



The Science Academy Report on ACADEMIC FREEDOMS 2018-2019

INTRODUCTION

The fifth report of the Science Academy of Turkey, 'Academic Freedoms,' has been written at a time in which scientific freedom is under threat in many countries throughout the world, including Turkey. Although, as discussed below, the latest decisions by the Constitutional Court of Turkey point to a more positive trend, the problems related to academic freedoms unfortunately persist. This report aims to review the developments of the past year within the framework of the principles on academic freedom, the laws in Turkey and international conventions concerned in order to prevent these events from disappearing from our collective memory.

In response to a series of adverse events in Turkey and throughout the world, the European Parliament issued a recommendation to the EU Council, the EU Commission and the High Commissioner of the Union for Foreign Affairs and Security,¹ in which the necessity of defending academic freedoms in the foreign affairs of the EU was emphasized. This is certainly an important step. We think it helpful to quote some of the statements of this recommendation as they are of great importance with regard to the situation of higher education institutions and academics in Turkey:

'[...] whereas this definition [of academic freedom] must be grounded in core democratic values, including equitable access and anti-discrimination principles, accountability, critical and independent thinking, institutional autonomy and social responsibility; whereas there can be no democracy without the academic freedom that enables informed debate; [...]

H. whereas attacks on academic freedom undermine research, study, teaching, public discourse and the right to education, eroding academic quality and social, political, economic and cultural development; whereas answers to issues in society should be found through reason, evidence and persuasion; [...]

¹ European Parliament recommendation of 29 November 2018 to the Council, the Commission and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy on Defence of academic freedom in the EU's external action (http://www.europarl.europa.eu/doceo/document/TA-8-2018-0483_EN.pdf).

K. whereas the academic community and education institutions are increasingly vulnerable to interference, pressure or repression from states, the business sector or other non-state actors; whereas every year, hundreds of attacks on universities, higher education institutions and their members are reported around the world, including killings, violence and disappearances, wrongful imprisonment/detention, wrongful prosecution, loss of position, wrongful dismissal/expulsion from study, restrictions on travel or movement and other extreme or systemic threats; whereas violations of academic freedoms are also occurring within Member States of the EU and its closest partners; [...]

P. whereas violations of academic freedom are rarely addressed within a human rights framework, reflecting, in part, a lack of familiarity with issues of academic freedom among human rights advocates and, in part, the fact that claims often refer to other rights being violated, such as freedom of expression or opinion; whereas, as a result, standards in this area are underdeveloped and violations of academic freedom underreported;

Q. whereas there is a general need both to raise awareness of the importance of academic freedom as a tool to promote democracy, respect for the rule of law and accountability, and to create opportunities to improve the capacity for its advocacy and defence;

R. whereas it is important to identify attacks on academic freedom as part of a global phenomenon, and to encourage the recognition of academics and students being targeted not only as individuals whose rights are being violated, but also as human rights defenders who are being attacked; whereas a robust response is needed at international and national level, both from within higher education itself and from civil society and the public at large; [...]

Following the various evaluations partially quoted above, the European Parliament recommends EU organs to apply the following recommendations:

'[...] (a) explicitly recognise the importance of academic freedom in public statements, policies and actions relating to the EU's external action, including recognition of the principles that ideas are not crimes and that critical discourse is not disloyalty, but rather essential parts of a democratic society and its development, that the autonomy of education institutions should be protected at all times, and that academic freedom plays an essential role in the educational advancement and the development of humankind and modern society;

(b) recognise that claims to academic freedom fall under existing human rights law, derived from the right to education and the rights to freedom of expression and of opinion; recall that academic freedom extends to the freedom of academics to disseminate information and conduct research and distribute knowledge and truth without restriction, the freedom to express their views and opinions –even if controversial or unpopular –in the areas of their research and professional expertise, which may include an examination of the functioning of public institutions in a given political system and criticism thereof;'

In the next part of this text, the EU institutions are presented with many other measures to ensure that academic freedoms are viewed as a part of human rights and protected accordingly. As the Science Academy, we support all of these suggestions and note that, sadly, examples of violation of academic freedom, given for the world in general, have

been seen once again in our country this year. These violations as listed in heading [K] above: ‘violence and disappearances, wrongful imprisonment/detention, wrongful prosecution, loss of position, wrongful dismissal/expulsion from study, restrictions on travel or movement and other extreme or systemic threats’ have also taken place in Turkey. We will discuss these and other issues concerning academic freedoms in this report.

A. The Ongoing Trials of Academics for Peace

A foremost indicator of the Turkish authorities’ relentless attitude against criticism has been the proceedings against the ‘Academics for Peace’ that have been ongoing since 2016.² This attitude conflicts with the measures to protect the freedom of speech guaranteed by the Turkish Constitution and the international agreements on human rights that Turkey is a party to. The recent results of the trials against academics only deepen our worries and complicate the present problems, constituting a serious regression in both democratic and academic development. As reflected in the media, each of the individual signees involved in the act of signing the declaration entitled ‘We Will Not Be A Party to This Crime’ has been taken before the court and incurred sentences of imprisonment. 146 academics were sentenced to 15 months of imprisonment, 10 academics to 18 months, 18 academics to 22 months, five academics to 25 months, 17 academics to 27 months, seven academics to 30 months, and one academic to 36 months of imprisonment. Some of these cases have been brought to the court of appeals.³

The 3rd Penal Chamber of the Istanbul Regional Court of Justice is the first court of appeals to review a case concerning Academics for Peace, and it upheld the decision⁴ of the local court to sentence Professor Füsün Üstel to 15 months of imprisonment. The Academics for Peace trials, including that of Prof. Üstel, were carried out under the Anti-Terror Law, while media news cast doubts on whether, in some cases, the defendants fully enjoyed their rights of defence. The dissenters argue that in many of these cases the trials should have been based on other charges. In one case the prosecutor asked for the defendant’s acquittal. All these facts cast heavy doubts on whether the conditions for an unbiased judgment had been met.

The Academics for Peace trials are unfortunately not the only instances revealing oppression on scholars. Assoc. Prof. Dr. Ahmet Tuna Altinel of Lyon 1 University, a

² See, for example, <http://www.tihvakademi.org/wp-content/uploads/2019/03/Barisicinakademisyenlervakasi.pdf>

³ For current data [please click](#).

⁴ ‘The defendant is found guilty under Article 7/2 of the Anti-Terror Law and is sentenced to 1 year in prison in accordance with the first clause of the aforementioned law, taking into consideration the way of offending, the properties of the act and the weight and intensity of the malice; the sentence is increased by half in accordance with this clause of the law as the offence was carried out through press and publications; decreased by one sixth due to her behaviour during the trial, and hence sentenced to 1 year 3 months of imprisonment; taking into consideration the defendant’s impenitence, the court does not have the impression that she will avoid re-offending and has thus decided that there are no grounds for annulling the sentence under Article 51 of the Turkish Penal Code.’ (The link for the source news in Turkish is [here](#), the [English translation](#) by the same source does not quote the court decision.)

Turkish national, was detained in Turkey for 81 days because of a translation he had made at a conference in France. Bülent Şık, then working on a project carried out by the Ministry of Health aimed at finding the level of carcinogenic chemicals in areas with a high prevalence of cancer, shared the project findings with the public, only to be tried for ‘disclosure of prohibited secret information’ (Penal Code Art. 258), ‘providing prohibited secret information’ (Penal Code Art. 334) and ‘disclosing secrets related to his duties’ (Penal Code Art. 336). Such cases illustrate the persistent pressure on freedom of speech in Turkey.

In the aforementioned trials, the Constitutional Court and the European Court of Human Rights (ECtHR) underscored the utmost importance of freedom of speech in a democratic society –which we emphasized in our previous statements. Unfortunately, this was not taken into consideration in the trials mentioned above. It is inevitable that such proceedings, taking the form of collective trial and punishment, will in general have negative consequences on freedom of speech, academic research and the expression of views on sensitive social issues. In its rulings on cases of academics, the ECtHR emphasizes that such a ‘chilling effect’ should be avoided,⁵ yet the local courts tend to disregard this ruling. It should be kept in mind that the Constitutional Court has approached this effect in relation to individuals taking part in the public debate and found it unacceptable as regards freedom of expression.⁶ It is essential that personal or collective criticism towards public policies or authorities should not be identified as political violence or terrorism, or sanctioned, even if such criticisms are severe and unwelcome. It is true that terrorist organizations use very negative language against public authorities. Nevertheless, logically speaking, this does not mean that all who criticise public authorities severely are terrorists.

Indeed, the Constitutional Court, taking all these points into consideration, gave a very important and exemplary ruling on 30 July 2019, stating that freedom of expression has been violated in the cases of nine academics who have been tried at the Academics for Peace trials and applied individually to the Constitutional Court.⁷ We fully agree with the Court’s ruling about integral rights arising from the freedom of expression, especially those concerning the expressions in scientific matters:

‘99. Freedom of expression means that a person is not reprimanded for her/his thoughts and opinions, and that she/he can express, explain, defend, transmit and publish these freely in various ways. It is a requirement of a pluralist democratic system that, subject to the right to appeal, people may express their opinions, including those opposing the views of the majority, by every means available, in order to gain support for their views, and that their efforts to realise their ideas and persuade others to accept them should be tolerated.

⁵ See, for example, Akçam v. Turkey case, App. No. 27520/07, 25 January 2012.

⁶ CC Decisions on Tansel Çölaşan Case, App. No 2014/6128, 7/7/2015, N. 70 and İlker Erdoğan Case, App. No: 2013/316, 20/4/2016, N. 56.

⁷ Application of Zübeyde Füsün Üstel and Others, App. No 2018/1763, 30/7/2019.

100. The statement that any expression of thought is terrorist propaganda as it is an effort to create a point of view cannot be accepted as a lawful assessment. The resolution declares that some practices of security forces fighting against terrorism are unacceptable and guilt is directed towards public institutions. The Constitutional Court, however, has in many of its verdicts referred to the opinions that form the base of an ECHR decision (*Handyside v. United Kingdom*, App. No: 5493/72, 7/12/1976, § 49) stating that freedom of speech covers not only the information and ideas accepted as being in agreement with one's own, or seen as innocuous or unimportant, but also information and opinions that are against some sections of the state or the society, and includes those that may be found shocking or disturbing. The Constitutional Court declares that the dissemination of such thoughts is among the requirements of plurality, tolerance and open-mindedness indispensable for a democratic society.

102. [...] The language of the declaration is indeed harsh, denunciatory, and disturbing for the public authorities. It should be repeated, however, that freedom of speech covers not only the information and ideas accepted as being in agreement with one's own, or seen as innocuous or unimportant, but also those that are hurtful, shocking or worrisome. It should be accepted that freedom of speech must be interpreted in a broader sense that makes way for a degree of exaggeration and even provocation.

103. It is obvious that the strong language used in expressing the concepts mentioned is a part of the authors' aims to bring up polemics and create strong reactions. The use of heated language in expressing a criticism also aims at debilitating the addressee. Indeed, the defendants stated that they were trying to make their voices heard, wanting to attract the authorities' attention in order to put an end to the long-lasting cycle of violence, and it was for this reason they chose to use shocking and disturbing expressions. [...]

110. The petition here, that is, the document that targets organs exercising state power, contains the signatures of at least 2,200 academicians. It must be accepted that, to a degree, the declarations made here also relate to academic freedoms. There is no doubt that all sorts of developments related to state and social matters are of interest to the academicians, and sharing their views with the public falls under the scope of freedom of speech.

111. The aim of universities is to conduct scientific research, to contribute to social development through scientific research, and to produce a qualified workforce. Fulfilling this aim is not made possible solely by scientific research or promoting scientific thinking and progress. In addition to these, it is essential to support free expression of thought. Hence the view that academicians come under the strict protection of freedom of speech, even if their views do not relate to their own field of expertise or professional qualifications, or if their views are disputable or unpopular.

112. It certainly cannot be claimed that everything uttered by academicians is absolutely correct. Nevertheless, it is an agreed fact that different, alternative views provide an opportunity for everyone to consider things from a wider perspective. Therefore, for academics to oppose, like any other citizen, even the strongest views on the most critical and delicate political issues might prove to be more effective than any opinions others might have, and thus be of vital importance to their society and their country.

113. Regarding expression of thought on highly debated issues of great importance to the public, it should always be kept in mind that freedom of speech is vital for a democratic society and actually constitutes a fundamental value of democracy. Democracy is essentially based on the power to solve issues through open debate. With the exception of language provoking terrorism and violence, and the use of hate speech, all interventions on the right to enjoy free speech bring harm to democracy and endanger it.'

Following this clear decision by the Constitutional Court, we are pleased to observe that many local courts decided on the acquittal of some accused signees of the Academics for Peace. We hope that this trend continues in all cases concerning the Academics for Peace, and in all other cases related to freedom of speech scheduled for trial in the following months, thus putting an end to the tendency during the last few years to set limits on freedom of speech.

B. Culture of Violence Within the Society and in the University

News on the incidence of persons entering universities with weapons and threats of violence is worrisome. The worst of such attacks were committed by a research assistant at Eskişehir Osmangazi University, under administrative investigation at the time, who murdered the Vice Dean of the Faculty of Education, the Secretary of the Faculty, an assistant professor and a research assistant in April 2018⁸. Furthermore, a student in Çankaya University Faculty of Law murdered a research assistant in her office after she caught him cheating in an exam.⁹

These events are directly related to the facts that, during the last few years, politicians have often questioned the importance of universities, science and scientists, and that a tendency towards violence is, in general, increasing within society, while the commitment to ethical values is being eroded. Media reports show that, for arbitrary reasons or political concerns, efficient measures are not being taken against these, saying that thoroughly investigations are not being carried out, which indicates that the intellectual character of universities is being weakened. In the dominant atmosphere, where the approach to solving issues through an exchange of ideas, debate and consensus is almost despised, it seems licit to resort to violence over the slightest disagreement.

It is all the more ironic that the murder at Çankaya University was committed at the Faculty of Law, where students at the very beginning of their education should learn to respect others' opinions and adopt a culture of reconciliation since they are expected to become the main defenders of ethics and law in their society. As stated above, the murder as the student of Faculty of Law cheated in an exam and then committed a hideous crime. The offender not only cheated, seeing it as his 'right' to arrive in this way at a point others have been toiling to reach, but also had no hesitation in ending someone's life because the

⁸ <https://m.bianet.org/bianet/insan-haklari/195904-osmangazi-saldirisinin-ardinda-ihbar-kulturu-ve-bireysel-silahlanma-var>

⁹ <https://bianet.org/english/women/204124-ceremony-held-for-academic-murdered-by-student>, retrieved October 2019

research assistant serving as a proctor of the exam did not permit him to get away with cheating as a consequence of doing very little work.

Even in the aftermath of these horrid murders, we do not observe the feeling of social condemnation or self-questioning necessary to create a feeling of remorse. Starting with the universities, degeneration, the destruction of the principle of merit, and -most importantly- the suspension of the rule of law are actually problems for many institutions in Turkey, resulting in a serious loss of awareness that laws are being broken.

C. Developments Related to Disciplinary Measures for University Academic Staff

In the Academic Freedoms Report 2016-17, the Science Academy published a detailed evaluation on the modification to Article 53 of Law 2547, the Law on Higher Education. Below is a summary of this evaluation:

‘Article 53 of the Law on Higher Education concerns disciplinary penalties and lists the misdemeanours which require warning, reprimand, forfeiture of payment, suspension of promotion, dismissal from academic profession or dismissal from public service. Immediately calling attention to these, the list of these misdemeanours is now defined in the law with the phrase “in addition to those acts listed in the Law no. 657”. This means that faculty members will be subject to the full punishment for ordinary administrative offenses. Now, in addition to these, other disciplinary measures have been specifically introduced for them. Since Article 1 of the Civil Servants Disciplinary Law clearly stipulates that university employees are subject to their own special laws, it is difficult to understand why a reference regarding disciplinary measures for offences committed by university staff is present in the Disciplinary Law for Civil Servants. The duties of faculty members and of civil servants do not overlap, and the expectations concerning these groups are also different. What is expected from faculty members is scientific production in their own areas with freedom from any pressure or limitations. Faculty members do not carry out services for the State in a hierarchical, top-down manner. [...] Ambiguous or open-ended disciplinary measures which exert pressure on faculty members have no place in a university system conforming to world standards.’¹⁰

Indeed, this regulation was annulled by the Constitutional Court as being unconstitutional (Official Gazette, 17 July 2019). The Constitutional Court provided the justification for this decision as follows:

‘27. Article 30 of the Constitution defines a university as an institution conducting scientific studies and teaching science, rendering it distinct from other public institutions through its scientific and administrative autonomy. It is understood that the article provides a more secure regime for university academic staff and personnel than that of other public servants in stating in Clause 7 that academic staff cannot be dismissed for any reason by any authority other than the Council of Higher Education and authorized bodies

¹⁰ [Science Academy Report on Academic Freedoms 2016-2017](#), pp. 8-9.

of the university; Clause 9 states that the duties, appointments, promotions and similar actions of academic staff are to be regulated by law.

28. Subject to appeal, the regulation also expresses in its justification that "...as the legislation related to academic staff, and the duties given to them require different qualifications than those of other civil servants, the disciplinary judgements on them should also take into consideration the different characteristics of this professional group..."

29. It is therefore obvious that the regulations related to academic staff should take into consideration the differences that stem from their specific position of scientific autonomy stated in Article 130 of the Constitution. [...]

40. This means that the legislator, when legislating the disciplinary rules for the personnel of higher education institutions, consisting of academic staff, administrators and others, does not recognise the distinction between these and civil servants that stems from the nature of their duties, as foreseen by the Constitution, subjecting the academic staff, administrators and other staff to the same rules as civil servants; and through the text relating to these measures incorporates all offences listed in Law No. 657 into the disciplinary actions concerning the academic staff. This does not agree with the assurances given to such persons in the Constitution and also contains ambiguities concerning the executives of these disciplinary rules and those subject to them. Therefore, it may be concluded that the regulations concerning such cases are in disagreement with Articles 2, 27, and 130 of the Constitution.'

In our report mentioned above we also criticised the suggestion that, through an amendment to Article 53/Ç of the Law No. 2547, the Chairperson of the Council of Higher Education, with the title of Disciplinary Executive-in- Chief is accorded the authority to begin investigations of charges of misdemeanour brought against academic staff that incur the penalties of pay cuts in one or more wages or salaries, or suspension of promotion, or dismissal from the academic profession or from public service:¹¹

'Needless to say, these regulations constitute extremely serious blows to university autonomy. These are also in direct conflict with the rules of academic freedom and professional ethics, stated in 1997 in UNESCO's Recommendation Concerning the Status of Higher-Education Teaching Personnel.¹² Turkey will suffer the result of these attempts to bind universities to a central authority and thus institute a civil servant mentality to dominate over academia, resulting in a decrease in original scientific production and a loss of reputation throughout the world.'

The Constitutional Court, in the same ruling, found this regulation unconstitutional and annulled it.

'69. It is at the legislator's discretion to delegate some of the duties and functions of YÖK [The Council of Higher Education] to the Chairperson of YÖK, who is at the same time an

¹¹ [Science Academy Report on Academic Freedoms 2016-2017](#), p. 10.

¹² http://portal.unesco.org/en/ev.php-URL_ID=13144&URL_DO=DO_TOPIC&URL_SECTION=201.html

authorised organ of YÖK. It is clear, however, in the justification of Article 130, where it states that, by will of the Constitutional legislator, after taking scientific autonomy into consideration, a legislative official is delegated to regulate issues relating to the state's authority to supervise and inspect universities, - this also covers YÖK's supervision, as a legal public entity, over issues regarding the regulation of universities.

70. The concept of scientific autonomy is seen in legal precedents and doctrine as the *sine-qua-non* for scientific work in a university environment, to be conducted in accordance with its aims. These legal precedents and doctrine show that university members have the right to teach, research and publish in accordance with scientific standards and ethical rules only, free of any pressure or instructions from persons or institutions under economic, political or other influence, and without feeling any obligation to draw conclusions congruent with dominant and socially acceptable ideas.

71. To realise conditions that comply with the definition of scientific freedom described above requires universities to be free in administrative decision-making related to their own ways of working. Indeed, Article 130 of the Constitution states in its justification that it is a requirement of scientific autonomy that academic and research staff are appointed, promoted or dismissed by the university's own executive body.

75. YÖK's founding purposes, as stated in the first clause of Article 131 of the Constitution, are that YÖK was founded as a regulative, directive and controlling organization to provide coordination within the higher education system. In this sense, it should be emphasized that, in line with scientific autonomy, the controlling authority expressed in the aforementioned article should be oriented towards planning and cooperation, and disallow the Council from forming a hierarchical relationship giving it superiority of control over the universities.

78. It is seen that this rule provides the Chairperson of YÖK with the authority to begin investigations related to the disciplinary offenses of academic staff –who do not have the administrative duty of representing the university as a legal entity, but only carry out academic activities- and this results in an increase in YÖK's authority to control by covering almost all the staff of higher education institutions, thus providing the Council with hierarchical power over the universities.

79. Should the academic staff of a scientifically-autonomous university become subject to disciplinary investigations by the YÖK Chairperson, who is outside the university's own mechanism and possesses a different legal personality, this would diminish the desire for the scientific autonomy of universities that is provided by the Constitution, harm the academic staff's ability to fulfil their duties and allow them no concerns other than scholarly issues.

80. Considering that the justification in Article 130 of the Constitution states that a requirement of scientific autonomy is that dismissals of academic staff be carried out by the universities' own bodies, it may be concluded that the regulation heretofore evaluated as investing the YÖK Chairperson with the authority to instigate investigations of academic staff, also has the capacity to weaken this scientific autonomy as YÖK's controlling authority would be dominant, thus placing it in conflict with Articles 130 and 131 of the Constitution.'

As the Science Academy, we are greatly elated by the important decision of the Constitutional Court relating to the essentials of scientific research and academic freedoms and underscoring constitutional guarantees in these areas. Following this decision, we hope that disciplinary rules for university academic staff as well as the position and role of the university in the twenty-first century will be regulated in line with the Constitution. The Science Academy is ready to provide every kind of support in this endeavour.

D. Yet Another Amendment to TÜBA's Law

In our Academic Freedoms Report of 2017-18, we included statements about the new regulations relating to the Scientific and Technological Research Council of Turkey (*Türkiye Bilimsel ve Teknolojik Araştırma Kurumu, TÜBİTAK*) and the Turkish Academy of Sciences (*Türkiye Bilimler Akademisi, TÜBA*) which had been brought under the authority of the Presidency under Presidential Decree no. 4.¹³ Within a year after these regulations were put in force, additional amendments as regards TÜBA followed.¹⁴ The prominent issues in this amendment are as listed below:

- ✓ In our 2017-18 report, we underscored the ambiguity concerning the election of TÜBA's president: 'For TÜBA, schedule II procedures are still in force, meaning that the President [of Turkey] does not directly appoint [TÜBA's] president but approves the presentation of a nominee. In accordance with Article 576 of the PD no. 4, the president of TÜBA "shall be appointed for three years from within the regular members". Considering that these two PDs are not only in conflict with one another but are also ambiguous, one might think that a nominee chosen by regular members would be appointed upon approval by the President. However, this is still unclear.'¹⁵
- ✓ With the new regulation, it is now clear that TÜBA's president will be appointed directly by the President (Schedule I procedure). This means that the wishes of TÜBA members have no effect in determining their own president.
- ✓ Another important change is that the budget proposal prepared by the Academic Council of TÜBA will from now on be prepared by the president of TÜBA and approved by the Academic Council, instead of by TÜBA's General Assembly. This change also downgrades the actions of TÜBA members and limits the authority of its General Assembly.

E. Women's Universities, Gender Stance Document and Sexual Violence

¹³ Official Gazette 15.07.2018, no. 30479.

¹⁴ Official Gazette 19.06.2019, no. 30806.

¹⁵ [Academic Freedoms Report 2017-2018](#), p. 13.

On gender equality, the debates in 2018-19 were dominated by the adoption of Japan's 'women's universities' model, the removal of the document "Stance on Gender Equality" from YÖK's website, and attitude of the universities and YÖK towards sexual offences committed by academics. All these were accompanied by a strong desire to undermine the achievements in the Turkish Law on Gender Equality as seen in the opposition to the Convention on the Elimination of All Forms of Discrimination Against Women [CEDAW], Istanbul Agreement on Preventing Violence Against Women and Domestic Violence and Law no. 6284, and the provisions for welfare allowances in Civil Law).

1. The Debate on Women's Universities

The women's university as a model has been criticised on the ground that it aims to establish universities based on sex discrimination, segregates women at university level, constitutes a denial of egalitarian and secular education, is without foundation because female students are already more successful than males in university entrance exams, promotes models based on gender roles instead of developing academic competence, all of which are against social development.

The women's universities, which are said to constitute 80 of about 800 universities in Japan, were created in the nineteenth century when women's access to higher education was limited. Today, this model represents a continuation of the gender stereotypes and has a low level of success in science education. This is emphasized by the fact that women's universities in Japan do not rank among the top 1000 universities in the world and most of them are not popular today. It is worth noting that while the US had nearly 230 women's colleges half a century ago, only 45 of these remain today.

Meanwhile, global data showing that the number of female students in the universities is close to or greater than the number of males constitutes the proof that the arguments for women's universities made during the years these were established are no longer valid. According to YÖK's statement on May 2018, 70,235 female and 87,763 male academicians work in universities in Turkey. When we look at the distribution of university students, we see there are 4,047,302 male and 3,513,069 female students.

We should state that Japan does not present a better level of gender equality than Turkey, nor is it a good example worldwide. According to the Gender Gap Index of the World Economic Forum, Japan has the lowest performance among G7 countries.¹⁶ Data for the 2018 Index ranks Japan in the 110th place among 149 countries, lower than India which is a low-income country and considered to be the most dangerous one for crimes against women. Turkey ranks in the 130th place according to the data for 2018.

In the 'education' factor which is one of the main constituents of the Gender Gap Index, Japan shows a superior performance ('no gaps') in literacy, primary and secondary

¹⁶ http://www3.weforum.org/docs/WEF_GGGR_2018.pdf

education, but is neither successful in women's higher education nor in the subsequent participation of women in the labour force. Gender pay gap still shows a strong pattern of discrimination despite the improvements made in recent years. Japan ranks 125th in the Gender Gap Index on political participation, below Turkey, the Philippines, Laos, Colombia and Jamaica. In the Asia-Pacific region, Japan is among the three worst countries in this regard, together with Korea and East Timor.

Japan also deserves attention for its scarcity of women academicians despite the country's high level of economic income. 2017 data shows Japan in the lowest rank among OECD countries: only 15.7 % of Japanese researchers are women. The ratio for Turkey in the same year is 37.3%. Despite the high ratio of female students in its high schools, Japan does not set Turkey a good example as is obvious from the low number of women students in universities, which decreases further in graduate studies.¹⁷ In 2018, it was found that women in Japan have been systematically, arbitrarily and openly given lower points in individual evaluations for entry to faculties of medicine, which proves that the country has deep-seated practices of gender-based discrimination in higher education.¹⁸

In contradiction with the situation in Japan, 54% of PhD holders in Turkey are women according to the European Union *She Figures 2018* report.¹⁹ Among the 44 countries included in the study, Turkey is among the only 6 countries that present a gender-balanced distribution of students. The *She Figures 2018* report also shows that in Turkey 44% of persons with a doctorate degree in areas such as communication technology and engineering are women, which demonstrates that Turkey is close to a balanced representation even in the fields that gender stereotypes supporting men are widespread. University entrance exams in Turkey are not open to a gender-based discrimination due to its centralized organisation based on gender impartiality.

As confirmed by the *She Figures 2018* data, Turkey's lowest performance in gender equality in higher education is in women's leadership. Only 8.5 % of the leading positions in higher education are held by women, which is way lower than the EU average of 21.7%. According to YÖK Chairman Prof. Dr. Yekta Saraç's statement on March 2019, of the 797 faculty deans in Turkey, 322 are women, and among the 201 university presidents only 17 of these are women. The Gender Equality in Education – Mapping and Monitoring Study (2018) conducted as part of the Gender Equality Monitoring Project shows that there are only 10 women presidents in the 65 private universities in Turkey.

¹⁷ See https://www.japantimes.co.jp/opinion/2019/01/11/commentary/japan-commentary/japan-underdeveloped-country-women/#.XT9biJMzb_Q

¹⁸ <https://www.theguardian.com/world/2019/jun/19/women-outperform-men-after-japan-medical-school-stops-rigging-exam-scores>

¹⁹ In addition to the 28 EU member states, the Report evaluates data from EFTA countries (Iceland, Norway and Switzerland) and candidate countries (Albania, Montenegro, Northern Macedonia, Serbia and Turkey). <https://publications.europa.eu/en/publication-detail/-/publication/9540ffa1-4478-11e9-a8ed-01aa75ed71a1/language-en>

This data shows that establishing women's universities in Turkey, based on an example that the world is gradually leaving behind, bears the risk of creating a tremendously negative impact on a system that is presently working rather well. Turkey has no problems with women students gaining entry to its universities. Women students also have a high level of representation in master and doctoral studies following undergraduate education. The issue is not about women's education but about their subsequent employment. *She Figures* data shows that women's unemployment rate following graduation is 9.4 % higher than that of men. 16.6 % of women cannot find jobs after completing their higher education. Data published by OECD in 2017 demonstrates that among all member states, Turkey, with only 33.6%, ranks lowest in the women's labour-force participation rate. A more serious issue is the fact that the rate in 1990 been 34.2%.²⁰ In 27 years, no progress has been made in women's employment; on the contrary, there is a degree of regress. It is obvious that establishing women's universities will not bring progress in this sense, quite the opposite. It is highly likely that this model would further marginalize women with the possible impact of pushing them out of the labour market.

2. YÖK's Gender Stance Document

A document prepared in 2015 by the Commission for Women's Studies and Issues in Academia and accepted by the Higher Education Council (YÖK) as a 'Stance Document' was removed from YÖK's website in February, 2019. The document set down the principles on many gender-related issues ranging from adding courses on gender equality to the university curricula to taking effective measures against sexual assaults and attacks, or founding research centres on this issue. It was thus the basic policy document for a gender mainstream strategy in institutions of higher education.

Upon the removal of the document from YÖK's website, YÖK Chairman Prof. Dr. Yekta Saraç stated that YÖK is working to remove the concept of 'gender equality' from the document, as the document does not comply with the present social values. This action and YÖK's explanation of the reasons for it were criticized heavily in public debates where the negative impact this would have on the courses, research and activities relating to gender equality was pointed out.

As this document removed by YÖK from its official website is a leading text regarding gender equality in higher education, we would like to include it here in full:

Document: Higher Education Institutions' Stance on Gender Equality

This document aims to provide a sensitive understanding of gender equality and equal social rights in universities and all other institutions within the structure of the Council of Higher Education, based on CEDAW (Convention on the Elimination of All Forms of

²⁰ <https://stats.oecd.org/index.aspx?queryid=54741>

Discrimination Against Women) signed by Turkey in 1985, the Istanbul Convention (The Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence) signed in 2011, the relevant articles of the Constitution, esp. Article 10, the relevant legislation and the YÖK General Assembly decision dated 28.05.2015, and its commitment to ensuring that The Council of Higher Education and all its constituent bodies shall act in concordance with gender equality and gender justice.

In this regard, the Higher Education Institutions consider gender inequality to be a fundamental problem and is working towards introducing courses promoting gender equality and setting up contact meetings to ensure that the issue gains general acceptance; to conducting activities and making regulations that would give administrators, administrative and academic staff, and students insight into the problem of gender equality; and to creating a safe environment in which no quarter is given to any sort of abuse or violence, including sexual abuse and sexual assault.

To this end, Higher Education Institutions are committed to engage in the following acts:

1. Working to increase awareness of gender equality and justice
2. Offering in their curricula, though decisions taken by relevant bodies, a 'Gender Equality' course -by this name or another- as a compulsory or elective course, or providing activities to arouse sensitivity on this issue
3. Providing information on sexual abuse and assault, establishing accessible places for complaint in such cases, and fulfilling other necessary tasks (providing sufficient lighting, transport, etc.) in order to create and maintain safety of life and limb on campuses
4. Promoting efforts to provide the administrators, academic and administrative staff and students with training/education on gender equality.
5. Conducting studies monitoring gender equality
6. Working to strengthen the methods and functions of Centers on Women's Studies and similar bodies in the universities, and Women's Studies Departments which are to be coordinated towards the achievement of the stated goal
7. Promoting the establishment of such centres in universities that lack them.

Ways for higher education institutions to act in order to provide gender equality:

- I. How can higher education institutions include courses in Gender Equality in Education in their curricula?
 1. By decision of the relevant bodies, a compulsory Gender Equality course may be added to the curricula.
 2. By decision of the relevant bodies, an elective Gender Equality course may be added to the curricula.
 3. Requiring student attendance each semester at one scientific gathering (seminars, workshops, conferences, congresses, etc.) on Gender Equality if a Gender Equality course is not offered in the curricula,

4. Ensuring that the instructors and speakers in Gender Equality courses and scientific gatherings in Higher Education Institutions are experts in this field. Where institutions do not have academic experts in this field among their members, application may be made to the Department of Women's Studies in the Academy established within YÖK, and qualified speakers on this issue invited.
 5. Where there are no expert instructors to set up such a course, it may be offered as a formal distance learning course
- II. What can higher education institutions do to promote greater acceptance of gender equality?
1. Offer training and set up contact meetings
 2. Take necessary measures on campuses, such as providing sufficient lighting and means of transport; build dormitory buildings near the campus; establish day-care centres and infant-care facilities
 3. Prepare action plans to be presented to their Senates
 4. Prepare public service announcements both within the university and to the society at large in order to improve gender equality awareness and develop foundations for gender justice; place announcements related to gender equality on university websites
 5. Provide and improve space within the universities for present and future Centres on Women's Studies and allocate financial sources as necessary
 6. Provide information to YÖK on formations, activities and decisions related to gender equality in their universities by building a gender equality database and sending regular reports from Centres on Women's Studies and similar departments
 7. Support Centers on Women's Studies in offering certified training programs
 8. Improve the working conditions of women academicians (balancing their career-related and family-related work)
 9. Carry out the work delegated to them by the National Plan of Action for Gender Equality prepared by the Ministry of Family and Social Affairs
- III. What can be done to provide the administrators, academic and administrative staff, and students with a better awareness of gender equality?
- IV.
1. Ensure universities maintain gender equality in appointments to administrative positions
 2. Promote graduate studies on gender equality
 3. Include gender equality training in in-service training; ensure that such training promotes active participation and is supported by visual aids and other methods that increase awareness
 4. Encourage projects on gender equality
 5. Encourage academic staff and students to produce films, publish booklets, and display posters on gender equality
 6. Ensure that administrative and academic staff and students benefit from the certificate programs prepared by Centres on Women's Studies.

7. Support gender equality awareness by conducting meetings and workshops for administrators.
8. Ensure that books/booklets used in training are prepared by the Centres on Women's Studies and that these centres cooperate with other centres specializing in this field

V. What can higher education institutions do to prevent sexual abuse and assault?

1. State that no quarter will be given to sexual abuse or assault, possibly by producing policy documents or including the topic in their strategic plans or by making it one of the principles of the university
2. Make sure that the issue of sexual abuse and assault is covered in books and courses on gender equality
3. Organise contact meetings to raise awareness of sexual abuse and sexual assault and take care, in particular, to inform students in the preparatory or freshman year
4. Define sexual abuse and assault when informing students on the issue; advise students what to do in such cases; explain the possibility of acting in an abuse-free way
5. Prepare posters, booklets, handbooks, films etc. about the issue
6. Build easily accessible complaint mechanisms in order to carry out the necessary investigation in claims of sexual abuse and assault. Ensure that these mechanisms engender the principles of urgency, trust, confidentiality, justice and care
7. Make sure that in any investigations related to sexual abuse and sexual assault the utmost care is taken to protect the victim from being victimized twice, and that mediation is definitely not attempted
8. Investigate any related bodies that have attempted to cover- up the claims, prevent investigations or failed to carry out the investigations thoroughly
9. See that persons subjected to sexual abuse or sexual assault are offered legal assistance, psychological support and medical care; depending on the specific situation, try to provide accommodation and/or financial support if the person subjected to abuse/assault is a student
10. Take the necessary precautions to protect those subjected to abuse or assault from retaliation and/or mobbing (e.g. change her/his place, advisor, instructor, etc.).
11. Protect women from sexual abuse and sexual assault by the following measures:
 - Provide adequate lighting around the campus
 - Provide and control secure checks on transportation services in cooperation with the local municipalities
 - Increase the number of shuttle services within campuses
 - Employ women security staff in addition to men, and provide mobile vehicles in which to patrol the campus,
 - Set help lines that respond immediately
 - Ensure that dormitories for women students are within or close to campuses

- Provide security and transportation staff with training to raise awareness of sexual abuse and sexual assault.
12. Advise the academic and administrative staff that consensual relationships are not acceptable when they take place among people within a hierarchical relation to each other (i.e. an instructor with a student, a research assistant with a student, etc.).

3. Sexual Offences Committed by an Academic

According to news on the media outlets, YÖK High Disciplinary Board upheld the dismissal from public office of Prof. Dr. H.B. of Ankara University Faculty of Veterinary Science, who already had five disciplinary penalties, such as admonition, reprimand, and deduction of salary, all related to complaints of sexual abuse. YÖK's statement declares that the decision was taken unanimously.²¹

The university's response to H.B.'s case brought up the subject of university administrations' protective approach towards sexual offenders in higher education institutions, undermining the effect of sanctions. According to the media, in this case, the academic had sexually assaulted another veterinarian in the veterinary hospital, detained her, and obfuscated the evidence with the help of a gynaecologist friend of his. The academic was arrested after this complaint and was put on trial. Then he was released by decision of the prosecution, before the result of the trial was released. Upon release from prison the academic applied for retirement, which was approved by the university. However, during this process the university had carried out an administrative investigation against this person and, as a result of this, an application was made to YÖK, requesting that he is dismissed from public office. In other words, at the time this academic's request for retirement was accepted, the case was pending YÖK's decision on the issue. Nevertheless, the news averred that the academician's request for retirement was approved the very day he submitted it and granted only two days later.

The Higher Education Law No. 2547, Article 53, clause (b)/6(b) states that, in accordance with administrative law, 'assault or sexual abuse towards one's chiefs, colleagues, staff, benefactors or students requires the punishment of 'dismissal from public office'. The law includes in the punishment of dismissal from public office in the case of academic staff or civil servants the penalty of 'not being reappointed to state institutions or organizations or private institutions of higher education.'

It should also be emphasized that Law 2547 includes in the special clauses for offences requiring dismissal from public office, the proviso of weighing the gravity of the offence against the degree of the sentence. According to the law, those under claim of dismissal have the right to examine the documents of investigation, call witnesses, and orally or in writing defend themselves in person or through an attorney present at the disciplinary board (Law no. 2547, Article 53A(c/2)). The penalty of dismissal from public office is to

²¹ <https://bianet.org/english/gender/210106-academic-on-trial-for-sexual-assault-dismissed>, retrieved October 2019.

be given by decision of the YÖK High Disciplinary Board acting upon the advice of the chief authority appointed (Law no. 2547 Article 53 Ç (c)).

The case of academic H. B. is important as it was the first case in which YÖK gave the penalty of dismissal from public office for an offence that included sexual violence, and in the way that it was headlined by the press.

In the Science Academy 2018-19 Report on Academic Freedoms we have tried to highlight the violations of rights and freedoms suffered by academicians as individuals and as citizens, in addition to prominent developments regarding gender discrimination in higher education. With the hope of seeing improvements in this field, we will continue to present our reports in the years to come.

Respectfully presented to the public and persons in authority,

Executive Board of the Science Academy of Turkey

September 2019