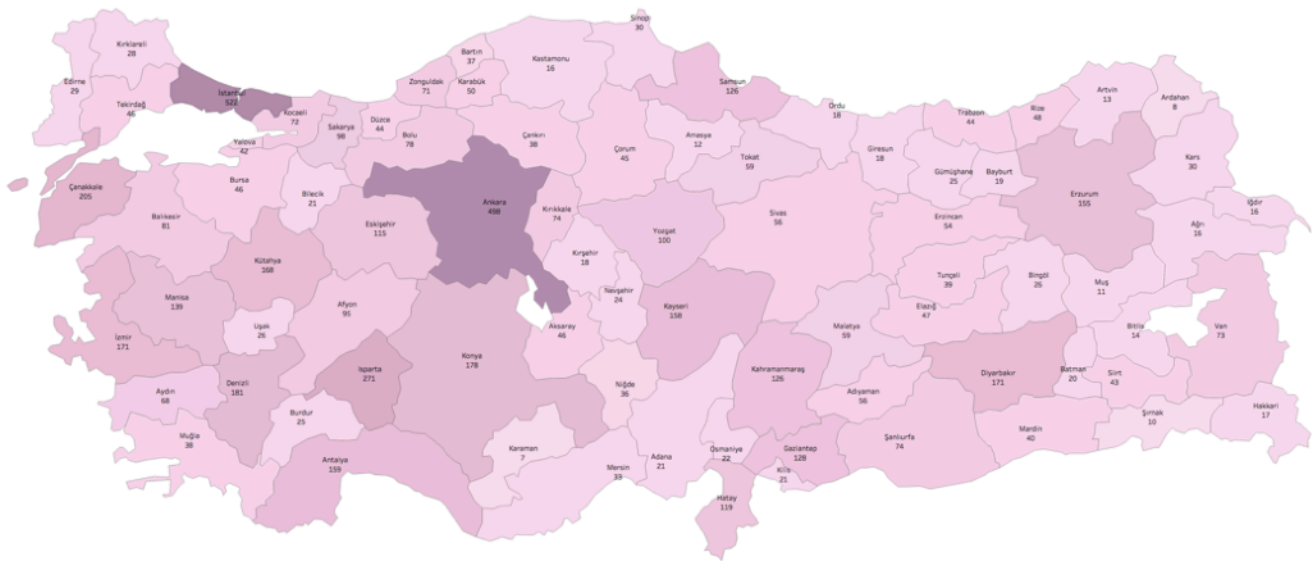


Figure 4: Distribution of dismissed academics by provinces

2.2. Closure of universities

An additional 3041 academics⁵ have been unemployed due to the closing of 15 universities by order of the Emergency Decree no. 667 enacted on 23 July 2016⁶. Students of these universities were ordered to continue their education in other universities. Like academics signatory of the Peace Petition, those from closed universities were labelled as “supporters of terrorism” by the public authorities, triggering a serious discrimination process against them and preventing them from being considered as candidates for employment.

⁵ İnsan Hakları Ortak Platformu, 17 Nisan 2018, OHAL Uygulamaları Güncellenmiş Durum Raporu – 2018, p. 44.

⁶ The universities closed are: Altın Koza Üniversitesi (Ankara), Bursa Orhangazi Üniversitesi (Bursa), Canik Başarı Üniversitesi (Samsun), Fatih Üniversitesi (İstanbul), Gediz Üniversitesi (İzmir), İzmir Üniversitesi (İzmir), Kanuni Üniversitesi (Adana), Melikşah Üniversitesi (Kayseri), Mevlana Üniversitesi (Konya), Murat Hüdavendigâr Üniversitesi (İstanbul), Selahaddin Eyyubi Üniversitesi (Diyarbakır), Süleyman Şah Üniversitesi (İstanbul), Şifa Üniversitesi (İzmir), Turgut Özal Üniversitesi (Ankara), Zirve Üniversitesi (Gaziantep).

3. Re-regulating Higher Education under the State of Emergency

Alongside the massive purge in Turkey's academia, expulsion of graduate students studying abroad and the closure of several universities, with the changes in the regulations concerning higher education institutions, the institutional academic environment has also undergone a severe destruction during the prolonged state of emergency. In what follows we provide an account of the regulations that would count important in terms of their destructive implications for "university autonomy" and "academic freedom".

Appointment of University Rectors (Emergency Decree/676 Article 85)

Emergency Decree 676 issued in October 2016 included an order to change the process for state university rector appointments defined in the Higher Education Law (no.2547). The decree eliminated faculty nominations and gave the Higher Education Council the authority to nominate three candidates of its own choosing for the President to consider. The procedural amendment further provides that, should the president not appoint the candidates within 30 days and the Higher Education Council not provide suitable replacements within 2 weeks, the president may directly appoint a rector of his choosing. The decree also included an order that gave the authority to approve the candidates nominated by the boards of trustees of private foundation universities for the President to consider.

Higher Education Council Board of Inspection (Emergency Decree/676 Article 84)

The same emergency decree included an order to change the structure of Higher Education Council Board of Inspection. The decree provides that the number of board members be increased from 10 to 20 and that inspectors and auditors who worked at the ministries for at least 10 years may be appointed as board members.

Research Assistants under the Lecturer Training Program (Emergency Decree/674 Article 49)

It also included an order to change the employment status of research assistants under the Lecturer Training Program (ÖYP) from 33(a) to the more precarious 50(d). The law ordered research assistants enrolled at host universities in Turkey or abroad to return to the universities they were employed at the behest of the university administration. The law further provides that, should the research assistant not return within 15 days of the date of effect of this law, their contracts shall be revoked.

Degrees taken from overseas Higher Education Institutions (Emergency Decree/690 Article 65)

Emergency Decree 690 issued in April 2017 included an order, revoking the diplomas or degrees obtained from overseas higher education institutions, institutes and centres which are considered by the Ministry of National Education to have ties with terrorist organisations.

Associate Professorship Applications (Emergency Decree/683 Article 4)

Emergency Decree 683 issued in January 2017 suspended the applications of associate professor candidates who are undergoing legal investigation or prosecution. The decree further provides that should the applicant be dismissed or convicted his/her application shall be cancelled.

Remitter of Academic Positions (Emergency Decree/694 Article 198)

Emergency decree 694 issued in August 2017 provided that should the State of Emergency Inquiry Commission make a decision that a dismissed scholar has his/her academic position reinstated, he/she shall not have a position in the university he/she had been dismissed. The decree further provides that he/she shall be appointed in universities other than those in Ankara, Istanbul and Izmir and preferably in those founded after 2006.

The Law no. 6764 Passed During the State of Emergency

An additional law (no. 6764) has been passed during the state of emergency, which made additions to the Law on Higher Education (no.2547), ordering changes to the disciplinary procedures, and eroding university autonomy and academic freedom.

The law provides that, in addition to the disciplinary codes specified in the Law on Higher Education (no.2547), academics shall also be subject to all disciplinary regulations enlisted in the Public Servants Law (no. 657), the ambiguous and open-ended nature of which serves to apply pressure on academics and increases the risk of arbitrary investigations against them.

The law provides that "acts that have the characteristic of terrorism" require dismissal from public service, without neither clarifying what counts as "terrorism" nor referring to the Criminal Code and the Anti-terror Law, thereby leaving it open to abusive interpretation.

Finally, in addition to the regular disciplinary authorities granted to Deans and Rectors within the university, the law provides the President of the Higher Education Council with the extra authority to open and conduct direct disciplinary investigation concerning any academic staff at any university.

4. Evaluation

4.1. Destruction of the Institutional Academic Environment in Turkey

With the regulatory changes concerning higher education institutions, the institutional academic environment has undergone a severe destruction during the state of emergency. Emergency decrees have further limited the autonomy of universities, tightened the state control on higher education institutions, and sharply restricted academic rights and freedoms.

The abolishment of university rector elections have several detrimental affects on the autonomy of universities.

First of all, binding various tiers of the university administration as well as disciplinary investigations to a central authority have inherently made universities open to the political agenda of the central authority. This carries the risk that rectors to be appointed by the central authority would be those who would act in accordance with its political agenda and that those who would not do so would easily be dismissed.

Secondly, the elimination of faculty nominations for university rector appointments will inevitably change the dynamics of accountability. Rectors will be accountable exclusively to the Higher Education Council and the President instead of the faculty, which is likely to further erode the already diminished capacity of universities to function as autonomous legal entities.

Thirdly, that academics are not viewed and treated as members of an autonomous scientific institution would have long term consequences, especially with regards to the integrity of scholarship as an activity in search of "truth". The attempt to administer universities simply as another office of the state is likely to substitute "loyalty to truth" with "loyalty to the state". Disciplinary regulations are telling in this respect. As rightly stated in the 2017 report of the Academy of Science⁷, "Since Article 1 of the [Public Servants Law (no. 657)] clearly stipulates that university employees are subject to their special law, it is difficult to understand why a reference has been made to the Law no. 657 as regards the list of disciplinary offenses. The job descriptions of faculty members and civil servants are not the same, and the expectations from them are different. Faculty members are expected to produce scientific studies in their areas without any pressure or limitation. Faculty members do not perform state services in a hierarchical, top-down manner."

Interestingly and importantly, the reasoning of the regulations made during the prolonged state of emergency to institutionalise a hierarchical/top-down relationship as the foundational basis of the university creates anomalies of its own. Granting the President of the Council of

⁷ The Academy of Science, Report on Academic Freedoms 2016-2017, pp. 9; <https://en.bilimakademisi.org/wp-content/uploads/2017/08/20170725-science-academy-report-on-academic-freedoms-2016-2017.pdf> (accessed: 8 June 2018)

Higher Education with an extra-ordinary authority to conduct disciplinary investigations concerning any faculty at any university is particularly noteworthy in this respect. It creates an “exceptional” channel that would by-pass, when needed, the ordinary functioning of the disciplinary procedures within a given university thereby denying academics the kind of “procedural predictability” that applies even to regular civil servants. Viewed in this light, the expansion of the Higher Education Council Board of Inspection implies a “capacity increase” for more effective control on universities and academics.

Yet, delegation of the authority of universities to the President of the Higher Education Council is not the only way of doing so. Regulations concerning research assistants under the lecturer training program allow their dismissal at the behest of the university administrations; the suspension of associate professorship applications aims to prevent the promotions of “suspect” academics without due process of law; and regulations concerning the remitter of academic positions allow tightening of oversight “suspected” academics for good.

Obviously, the institutional academic environment in Turkey has always been subject to state intervention and pressures, the degree of which differed parallel to the political atmosphere in the country. For decades, efforts to conduct academic work within the institutional academic setting have been restricted by several formal and informal constraints. Yet, violations of academic rights and freedoms in Turkey’s academia in the context of growing authoritarianism have been to the extent that it has given way to the devastation of the institutional academic environment in Turkey. Therefore, within the scope of the Project, HRFT aims to monitor and document the state of academic freedom in the historical institutional environment of Turkish universities. This documentation activity aims at placing the recent developments in a long-term historical context; assessing the current state of Turkey’s academia and the destruction it has undergone in the recent period, with a particular focus on the academic freedom; and documenting instances of violations of the academic freedom as comprehensively as possible. This analysis is expected to lead to concrete suggestions for the improvement of conditions of academic work.

4.2. Traumatic Effects of State of Emergency

Importantly, the devastation of the academic sphere in Turkey in the recent period has affected the lives of several groups (including undergraduate and graduate students, dismissed academics, academics currently at their posts, researchers, etc.) and had led to traumatic experiences. Alongside the psychological effects of being subjected to pressures, threats, judicial and administrative harassments, and criminalization, academics face several layers of isolation and a deep feeling of uncertainty about their future. Besides, the right to education of many students were violated in this process. Many research students at the stage of writing their dissertation had to end their relations with their doctoral supervisors, who were

dismissed. The students at the shutdown universities were transferred to other universities without their consent. Furthermore, many academics, who are currently at their posts, struggle with the feeling of guilt and insecurity. All of these imply that emergency decrees having force of law has launched a new era of systematic and repeated human rights violations. These practices under the emergency rule are sui generis in a number of ways. For the first time in the history of modern Turkey, "civil death" is being so widely utilized by the State as a tool of penalization. Besides, these practices resulted from governmental decisions immune from judicial appeal processes, implemented without fair trial. On the other hand, the labelling of the concerned individuals as "supporters of terrorism" by the public authorities' discourses triggered a serious social discrimination process not only against them, but also against their families. Finally, the social groups subjected to rights violations include circles that have not been target of systematic and direct state violence to such an extent, before. Briefly, together with the uniqueness of the historical, political and social context, the ongoing human rights violations under emergency rule show a new pattern, which in several respects, distinguishes from the ones observed in previous periods, requiring human rights organisations, including the HRFT, respond with new strategies.

Documenting, monitoring and reporting violations faced by academics, in the context of the on-going state of emergency is highly crucial in order to reveal the dimensions of the authoritarian practices. Within the scope of the Project, HRFT aims to systematically study and document the human rights violations by collecting and analysing qualitative and quantitative data on affected academics from all over the country.

Human rights violations against academics have reached an unprecedented scale in Turkey. In the face of the recent developments and growing authoritarianism both in Turkey and all around the world, there is shared consideration among academics, civil society organisations, professionals, and activists that there is an urgent need to develop novel strategies and forms of action to effectively and collaboratively carry out the struggle for human rights.

Formed as part of HRFT's "Supporting Academics as a Human Rights Actor in a Challenging Context" Project, the Academics for Human Rights Network aims to establish and strengthen a formal civil society network on both national and international scales to effectively carry out human rights advocacy in a challenging context.

Academics, human rights and civil society organisations, professionals, and activists, and other institutions and individuals are invited to be part of the Academics for Human Rights Network. By joining the network, you or your institution will receive our newsletter that will inform you or your institution of the recent developments related to Turkey's academics and the violation of multiple rights. You will also be communicated about the ways in which we might collaborate with you or your institution to support and empower academics as human rights actors in a challenging context. To express your interest in joining the network, please send an email to: tihvakademi@gmail.com

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