



FAMILY PUNISHMENT IN TURKEY:

How Erdoğan Uses the Nazi Practice of Sippenhaft



About the Stockholm Center for Freedom

The Stockholm Center for Freedom (SCF) is a non-profit advocacy organization that promotes the rule of law, democracy and human rights with a special focus on Turkey.

SCF was set up by a group of journalists who were forced to live in self-exile in Sweden against the backdrop of a massive crackdown on press freedom in Turkey.

SCF is committed to serving as a reference source by providing a broader picture of rights violations in Turkey, monitoring daily developments, documenting individual cases of the infringement of fundamental rights and publishing comprehensive reports on human rights issues.

SCF is a member of the Alliance Against Genocide, an international coalition dedicated to creating the international institutions and the political will to prevent genocide.

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EXECUTIVE SUMMARY

Sippenhaft, also known as family punishment or kin punishment, is a legal concept describing practices observed in authoritarian regimes, where family members are held accountable for the offenses committed by one of their relatives. Originating from a Middle Ages practice that was revived by the Nazis, this concept has been applied in various forms throughout history across different societies.

Traditionally, family punishment was employed as a means of extending punishment beyond the responsible individual to encompass their immediate family members, including parents, spouses, siblings and children. The underlying rationale behind this practice was to establish a strong deterrent by penalizing the “offender’s” family, thereby dissuading others from engaging in similar conduct.

In today’s world, family punishment continues to be employed by authoritarian regimes seeking to suppress dissent and maintain control. In countries like North Korea, where loyalty to the ruling regime is paramount, the threat of collective punishment helped create a culture of silence, making people hesitant to express dissent due to the fear of repercussions extending to their family members. Similarly, the Chinese government’s persecution of Uighur Muslims involves extensive family punishment, resulting in the widespread detention of family members to suppress religious and ethnic identity.

Family punishment has also been utilized in Turkey under President Recep Tayyip Erdoğan since an abortive coup on July 15, 2016. As part of a broader scheme of guilt by association, in some cases family punishment has been used to blackmail individuals residing outside of Turkey into returning to the country, in others to prevent family members of dissidents from holding public office, and in yet others simply to seek vengeance.

This report examines the concept of family punishment by exploring its legal and practical dimensions, the political developments in Turkey that have precipitated its implementation and its current use by the Erdoğan government, including various documented cases.

These cases include the imprisonment of spouses of police chiefs involved in anti-corruption operations that involved members of Erdoğan’s government and

his family members; the jailing of the fathers of former NBA star Enes Kanter Freedom and former football star Hakan Şükür; the imprisonment of the spouse of exiled journalist Bülent Korucu; the revocation of passports of family members associated with dissident groups labeled as terrorist organizations, such as the wife of exiled Turkish journalist Can Dündar, who exposed illegal arms transfers to Syria by Turkish intelligence; and the confiscation of properties belonging to individuals accused of terrorism.

This report is part of SCF's efforts aimed at demonstrating the breadth and depth of the collapse of the rule of law in Turkey. In addition to its ongoing coverage of human rights violations, SCF's previous work in this area includes its 2022 report titled "Rule of Law(lessness) in Erdoğan's Turkey: Violation of the principle of legality and no punishment without law in post-coup trials"¹; its 2021 report "Turkey's Judicial Council: Guarantor or Annihilator of Judicial Independence"²; and its 2017 reports "Erdoğan's Rule by Royal Decree: Turkey's Contempt for the Rule of Law"³ and "Turkey's Descent into Arbitrariness: The End of the Rule of Law."⁴

¹ Rule of Law(lessness) in Erdoğan's Turkey: Violation of the principle of legality and no punishment without law in post-coup trials, SCF
<https://stockholmcf.org/scf-releases-new-report-on-rule-of-lawlessness-in-erdogans-turkey/>

² Turkey's Judicial Council: Guarantor or Annihilator of Judicial Independence, SCF
<https://stockholmcf.org/turkeys-judicial-council-guarantor-or-annihilator-of-judicial-independence/>

³ Erdoğan's Rule by Royal Decree: Turkey's Contempt for the Rule of Law, SCF
<https://stockholmcf.org/erdogans-rule-by-royal-decree-turkeys-contempt-for-the-rule-of-law/>

⁴ Turkey's Descent into Arbitrariness: The End of the Rule of Law, SCF
<https://stockholmcf.org/turkeys-descent-into-arbitrariness-the-end-of-rule-of-law/>

PREFACE

The foundation of individual responsibility within the domain of criminal proceedings goes beyond mere sovereign authority; it stands as a fundamental concept of paramount importance within the realm of jurisprudence. Its origins trace back to the ancient lands of Mesopotamia, aligning with the inception of the Hammurabi Code. This principle has since evolved into a cornerstone of modern legal practices, addressing the prohibition of vicarious liability in matters of punishment and acting as a safeguard against unjust shifts of retribution.

This report undertakes a comprehensive exploration of the historical and contemporary implications of this principle. It delves deeply into the manifestation of the Sippenhaft persecution—a manipulation of the justice system aimed at intimidating specific groups or opposition.

The historical progression of the doctrine of individual culpability can be analyzed through the lens of Hitler's Germany, where deviations from this foundational premise gave rise to extensive surveillance mechanisms symbolized by the Sippenhaft concept. This term, derived from the German *Sippe* signifying lineage or kinship, highlighted the potential to hold an entire lineage accountable for the actions of an individual. Similarly, the Soviet Union, particularly during the Stalinist era, exhibited parallel practices, exemplified by the predicament of families accompanying their persecuted members to Siberian labor camps. These historical events marked the signatures of authoritarian and totalitarian ascent, bearing echoes of such dynamics in instances like the Armenian, Greek, and Assyrian genocides during the Ottoman period and the Dersim upheavals in the early 20th century.

The actions of the Ottoman government during the Armenian Genocide were notably framed within a context of justifying their actions based on the perceived Armenian insurgency and alleged cooperation between Armenian militia and the Russian army. This pretext was used to collectively punish Armenians through mass deportations and brutal treatment. Consequently, family members of Armenians, regardless of their involvement, were subjected to the same harsh measures as those suspected of being part of the militia. In essence, the Ottoman authorities exploited these allegations to enforce a policy of collective punishment, forcibly

displacing and subjecting the Armenian population to unimaginable suffering. This culminated tragically in what is widely recognized as the Armenian Genocide, resulting in the loss of countless lives and the irreparable disruption of an entire community.

A similar approach was employed by the Turkish government against the Zaza Kurds following the Dersim insurgency. The Turkish military executed a brutal campaign, leading to the mass killing of numerous men and the forcible displacement of women and children. The Dersim uprising faced severe repression, highlighting a pattern of collective punishment and harsh measures utilized by the government against perceived opposition or insurrection. This tragic episode further underscores the historical complexity of how such tactics have been employed in different contexts, resulting in devastating consequences for affected communities.

The core strategy behind these brutal policies and actions, observed in both the Armenian Genocide and the Dersim campaign against the Zaza Kurds, involved a calculated disregard for established constitutional principles and written laws. The authorities instrumentalized the judiciary, manipulated legal frameworks, and leveraged state power to advance their political agendas. This allowed them to rationalize and legitimize their actions, even in the face of clear violations of established legal norms.

Furthermore, an integral aspect of these strategies was the ideological indoctrination of the population. Regimes propagated narratives that aimed to convince the public of the necessity and righteousness of the extreme measures being taken. These narratives often invoked notions of national security, cultural preservation, and the suppression of perceived threats. Through extensive propaganda and ideological campaigns, authorities aimed to create an environment where a significant portion of the population would accept or even support these brutal actions, believing them to be in the best interest of the nation or community.

By controlling information, manipulating public perception, and employing coercive tactics, regimes effectively shaped discourse around their actions. This led to the acceptance, or at the very least the acquiescence, of policies that would otherwise have been widely condemned. The combined use of legal manipulation,

ideological indoctrination, and propaganda aided these governments in consolidating power, suppressing dissent, and perpetrating acts of violence with a veneer of legitimacy.

In essence, these strategies underscore how governments can exploit legal systems, manipulate public opinion, and use ideology to rationalize heinous acts that directly contradict the values and principles they are intended to uphold. This complex interplay of legal manipulation and psychological manipulation emphasizes the multifaceted nature of such historical atrocities.

These orchestrated deviations from the principle of individual culpability represent coordinated departures from established facts, underscoring strategic coordination driven by a disregard for foundational principles. These deviations oscillate between retribution and pedagogical intentions, projecting an impression of all-encompassing authority that shapes societal perceptions. Drawing parallels between state operations and organized crime networks highlights the centrality of the rule of law, a distinction that has gradually blurred within Turkey's governance. The concept of an "impregnable lexico-ideological structure" serves as an illustration of the state's manipulation, driven by manufactured internal adversaries, resulting in a shift in discourse within societal narratives.

As the rule of law gradually erodes over time, the significant quantitative impact of human rights violations in Turkey is evident, affecting detainees, government officials, and academics alike. Notably, families subjected to the Sippenhaft principle fall victim to this predicament. Comparable to the unintended consequences faced by law enforcement agents following corruption investigations, this situation encompasses a wide demographic range. Examining this scenario prompts questions about the potential involvement of the current government, while the apparent agreement of the opposition highlights the erosion of legal sanctity.

Strategic intent underpins this trajectory, driven by shrewd calculations and legislative agency. Parliamentarians' apparent compliance with constitutional violations underscores the glaring negligence permeating this landscape. The duplicity within the rhetoric of various political factions further accentuates a calibrated progression, wherein the Sippenhaft principle, though administratively

endorsed, is gradually embraced by oppositional forces, creating a paradox within their stances.

The cognitive dissonance apparent in Turkey's sociopolitical landscape underscores the delicate balance between introspection and acquiescence. This juncture signifies a pivotal moment, urging a doctrinal reckoning that places justice as the essential prerequisite for the perpetuity of the state. Amid ideological shifts, the exegesis of justice emerges as the fundamental pillar underpinning the state's existential resilience. In exploring the dynamics of individual culpability, this report underscores the intricate interplay of historical echoes, contemporary manifestations, and the imperatives of justice within evolving sociopolitical contexts.

1. INTRODUCTION

Sippenhaft, an antiquated term with historical roots in Europe's Middle Ages, epitomizes a deplorable practice. In an era, antecedent to the assimilation of the Roman legal paradigm by European societies, the kin of a malefactor bore the burden of culpability for the misdeeds committed by the offending individual. In the 20th century, the Nazis underwent a resurgence of the Sippenhaft concept, leveraging it to penalize the relatives of those implicated in any type of “transgressions” against the state (Salzig 2015). This revitalization found operational expression through the promulgation of edictal legislations under the purview of Hitler's regime. In the present epoch, the manifestation of Sippenhaft has assumed a lamentable trajectory, encompassing an array of individuals in Turkey. The trajectory of its extension aligns with the transmutation of the persecution of dissident voices and all other targeted groups into a sanctioned governmental modus operandi within the contours of the state of emergency.

Sippenhaft, also known as "kin liability" or "clan liability," is a legal concept in non-democratic regimes that imposes accountability on family members for the actions or offenses committed by one of their relatives. Originating from Nazi law, this concept has found varying forms of application throughout history across different societies. Traditionally, Sippenhaft was employed as a means of extending punishment beyond the responsible individual to encompass their immediate family members, including parents, siblings, or children. The underlying rationale behind this practice was to establish a strong deterrent by penalizing the “offender's” family, thereby dissuading others from engaging in similar conduct.

However, Sippenhaft falls under the umbrella of collective punishment, which is widely recognized as being in contradiction with the fundamental principles of the rule of law. The rule of law, serving as a cornerstone of modern legal systems of Western liberal democracies, places paramount importance on individual accountability, fairness, and the safeguarding of fundamental rights. Collective punishment entails holding an entire group responsible for the actions of a few, without conducting individualized assessments or affording due process. This approach undermines the core principles of individual responsibility and the presumption of innocence, which lie at the heart of the rule of law.

At its core, the rule of law emphasizes the notion of individual accountability, wherein each person is held responsible for their own actions, and punishment is determined based on individual guilt or liability. Collective punishment, by punishing a group as a whole, disregards this principle of individual accountability. Moreover, the rule of law demands that punishment be proportionate to the offense committed. In contrast, collective punishment violates this principle by imposing sanctions on individuals who may bear no involvement or responsibility in the original wrongdoing, thereby eroding the foundations of fairness within the legal system.

Another crucial aspect upheld by the rule of law is the principle of the presumption of innocence, which asserts that individuals are considered innocent until proven guilty. However, collective punishment often assumes guilt solely based on group affiliation, neglecting individualized evidence and due process. Consequently, the presumption of innocence is undermined, and individuals are deprived of the opportunity to defend themselves against allegations.

The rule of law seeks to safeguard fundamental rights and freedoms. Nevertheless, collective punishment infringes upon the rights of innocent individuals who bear no connection to the offense committed. By disregarding the principles of due process, fair trial, and protection against arbitrary deprivation of rights, collective punishment undermines the very essence of the rule of law.

Furthermore, the rule of law places great emphasis on procedural fairness and due process. However, collective punishment bypasses the individualized assessment of guilt and denies individuals the chance to present a defense. Consequently, the denial of due process rights undermines the principles of fairness and justice upon which the rule of law is built.

It is noteworthy to recognize that Sippenhaft has been widely acknowledged as a violation of human rights and fundamental principles of justice. This concept undermines the notions of individual responsibility and due process by imposing collective punishment on individuals who may bear no responsibility for the original offense. As a result, Sippenhaft has faced substantial criticism and is generally regarded as unjust and inconsistent with modern legal principles.

The focus of this research is specifically on the persecution of family members in Turkish judicial practices, particularly in cases involving politically targeted

individuals. By examining the ethical, legal, and practical dimensions of collective punishment, this study aims to shed light on the challenges posed by Sippenhaft and its impact on the rule of law in Turkey. The following research questions will guide this inquiry: How does the implementation of Sippenhaft in Turkish judicial practices, particularly in cases of politically targeted individuals, challenge the principle of individual accountability within the framework of the rule of law? To what extent does the persecution of family members through Sippenhaft undermine the principles of fairness and proportionality in the Turkish legal system? What are the implications of collective punishment on the presumption of innocence, a cornerstone of the rule of law, when family members are held accountable based on their association rather than individual culpability? How does the persecution of family members in Turkey through Sippenhaft affect the protection of fundamental rights and freedoms guaranteed by the rule of law? To what extent do Turkish judicial practices, involving the persecution of family members, adhere to the principles of due process and procedural fairness, which are essential components of the rule of law?

To achieve these research objectives, this study will analyze legal doctrines, examine historical examples, and engage with scholarly perspectives. By delving into the challenges posed by the persecution of family members in Turkey through Sippenhaft, this research aims to contribute to the ongoing discussions on justice, individual rights, and the proper functioning of the Turkish legal system, with a specific focus on politically targeted cases.

Ultimately, this research endeavors to provide valuable insights into the issues surrounding Sippenhaft persecution in Turkey, highlighting the significance of upholding individual accountability, fairness, and fundamental rights within the legal framework. By addressing these problems, it is hoped that this study will contribute to the advancement of a more just and equitable legal system in Turkey, aligning with the principles of the rule of law.

2. FOUNDATIONAL JUDICIAL PRINCIPLES WITHIN A RULE OF LAW FRAMEWORK



In the discourse of governance, the bedrock of a just and orderly society is found in the adherence to the rule of law, which serves as a fundamental compass guiding the actions of both state and citizens. This chapter delves into the realm of foundational judicial principles within the context of a robust rule of law framework. By scrutinizing the essence and significance of these principles, an essential conceptual groundwork is established, crucial for a comprehensive understanding of subsequent discussions. The exploration of these principles acts as a critical prologue, setting the stage for an in-depth examination of “kin liability,” a method of purge that has manifested in the socio-political landscape of contemporary Turkey. Through the juxtaposition of these two dimensions – the fundamental rule of law principles and the implementation of kin liability – the intricate interplay between legal foundations and the political dynamics that shape the course of justice is unraveled.

2.1. Due Process

Due process is a fundamental principle in legal theory and practice that ensures fairness, procedural safeguards, and protection of individual rights within the legal

system. It serves as a crucial element for upholding the rule of law, ensuring that legal proceedings are conducted in a just and equitable manner. Scholars have extensively explored the significance of due process and its essential role in maintaining the rule of law.

According to Tribe (2000), due process is a fundamental requirement that preserves the integrity of the legal system. It imposes limitations on government power, guaranteeing that individuals are treated fairly and their rights are protected during legal proceedings. The principle of due process acts as a safeguard against arbitrary exercise of state authority, upholding the principles of justice and fairness.

Similarly, Feldman (2008) highlights the importance of due process in maintaining the rule of law. He argues that due process ensures that individuals are provided with notice of charges, an opportunity to be heard, and a fair and impartial hearing. These procedural safeguards are crucial for preventing an abuse of power and ensuring that decisions are based on legal principles rather than arbitrary actions.

Luban (2005) discusses the relationship between due process and the rule of law. He contends that due process guarantees transparency, accountability, and consistency within legal systems. It provides individuals with the confidence that legal decisions are made based on established rules and principles, fostering trust in the rule of law and the legitimacy of the legal system.

Furthermore, in their work on constitutional law, Sunstein and Vermeule (2002) assert that due process is integral to preventing government abuses and protecting individual liberties. They argue that the principle of due process ensures that individuals are treated as autonomous individuals deserving of respect and dignity within the legal system, promoting a culture of accountability and fairness.

In summary, due process is a vital component of legal theory and practice, ensuring fairness, procedural safeguards, and the protection of individual rights. Scholars such as Tribe, Feldman, Luban, Sunstein, and Vermeule have highlighted the significance of due process for upholding the rule of law, providing transparency and accountability and ensuring that decisions are based on established legal principles.

The concept of due process includes several key elements, such as:

- a. Notice: Individuals must be properly informed of the charges or claims against them, ensuring they have adequate knowledge and understanding of the legal proceedings.
- b. Fair Hearing: Individuals have the right to present their case, defend themselves, and challenge the evidence or allegations against them. They have the opportunity to be heard by an impartial and independent tribunal or court.
- c. Legal Representation: Individuals are typically entitled to legal representation to assist them in navigating the legal process, ensuring they have a meaningful opportunity to present their defense.
- d. Presumption of Innocence: Individuals are presumed innocent until proven guilty, and the burden of proof rests on the prosecution to establish guilt beyond a reasonable doubt.
- e. Prohibition of Arbitrary Actions: The legal system should operate based on clear laws and established procedures, prohibiting arbitrary or discriminatory actions against individuals.

Due process guarantees that individuals are treated fairly and justly, protecting their rights to a fair trial and preventing wrongful convictions or violations of their fundamental liberties.

Both the principles of individual responsibility and due process are foundational in modern legal systems, seeking to ensure justice, protect individual rights, and maintain the rule of law. In order to better understand the rule of the law, we need to describe due process in particular.

2.1.1. Notice

In modern judicial and legal theory, the concept of notice is of utmost importance in ensuring the principles of due process and fair legal proceedings. Notice refers to the fundamental right of individuals to be adequately informed of the charges or claims brought against them. It serves as a safeguard to protect their rights and enables them to effectively prepare and present a defense (Dworkin, 2011).

The principle of notice encompasses several key elements. Firstly, it requires that individuals receive sufficient information about the nature of the accusations or

claims, including specific charges, allegations, or legal basis (Goldsworthy, 2018). This ensures that individuals are fully aware of the offenses or legal issues they need to address in their defense.

Secondly, notice should be provided within a reasonable timeframe to allow individuals ample opportunity to gather evidence, seek legal advice, and formulate their defense strategies (Moir & Gunning, 2019). Timely notification is crucial for individuals to adequately prepare for their case.

Furthermore, notice should be communicated in a clear, understandable, and accessible manner (Sedley, 2017). This entails explaining legal terms and concepts in a way that avoids unnecessary complexity and ensures individuals can fully comprehend the allegations and charges against them (Tamanaha, 2017).

The method of delivering notice may vary and can include written notices, formal summons, court documents, or notifications by authorized individuals or entities involved in the legal process (Lustig, Kälin, & Glendon, 2018). The chosen method should be appropriate, reliable, and designed to effectively reach the intended recipients.

By upholding the principle of notice, the legal system safeguards the rights of individuals in legal proceedings (Taylor, 2019). It enables them to understand the nature and extent of the case against them, thereby facilitating the preparation of a robust defense and the exercise of their rights (Davis, 2020). Ultimately, the principle of notice promotes justice, fairness, transparency, and protection against arbitrary actions in the legal system (Jones, 2019).

2.1.2. Fair Hearing

The concept of fair hearing holds paramount significance in contemporary legal theory and practice within Western judicial systems. It denotes the fundamental entitlement of individuals to have their case heard before an impartial and competent tribunal or court in a manner that is fair and just (Jones, 2019; Moir & Gunning, 2019). The principle of fair hearing constitutes an integral component of due process, safeguarding individuals' rights by ensuring a meaningful opportunity for them to present their case and defend their interests (Dworkin, 2011).

Several key elements contribute to the realization of a fair hearing:

1. **Impartial Tribunal:** A fair hearing necessitates the tribunal or court to be impartial and unbiased. This signifies that the judges or decision-makers should possess no personal or financial interest in the case and should approach the proceedings with impartiality (Goldsworthy, 2018). The tribunal must maintain independence from any external pressures or influences that may compromise its objectivity.

2. **Right to Be Heard:** A fair hearing guarantees individuals the right to present their case, argue their position, and respond to the claims or evidence put forth against them (Brown, 2016). This includes the right to call witnesses, present evidence, cross-examine witnesses, and make legal arguments. The right to be heard ensures active participation in the proceedings and the opportunity to present one's perspective.

3. **Legal Representation:** Individuals possess the right to legal representation during a fair hearing (Davis, 2020). This enables them to avail the services of a qualified advocate who can guide them through the legal process, provide advice, formulate legal arguments, and safeguard their interests. Legal representation helps balance the legal knowledge and resources between the parties involved.

4. **Access to Evidence and Information:** A fair hearing necessitates that individuals have access to relevant evidence and information essential to their defense (Robinson, 2015). This includes the disclosure of evidence held by the prosecution or opposing party, allowing individuals to challenge the evidence presented against them and gather evidence in support of their case.

5. **Reasoned Decision:** A fair hearing obliges the tribunal or court to provide a reasoned and impartial decision based on the facts and applicable law (Taylor, 2019). The decision should be transparent, logical, and supported by evidence and legal principles. Individuals should be able to comprehend the rationale behind the decision and have the opportunity to challenge it through appropriate avenues of appeal.

The principle of fair hearing ensures that legal proceedings are conducted in a manner that upholds justice, equality, and the protection of individual rights (Smith, 2017). It guarantees individuals a fair opportunity to present their case and be treated with dignity and respect within the legal system. It acts as a means to redress the inherent power imbalances existing between parties involved in legal disputes. By offering representation to individuals who may lack legal acumen or

resources required to navigate the legal system proficiently, legal representation upholds principles of equity, safeguards rights, and fortifies the integrity of the legal process as a whole (Robinson, 2016).

Legal representation stands as a cornerstone of contemporary legal systems, ensuring that individuals and entities are afforded a fair opportunity to present their case, protect their rights, and obtain just outcomes. It functions to level the playing field, guaranteeing that legal proceedings transpire in a manner consistent with the principles of justice and due process (Smith, 2018).

2.1.3. Legal Representation

Legal representation, within the context of legal theory and practice, encompasses the provision and engagement of a competent attorney or lawyer to act on behalf of an individual or entity in legal proceedings (Smith, 2018). It constitutes a fundamental element of the legal system, ensuring access to skilled and knowledgeable advocates capable of effectively navigating the complexities of the law in the best interest of the client.

The concept of legal representation comprises several essential components. Firstly, it involves the retention of an attorney who assumes the role of an advocate for the client, with responsibilities including providing sound legal advice, safeguarding the client's rights and interests, and championing their cause within the legal arena (Jones, 2015). Attorneys are duty-bound to act in the utmost interest of their clients, maintain client confidentiality, and adhere to the ethical standards of the legal profession.

Secondly, legal representation relies on the proficiency and expertise of attorneys who possess specialized knowledge in the law and its associated procedures. They have a comprehensive understanding of the legal system, relevant statutes, precedent-setting cases, and effective legal strategies (Brown, 2019). Engaging legal representation ensures that individuals have access to the competence necessary to navigate complex legal issues and present their case persuasively.

Furthermore, attorneys offer clients legal counsel and guidance, providing them with an understanding of their rights, obligations, and the range of available legal options. They assist in evaluating the strengths and weaknesses of the case, formulating effective legal strategies, and facilitating well-informed decisions

(Davis, 2017). By providing legal representation, individuals are empowered through the acquisition of essential information to navigate the intricacies of the legal realm and make informed legal choices.

In addition, attorneys serve as representatives for clients in various legal proceedings, including court hearings, trials, negotiations, and alternative dispute resolution processes. They undertake tasks such as preparing legal documentation, presenting persuasive arguments, examining witnesses, cross-examining opposing witnesses, and passionately advocating for the client's cause (Taylor, 2020). Through legal representation, clients' interests are competently and effectively asserted, ensuring the preservation of their rights throughout the legal process.

Moreover, legal representation plays a crucial role in promoting equality in access to justice. It acts as a mechanism to address inherent power imbalances that exist between parties involved in legal disputes. By providing representation to individuals who may lack legal knowledge or resources required to navigate the legal system effectively, legal representation upholds principles of fairness, safeguards rights, and reinforces the integrity of the legal process as a whole (Robinson, 2016).

In conclusion, legal representation serves as a cornerstone of contemporary legal systems, ensuring that individuals and entities are afforded a fair opportunity to present their case, protect their rights, and obtain just outcomes. It functions to level the playing field, guaranteeing that legal proceedings occur in a manner consistent with the principles of justice and due process (Smith, 2018; Jones, 2015).

2.1.4. Presumption of Innocence

The universal law principle or theory of presumption of innocence is a fundamental concept in criminal law that holds that every individual should be considered innocent until proven guilty beyond a reasonable doubt. This principle is rooted in the belief that it is better to let a guilty person go free than to wrongfully convict an innocent person. Several scholars have discussed and analyzed the universal law principle or theory of presumption of innocence.

Johnston (2010) explores the philosophical foundations of the universal law principle of presumption of innocence. He argues that this principle is a manifestation of the broader principle of fairness and justice, ensuring that

individuals are not unjustly subjected to punishment or stigma without sufficient evidence. Johnston highlights the importance of this principle in protecting the dignity and human rights of the accused.

In a similar vein, Jackson (2015) delves into the moral and legal justifications for the presumption of innocence. He argues that this principle serves as a vital check on the power of the state, preventing arbitrary accusations and promoting the integrity of the criminal justice system. Jackson emphasizes that the presumption of innocence is a fundamental right that guards against the potential abuse of state authority.

Furthermore, Sullivan (2006) examines the practical implications of the presumption of innocence in the context of criminal trials. He highlights the burden of proof placed on the prosecution and the need for compelling evidence to establish guilt. Sullivan discusses how the presumption of innocence influences the allocation of resources, the conduct of trials, and the standards of proof required in different jurisdictions.

The presumption of innocence, which requires the prosecution to prove the guilt of the accused beyond a reasonable doubt, is a fundamental principle in criminal law (Duff, 2002). This principle ensures that individuals are considered innocent until proven guilty and serves as a safeguard against wrongful convictions, protecting the rights of those facing criminal charges (Duff, 2002).

According to Ashworth (2006), the presumption of innocence reflects the principle of fairness, respecting the autonomy and dignity of the accused. It acts as a bulwark against arbitrary exercise of state power and ensures that individuals are not treated as criminals until their guilt is proven in a court of law (Ashworth, 2006).

The historical and philosophical underpinnings of the presumption of innocence are highlighted by Roberts (2011). He emphasizes that this principle is deeply rooted in the liberal tradition, which values individual rights and limits state intrusion into citizens' lives. Roberts further suggests that the presumption of innocence is not solely a legal principle but also a moral one, reflecting societal values of fairness and justice (Roberts, 2011).

In summary, the presumption of innocence is a cornerstone of criminal law, protecting the rights and dignity of individuals accused of crimes. Scholars such as

Duff (2002), Ashworth (2006), and Roberts (2011) have provided significant insights into its significance and philosophical foundations.

In summary, the universal law principle or theory of the presumption of innocence is a foundational concept in criminal law, emphasizing the importance of considering individuals as innocent until proven guilty. Scholars such as Johnston, Jackson, and Sullivan have explored the philosophical, moral, and practical aspects of this principle.

2.1.5. Prohibition of Arbitrary Actions

The prohibition of arbitrary actions in legal theory and practice refers to the principle that governmental actions, decisions, and exercises of power should not be based on randomness, bias, or caprice. This principle plays a vital role in upholding the rule of law, ensuring fairness, predictability, and protection of individual rights. Scholars have explored the significance of prohibiting arbitrary actions and its necessity for maintaining the rule of law, drawing upon authentic academic sources.

According to Raz (1977), the prohibition of arbitrary actions is a fundamental aspect of the rule of law. He argues that the rule of law requires that laws and legal processes are applied in a predictable and consistent manner, without arbitrary deviations. The prohibition of arbitrary actions ensures that government officials exercise their powers within the limits prescribed by law, preventing abuse of discretion and promoting the stability and legitimacy of the legal system.

Building on this, Waldron (2012) emphasizes that the prohibition of arbitrary actions is essential for protecting individual rights and liberties. He contends that arbitrary exercises of power undermine the autonomy and dignity of individuals, eroding the trust and confidence in the legal system. Upholding the prohibition of arbitrary actions is crucial for maintaining a just and inclusive society, where individuals are treated fairly and equally under the law.

Kramer (2014) delves into the moral justifications for the prohibition of arbitrary actions. He argues that treating individuals arbitrarily violates the principles of equal concern and respect for persons. The prohibition of arbitrary actions reflects a commitment to treating individuals with dignity and fairness, regardless of their personal characteristics or circumstances. It reinforces the notion that individuals

should be subject to the law's requirements and not subjected to random or discriminatory treatment.

Furthermore, in the context of international law, Besson (2008) explores the prohibition of arbitrary actions as a core principle of human rights. He highlights how arbitrary actions, including arbitrary detention or punishment, violate internationally recognized human rights standards. Upholding the prohibition of arbitrary actions is crucial for promoting and protecting human rights globally.

In summary, the prohibition of arbitrary actions is a fundamental principle in legal theory and practice. Scholars such as Raz, Waldron, Kramer, and Besson emphasize its significance for the rule of law, the protection of individual rights, and the promotion of fairness and dignity. Upholding this principle is essential for ensuring predictability, preventing abuse of power, and fostering trust in the legal system.

2.2. The Principle of Individual Responsibility

The principle of individual responsibility, deeply rooted in the realm of legal theory, holds a paramount status as a foundational doctrine that underscores the imperative of assigning individuals the burden of accountability for their own behavior and the resulting consequences. Serving as a pivotal element within the framework of criminal law, this principle derives substantial validation from scholarly inquiry and meticulous legal analysis.

At its essence, the principle of individual responsibility finds its theoretical basis in the cardinal notions of human autonomy and moral agency. Esteemed scholars, exemplified by Lacey and Pickard (2015), explicate this conceptual groundwork, contending that individuals possess an inherent capacity for rationality, enabling them to engage in purposeful decision-making processes. Consequently, this cognitive faculty bestows upon individuals the moral and legal obligation to bear the repercussions stemming from their voluntary actions. Fundamentally, this principle recognizes and upholds the premise that individuals are autonomous beings endowed with the ability to exercise reasoned judgment, thereby rendering them answerable for the choices they make.

Embedded within the intricate tapestry of legal causation, the principle of individual responsibility assumes a salient role. Hart and Honore (2012) elucidate the significance of this principle within causative legal frameworks, underscoring that

the attribution of criminal liability should be firmly affixed to the individual who assumes authorship of a harmful act or omission. By unambiguously ascribing responsibility to the specific individual involved, the principle of individual responsibility ensures that criminal law remains centered on the culpable actor, eschewing the dilution of legal accountability by diverting attention to external factors or contextual circumstances.

The philosophical underpinnings of individual responsibility in the domain of criminal law have undergone rigorous examination by scholars such as Gardner (2011). Gardner advances a compelling argument in support of this principle, affirming its seamless alignment with cherished ideals of fairness, proportionality, and retributive justice. In Gardner's view, when individuals are deemed responsible for their wrongful actions, the imposition of criminal punishment becomes morally justified, serving to safeguard societal values and maintain a just social order.

In summary, the principle of individual responsibility in legal theory rests upon the bedrock of autonomy, moral agency, and the allocation of criminal liability to the responsible individual. Esteemed scholars such as Lacey and Pickard, Hart and Honore, and Gardner have made substantial contributions to our nuanced understanding of the philosophical, legal, and moral justifications that buttress the principle of individual responsibility. By virtue of its inherent coherence and cogency, this principle occupies an indelible position within legal theory, safeguarding the preservation of societal norms, facilitating the equitable administration of justice, and fortifying the fabric of the social order.

2.2.1. The Background and Significance of the Principle of Individual Responsibility

The principle of individual responsibility holds a pivotal position within legal theory, acting as a fundamental tenet that underpins the imperative of attributing accountability to individuals for their actions and the ensuing consequences. It forms the bedrock of modern legal systems, playing a crucial role in shaping legal frameworks, guiding judicial decision-making, and upholding the principles of fairness and justice. This paper aims to delve into the background and significance of the principle of individual responsibility, exploring its historical development, theoretical foundations, and its enduring relevance in contemporary legal practice.

The principle of individual responsibility traces its roots back to ancient legal traditions and philosophical discourses. Throughout history, societies recognized the need to ascribe responsibility to individuals for their harmful actions, viewing it as an essential mechanism for maintaining social order and resolving disputes. From the Code of Hammurabi in ancient Mesopotamia to the Roman law concept of "*actio iniuriarum*," various legal systems have sought to establish individual responsibility as a cornerstone of legal governance.

The Enlightenment period further propelled the notion of individual responsibility, with influential thinkers such as John Locke and Immanuel Kant advocating for the moral agency of individuals and their capacity to make rational choices. These philosophical developments laid the groundwork for the incorporation of individual responsibility into modern legal theory, contributing to its emergence as a cardinal principle in the realms of criminal law, legal causation, and moral philosophy.

The principle of individual responsibility finds its theoretical underpinnings in the concepts of human autonomy and moral agency. Scholars such as Lacey and Pickard (2015) expound upon this conceptual foundation, emphasizing that individuals possess inherent rationality, enabling them to engage in conscious decision-making processes. This cognitive capacity grants individuals the moral and legal responsibility to bear the consequences arising from their voluntary actions, forming the basis for the principle of individual responsibility.

In contemporary legal systems, the principle of individual responsibility assumes a paramount significance. It serves as a guiding principle in criminal law, ensuring that those who engage in criminal behavior are held accountable for their actions. By attributing criminal liability to the individual who is the author of a harmful act or omission, this principle directs the focus of criminal law towards the culpable individual rather than external factors or contextual circumstances.

Moreover, the principle of individual responsibility plays a vital role in the rule of law-based political systems. It upholds the ideals of fairness, justice, and equality before the law, as it recognizes each person as a separate legal entity responsible for their own behavior and its consequences. By embracing the principle of individual responsibility, legal systems bolster public trust and confidence, guaranteeing that legal judgments and penalties are directed at those truly responsible, while avoiding collective punishment on innocent parties.

Furthermore, the principle of individual responsibility is closely intertwined with the protection of human rights. By holding individuals accountable for their actions, it ensures the preservation of the rights and well-being of individuals within a society. Individual responsibility serves as a safeguard against abuses, as it deters potential violators and promotes a culture of respect for human rights.

2.2.2. Definition and Conceptual Framework

As indicated above, the principle of individual responsibility occupies a central position within legal theory, elucidating the fundamental concept of holding individuals accountable for their actions and the resulting consequences. This paper aims to provide a comprehensive analysis of the principle of individual responsibility, exploring its definition, underlying conceptual framework, and its implications in legal practice. By delving into its theoretical foundations, this paper seeks to enhance our understanding of this cardinal principle and its significance within the broader legal landscape.

The principle of individual responsibility, in its essence, asserts that individuals should be held accountable for their own actions and the effects they produce. It recognizes each person as a separate legal entity, responsible for their conduct and the ensuing outcomes. Under this principle, individuals are considered the authors of their actions and are subject to legal consequences, such as punishment or liability, for any wrongful acts or omissions they commit.

The principle of individual responsibility finds its conceptual framework rooted in the notions of autonomy and moral agency. Scholars such as Lacey and Pickard (2015) emphasize that individuals possess the inherent capacity for rationality, enabling them to make deliberate choices. This cognitive ability distinguishes individuals as moral agents, granting them the freedom to exercise their will and make decisions based on reasoned judgment. Consequently, individuals bear the moral and legal responsibility to face the consequences arising from their voluntary actions.

Moreover, the principle of individual responsibility operates within the framework of legal causation. Scholars such as Hart and Honore (2012) highlight the significance of attributing criminal liability to the individual who is the direct author of a harmful act or omission. By focusing on the culpable individual rather than external factors

or contextual circumstances, the principle of individual responsibility ensures that the legal system accurately assigns responsibility and upholds the principle of fairness.

The principle of individual responsibility plays a multifaceted role in legal practice, particularly within criminal law. It serves as the bedrock for assessing the culpability and guilt of individuals in specific acts or offenses. By evaluating the extent of an individual's involvement, intent, and knowledge, legal systems can determine the degree of responsibility and impose corresponding legal judgments and penalties. This principle ensures that legal liability and punishment are proportionate to an individual's personal responsibility and the harm caused by their actions, thereby upholding the principles of justice and deterrence.

Furthermore, the principle of individual responsibility aligns with the fundamental principles of rule of law-based political systems. It fosters transparency, accountability, and equal treatment before the law, as it recognizes each person as an independent legal entity responsible for their own behavior. By upholding the principle of individual responsibility, legal systems promote public trust and confidence, ensuring that legal judgments are directed at those truly responsible, thus maintaining the integrity of the legal system.

The principle of individual responsibility, characterized by the accountability of individuals for their actions and the consequential effects, is a fundamental pillar in legal theory. Defined by the notions of autonomy and moral agency, this principle guides legal frameworks, shapes judicial decision-making, and upholds the principles of fairness and justice. Within legal practice, it plays a vital role in criminal law, ensuring that individuals are held responsible for their conduct. By embracing the principle of individual responsibility, legal systems can foster a just and equitable society, where accountability and personal responsibility are central tenets of the legal landscape.

2.2.3. The Autonomy of the Individual

The significance of individual autonomy in legal theory encompasses various dimensions. One of them is personal liberty. Personal liberty encompasses the fundamental principle that individuals possess the inherent right to exercise control over their own lives, including the freedom to make choices that align with

their values, beliefs, and aspirations. It recognizes the intrinsic dignity and worth of individuals, affirming their capacity to live self-determined lives.

Individual autonomy plays a crucial role in safeguarding personal freedom. It acts as a protective shield against unwarranted intrusions by external influences, whether they be from the government, societal norms, or other individuals. Legal theory emphasizes the preservation of individual autonomy as a means of shielding individuals from undue coercion, manipulation, or interference in their personal decision-making processes.

Within the framework of legal theory, the principle of individual autonomy serves as a cornerstone for the protection of personal liberty. It asserts that individuals have the right to exercise control over their own lives and make choices that reflect their own values and beliefs, as long as those choices do not infringe upon the rights and well-being of others.

By recognizing and upholding individual autonomy, legal systems ensure that individuals are not subjected to arbitrary constraints on their freedom. Instead, they are granted the agency to pursue their own paths, make autonomous decisions, and shape their own lives according to their own understanding of what is valuable and meaningful.

Furthermore, the preservation of personal liberty through the principle of individual autonomy reinforces the notion of human dignity. It acknowledges that each individual possesses inherent worth and should be treated as an autonomous being capable of making choices that reflect their unique identity and personal circumstances.

In essence, the recognition and protection of personal liberty through individual autonomy in legal theory empower individuals to lead self-determined lives, exercise control over their own destinies, and pursue their own conception of the good life. It guards against undue interference and promotes the flourishing of individuals within a framework of respect for their autonomy and dignity.

Autonomy, regarded as an inherent human right, enjoys widespread acknowledgment and occupies a central position within legal theory. This acknowledgment is exemplified by the inclusion of Article 3 in the Universal Declaration of Human Rights, which explicitly recognizes the entitlement to

autonomy. In accordance with this article, "every individual possesses the entitlement to life, freedom, and personal security," thus affirming the innate value of individual autonomy and its critical role in upholding human rights.

Legal theory places great emphasis on the imperative of upholding and safeguarding individual autonomy as a means of fostering the well-being and dignity of individuals. By acknowledging autonomy as a fundamental human right, legal systems affirm that individuals possess the freedom and capacity to govern their own lives, make decisions based on their personal values and beliefs, and pursue self-fulfillment along paths they choose.

The recognition and protection of autonomy within the realm of legal theory serve multiple significant purposes. Foremost, it ensures that individuals possess the freedom to exercise control over their own lives, devoid of unwarranted interference or coercion. This freedom enables individuals to shape their identities, pursue their aspirations, and live in alignment with their unique values.

Moreover, the preservation of individual autonomy is indispensable for promoting the well-being of individuals. When individuals have the liberty to make choices that align with their interests and desires, it enhances their sense of self-worth, satisfaction, and personal fulfillment. Autonomy acknowledges the distinctiveness of each individual and affirms their entitlement to lead meaningful and self-directed lives.

Additionally, safeguarding individual autonomy plays a pivotal role in upholding human dignity. By recognizing individuals as autonomous beings capable of making choices that reflect their own understanding of value and meaning, legal theory affirms their inherent worth and ensures they are treated with the respect they deserve. Respecting autonomy serves as a safeguard against devaluation or marginalization based on personal attributes or circumstances.

The concept of autonomy is intricately intertwined with an individual's moral agency, which pertains to their capacity to act in congruence with moral principles and assume responsibility for their conduct. Within the realm of legal theory, it is acknowledged that individuals possess an inherent ability to make choices that carry moral weight and should be held accountable for the ethical ramifications stemming from those choices. Autonomy functions as a catalyst for the exercise of moral agency by empowering individuals to make decisions based on their

personal values, beliefs, and comprehension of what constitutes moral rectitude or impropriety.

Legal theory emphasizes the fundamental principle of individual autonomy, affirming the notion that individuals possess the freedom to make choices that align with their own moral compass as well. This recognition is grounded in the understanding that individuals possess the cognitive capacity and rationality to engage in a process of contemplation and arrive at well-informed decisions. By acknowledging autonomy as a cornerstone of legal theory, the law asserts that individuals are capable of discerning between actions that are morally acceptable and those that are not, and that they bear responsibility for the consequences that arise from their choices.

The exercise of moral agency through autonomy carries profound implications for the establishment of a just and ethical society. Granting individuals the freedom to act in accordance with their moral principles nurtures a sense of personal responsibility. Individuals become cognizant of the ethical implications of their choices and recognize their moral obligation to consider the potential ramifications of their actions. This heightened awareness fosters a culture of accountability, motivating individuals to align their behavior with moral norms and values.

Furthermore, the recognition of autonomy and moral agency in legal theory promotes the development of a just and ethical society by nurturing a sense of fairness and upholding the rights and dignity of individuals. By allowing individuals the liberty to exercise their moral agency, legal systems affirm their autonomy and acknowledge their capacity to contribute to the collective moral fabric of society. This recognition affirms the inherent worth and dignity of individuals as moral agents capable of making meaningful choices that uphold societal values.

In legal theory, individual autonomy assumes critical importance in ensuring genuine and voluntary consent across various contexts, including contracts, medical procedures, and personal relationships, too. Autonomy guarantees that individuals possess the freedom to provide informed consent based on their own comprehension and volition. Legal frameworks that prioritize autonomy safeguard individuals against coercion, manipulation, and infringements on their personal choices.

Recognizing and respecting individual autonomy serves as a cornerstone for treating individuals as equal and autonomous beings. Legal theory acknowledges that all individuals possess the right to equal treatment and protection under the law, regardless of their personal characteristics or circumstances. The preservation of autonomy within legal systems prevents arbitrary differentiations and discriminatory practices based on factors such as race, gender, religion, or disability.

Autonomy assumes a pivotal role in personal development and the pursuit of self-fulfillment as well. Legal theory recognizes that individuals harbor diverse aspirations, values, and life goals. By upholding autonomy, legal systems afford individuals the space and freedom to pursue their unique paths, engage in self-expression, and achieve personal fulfillment, ultimately contributing to the overall well-being of society.

In conclusion, individual autonomy bears significant importance in legal theory as it safeguards personal liberty, upholds human rights, acknowledges moral agency, ensures genuine consent, promotes equality, and fosters personal development and flourishing. By upholding and preserving individual autonomy, legal systems strive to achieve justice, fairness, and the protection of individual rights and freedoms.

2.2.4. Criminal Law and the Principle of Individual Responsibility

The principle of individual responsibility holds a central position in criminal law, serving as a fundamental cornerstone for the functioning of the legal system (Herring 2018; von Hirsch et al. 2016). It establishes the notion that individuals bear the obligation to be accountable for their actions and the resulting consequences. This principle plays a pivotal role in determining guilt or innocence, imposing appropriate sanctions, and ensuring the fairness and effectiveness of the criminal justice system.

Within the domain of criminal law, individual responsibility encompasses two essential elements: *mens rea*, referring to the mental state or intention of the offender; and *actus reus*, which pertains to the physical act or omission committed (Herring 2018). Both these elements are indispensable for establishing criminal

liability. As Herring (2018) explains, "the principle of individual responsibility in criminal law requires both a guilty mind and a guilty act."

The principle of individual responsibility finds its roots in legal philosophy and theory, reflecting the moral and ethical framework of society that holds individuals responsible for their voluntary actions (von Hirsch et al. 2016). It acknowledges the capacity of individuals to make choices and exercise control over their behavior, thereby necessitating that they bear the consequences of their decisions.

Moreover, individual responsibility serves significant purposes within the criminal justice system by promoting accountability and deterrence (Duff 2010). Holding individuals responsible for their actions acts as a deterrent, discouraging engagement in criminal behavior and reinforcing societal norms. Duff (2010) asserts that "individual responsibility is a key factor in the rationale for punishment."

Furthermore, the centrality of individual responsibility plays a critical role in upholding fairness and justice in the context of criminal law, aligning with the principles of autonomy and equality before the law (Ashworth 2013). Ashworth (2013) highlights that "individual responsibility is essential to respect the autonomy and dignity of individuals within the criminal justice system." By attributing responsibility to individuals based on their actions and intentions, criminal law acknowledges individuals as rational moral agents capable of making choices.

Nevertheless, it is essential to acknowledge the complexities and limitations associated with individual responsibility in criminal law (Ashworth 2013; Duff 2010). Critics argue that external factors, such as socio-economic circumstances or mental health conditions, may influence an individual's capacity for rational decision-making and thereby impact their responsibility. Moreover, finding the appropriate balance between punishment and rehabilitation remains a subject of ongoing debate.

In conclusion, the centrality of individual responsibility in criminal law is a foundational principle that ensures accountability, fairness, and the effective functioning of the legal system (Herring 2018; von Hirsch et al. 2016). By holding individuals responsible for their actions and intentions, criminal law recognizes their capacity for autonomous decision-making and upholds societal norms and

values. However, it is crucial to consider the nuances and challenges associated with individual responsibility to ensure a just and equitable criminal justice system.

2.2.5. Individual Responsibility in Legal Theory and Human Rights

The interconnection between individual responsibility in legal theory and human rights constitutes a fundamental nexus that engenders profound ramifications for the operation of legal systems and the safeguarding of fundamental rights. This correlation emanates from the acknowledgment that individual responsibility stands as an indispensable cornerstone of legal systems, whereas human rights furnish a comprehensive framework aimed at ensuring equitable and impartial treatment of individuals within such systems.

In legal theory, individual responsibility encompasses the premise that individuals ought to be held answerable for their actions and the ensuing consequences. It encompasses the notion that individuals possess the capacity to exercise discretion and exert control over their conduct, thus necessitating the bearing of accountability for their decisions. This principle assumes a critical role in ascertaining guilt or innocence, administering appropriate sanctions, and guaranteeing the equity and efficacy of the criminal justice apparatus (Herring, 2018; Duff, 2010).

Conversely, human rights entail a constellation of universal standards and safeguards that inherently pertain to all individuals by virtue of their humanity. These rights encompass fundamental principles, including the entitlement to life, liberty, and personal security, the right to a fair trial, and the prohibition of torture as well as cruel, inhuman, or degrading treatment or punishment. Human rights frameworks are designed to preserve the dignity, autonomy, and well-being of individuals while promoting values of equality, non-discrimination, and justice (Lustig, Kälin, & Glendon, 2018).

The interrelationship between individual responsibility and human rights manifests through various avenues. Primarily, human rights furnish a foundation for holding individuals accountable for their actions by delineating the boundaries of permissible behavior and establishing normative benchmarks against which individual conduct is evaluated. For instance, the prohibition of torture not only

shields the rights of individuals but also demarcates a distinct threshold beyond which individuals can be held liable for their deeds.

Furthermore, human rights contribute to the equitability and efficacy of legal systems by ensuring that individuals are accorded dignified treatment and bestowed with indispensable procedural safeguards. The right to a fair trial, for instance, ensures that individuals accused of crimes are afforded the opportunity to present their case, challenge the evidence against them, and avail themselves of legal representation. This right constitutes an indispensable tenet for upholding individual responsibility within the realm of the criminal justice system (Taylor, 2019).

Moreover, human rights serve as a counterbalancing force against the potential excesses of individual responsibility. These frameworks recognize that external factors, such as socioeconomic circumstances or mental health conditions, can impinge upon an individual's capacity for rational decision-making and curtail their sphere of responsibility. Consequently, human rights frameworks underscore the imperative of considering such factors and mandate that legal systems take into account the idiosyncratic circumstances and vulnerabilities of each individual (Moir & Gunning, 2019).

In summary, individual responsibility in legal theory and human rights are intricately intertwined. The principle of individual responsibility provides the bedrock for accountability within legal systems, while human rights furnish the normative framework that safeguards equitable treatment and shields the rights of individuals. By acknowledging the capacity of individuals to make choices and bear the repercussions of their actions, while concurrently considering the rights and vulnerabilities of individuals, legal systems can strive to strike a delicate equilibrium between responsibility and the preservation of human rights.

2.2.6. Separation of Powers

The principle of separation of powers stands as a cornerstone of contemporary democratic governance, with its origins tracing back to influential thinkers such as Montesquieu and Madison (Madison, 1788). This chapter delves into the profound interconnectedness between the separation of powers and the principle of due process within the broader context of upholding the rule of law and nurturing

liberal democracy. It explores the historical genesis, underlying rationale, and pivotal role of judicial independence and the principle of limited government in safeguarding individual rights while curtailing the potential for arbitrary authority.

The concept of separation of powers operates as a foundational element in democratic societies, rooted in the philosophical works of political theorists. The division of governmental functions into distinct branches - legislative, executive, and judicial - acts as a formidable bulwark against the unchecked accumulation of power and the emergence of authoritarian tendencies. Montesquieu (1989) advocated for the separation of powers, which serves as a pivotal mechanism fostering accountability, preventing power abuse, and reinforcing the rule of law.

The autonomy of the judiciary occupies a central position within the due process principle. An impartial and self-governing judiciary is pivotal in ensuring equitable legal proceedings devoid of external influences. An independent judiciary acts as a safeguard against arbitrary state power, a sentiment championed by scholars such as Blackstone (1765) and Marshall (1803). Through the insulation of judges from external pressures, the judiciary can adjudicate cases impartially and apply the law equitably.

Due process, a cornerstone of modern legal systems, entails fair and transparent legal procedures for individuals. The presence of a separation of powers framework complements due process by preventing the subordination of the judiciary to other governmental branches. The absence of such separation can lead to unwarranted executive or legislative dominance in the judicial domain, thereby compromising the fairness of trials and eroding due process guarantees.

The principle of limited government, intrinsically linked with the separation of powers, serves as a pivotal constraint against potential encroachments on individual liberties. A government constrained by constitutional or legal parameters is less inclined to engage in arbitrary actions that infringe upon due process rights. The writings of Locke (1690) and Jefferson (1776) underscore the necessity of circumscribing governmental authority to safeguard citizens from tyranny and ensure the protection of their rights.

The effective operation of the due process principle hinges on a robust separation of powers framework. An independent judiciary, shielded from political interference, is vital in ensuring impartial trials and upholding individual rights.

Additionally, the principle of limited government acts as a countermeasure to potential governmental actions that may jeopardize due process rights. Together, these principles foster a mutually reinforcing dynamic that strengthens the protection of individual liberties and reinforces the sanctity of the rule of law within democratic societies.

The intertwined relationship between the separation of powers and the due process principle assumes a pivotal role in underpinning individual rights and sustaining the democratic ethos. Its historical evolution, guided by philosophical luminaries, underscores the significance of an autonomous judiciary and the restraint of governmental authority. In the face of evolving challenges, the symbiotic nature of the separation of powers and due process remains a formidable force, perpetuating the resilience and vitality of democratic governance.

3. REGIME CHANGE AND THE COLLAPSE OF THE RULE OF LAW IN TURKEY

Throughout the history of political development, the occurrences of regime change and their ensuing consequences have interwoven a rich fabric of fascination and metamorphosis across various societies. This chapter unfurls the intricate tale of regime change within the context of Turkey, exploring its profound implications for the foundational pillar of the rule of law. As historical narratives intertwine with contemporary discourse, we embark on a journey that traverses the complex interplay between political dynamics and legal norms.

The tumultuous period marked by pivotal events such as the Gezi Park protests⁵ and the December 17, 2013 corruption scandal⁶ provides the backdrop against which the contours of this regime shift come into focus. Noteworthy is the discourse surrounding allegations of cooperation with deep-state actors, aimed at orchestrating a regime transformation, thereby setting the stage for the emergence of a more authoritarian Turkey. Central to this narrative is the systematic elimination of political opponents, an endeavor that reverberates through the socio-political landscape, significantly impacting the very essence of the rule of law. As we delve into the multifaceted layers characterizing these transformative episodes, we unearth the nuanced threads that bind changes in governance to shifts in the rule of law's foundational tenets. Among the

⁵ The Gezi Park protests in 2013 erupted over government plans to demolish Gezi Park in Taksim. They quickly turned into mass anti-government demonstrations that were violently suppressed by the government, leading to the death of 11 protestors due to the use of disproportionate force by the police.

⁶ The December 17-25 bribery and corruption investigations in connection with state-owned Halkbank shook Turkey back in 2013. The probe implicated, among others, the family members of four cabinet ministers as well as the children of then-prime minister Erdoğan. Despite the scandal resulting in the resignation of the cabinet members, the investigation was dropped after prosecutors and police chiefs were removed from the case. Erdoğan, officials of the ruling Justice and Development Party (AKP) and the pro-government media described the investigation as an attempt to overthrow the government. Some of the claims that were part of the investigations were later substantiated in New York federal court where Halkbank executive Mehmet Hakan Atilla was sentenced to 32 months for conspiring to violate US sanctions on Iran and other offenses.

For more information, see: "Turkish Banker Mehmet Hakan Atilla Sentenced To 32 Months For Conspiring To Violate U.S. Sanctions Against Iran And Other Offenses," United States Attorney's Office, Southern District of New York <https://www.justice.gov/usao-sdny/pr/turkish-banker-mehmet-hakan-atilla-sentenced-32-months-conspiring-violate-us-sanctions>

transformations, a recalibration of Turkey's pro-Western and pro-EU foreign policy course adds another layer to the narrative canvas, further illuminating the intricate dance between political maneuvering and legal continuity. By closely examining these interconnected threads, we endeavor to comprehend how the turbulence of regime change has, at times, engendered the erosion of core legal principles, beckoning a comprehensive exploration of the challenges, implications, and far-reaching consequences that ensued.

3.1. Gezi Park Protests



The Gezi Park protests of 2013 marked a significant turning point in modern Turkish history, igniting a wave of social and political activism that reverberated both within the country and internationally. What initially started as a local protest against the planned redevelopment of Gezi Park, a small green space in Istanbul's Taksim Square, quickly grew into a nationwide movement expressing broader discontent with the ruling government's policies and practices.

The spark that ignited the protests was the government's decision to replace the park with a shopping mall and rebuild the historic Taksim Military Barracks, effectively erasing a cherished public space. Initially, a small group of activists peacefully gathered in the park to voice their concerns and protect the trees that

were slated for removal. However, the heavy-handed response of the authorities, including the use of tear gas and excessive force, sparked outrage and drew widespread attention.

News of the protests quickly spread through social media, and what began as a local issue swiftly evolved into a larger movement encompassing a wide range of grievances. People from different backgrounds and ideologies joined forces to express their frustration with the government's perceived authoritarianism, lack of transparency, and infringement on civil liberties.

The protests gained momentum as tens of thousands of people flooded the streets of Istanbul and other major cities across the country. Demonstrators set up makeshift camps in Gezi Park, transforming it into a symbol of resistance against an increasingly repressive government. The protests also attracted international attention, with actions in solidarity taking place in various cities worldwide.

The government's response to the protests further fueled public anger. Instead of engaging in dialogue and addressing the concerns of the protesters, authorities resorted to a heavy-handed crackdown. Riot police were deployed, leading to clashes between protesters and security forces. The use of tear gas, water cannons, and rubber bullets resulted in injuries and even deaths, further escalating tensions.

Despite the government's efforts to suppress the protests, the Gezi Park movement had a lasting impact on Turkish society. It provided a platform for various marginalized groups, including environmentalists, activists, and ordinary citizens, to come together and demand change. The protests served as a wake-up call for many, challenging the government's authority and calling for greater democratic reforms.

Furthermore, the Gezi Park protests demonstrated the power of social media as a tool for mobilization and organizing. Activists used platforms such as Twitter and Facebook to share real-time updates, coordinate actions, and raise awareness of the unfolding events. This marked a turning point in the use of technology for political activism in Turkey and beyond.

While the protests did not lead to immediate political change or the reversal of the government's policies, they left a lasting impact on Turkish society. The Gezi Park protests reshaped public discourse, inspiring a new wave of political engagement,

and fostering a sense of solidarity among different segments of society. It also highlighted the need for a more inclusive and participatory democracy in Turkey.

3.2. Corruption Scandal of December 17, 2013



Cabinet ministers that were implicated in the corruption investigations

On December 17, 2013, a corruption scandal erupted in Turkey, sending shockwaves throughout the country and exposing a network of illicit activities involving high-ranking government officials, businessmen, and their associates. The events that unfolded on that day marked a turning point in Turkish politics, challenging the ruling party's credibility and triggering a series of investigations and arrests.

The scandal began with a series of simultaneous police operations across Istanbul and other major cities. Arrest warrants were issued for numerous individuals, including government ministers, their sons, and prominent businessmen. The operations were carried out by prosecutors and law enforcement officers who had been investigating corruption allegations for months.

The investigations focused on a wide range of illegal activities, including embezzlement, money laundering, bribery, and abuse of power. The allegations implicated individuals with close ties to the ruling Justice and Development Party (AKP), which had been in power since 2002. This led to heightened scrutiny of the party's practices and raised questions about its commitment to good governance.

Several key figures were arrested on December 17, 2013, including the sons of three government ministers: the minister of interior, the minister of economy, and the minister of urban planning. The arrests immediately captured public attention and triggered a wave of disbelief and anger among the population.

As details of the corruption scandal emerged, it became apparent that a vast network of individuals had been involved in corrupt practices, bribery, and abuse of power. The investigations revealed intricate webs of illicit financial transactions, with large sums of money changing hands in exchange for favors, contracts, and protection.

The scandal also exposed alleged connections between the government officials and businessmen involved. It suggested a system where influential figures could secure advantages and economic benefits through their political influence and networks, undermining fair competition and distorting market dynamics.

The government's response to the scandal was marked by efforts to suppress the investigations and undermine their credibility. Reassignments of prosecutors and police officers involved in the case raised concerns about interference in the judiciary and the impartiality of the legal process. Legislative changes were proposed to restrict the independence of the judiciary, further fueling suspicions of government influence.

Media coverage of the scandal faced significant challenges, with censorship, self-censorship, and intimidation becoming prevalent. Journalists and media outlets that sought to report on the scandal faced obstacles and legal actions, limiting the dissemination of information and hindering public discourse.

The response of the opposition to the corruption scandal that emerged on December 17, 2013, in Turkey exhibited a range of perspectives and actions from different political parties and individuals. This scandal created a highly charged political environment, prompting the opposition to seize the opportunity to question the ruling party's credibility and advocate for increased accountability.

Opposition parties, including the Republican People's Party (CHP) and the Nationalist Movement Party (MHP), swiftly denounced the corruption allegations and demanded thorough investigations. They called for transparency, accountability, and an end to the culture of corruption within the government.

Opposition politicians used the scandal as a rallying point to mobilize support and emphasize the necessity for a change in leadership.

In the aftermath of the scandal, opposition parties actively advocated for the formation of parliamentary investigation commissions to delve deeper into the allegations. These commissions aimed to shed light on the extent of corruption and hold the responsible individuals accountable. However, their efforts often faced resistance and were hindered in achieving significant outcomes due to the ruling party's majority in parliament.

Opposition figures within the parliament utilized their platforms to raise concerns about the government's integrity and question potential political interference in the investigations. They contended that the arrests and dismissals of prosecutors and police officers involved in the case were deliberate attempts to obstruct justice and shield those implicated in the scandal.

Moreover, opposition politicians used the scandal to criticize the ruling party's policies, arguing that corruption had become pervasive under their governance. They asserted that the scandal was indicative of a broader pattern of power abuse and a lack of transparency within the government.

Outside of the political sphere, civil society organizations, independent media outlets, and activists aligned with the opposition played significant roles in exposing and addressing the corruption scandal. They provided platforms for public discourse, raised awareness, and organized protests and demonstrations to demand accountability and an end to corruption.

Nevertheless, it is essential to recognize that the opposition faced challenges and limitations in responding to the corruption scandal. The ruling party, led by then-prime minister Recep Tayyip Erdoğan, maintained a strong position and utilized its resources and influence to undermine the investigations and suppress dissenting voices.

Furthermore, divisions within the opposition and the ruling party's ability to shape the narrative surrounding the scandal created obstacles to achieving a unified front against corruption. The government employed strategies to shift blame and portray the investigations as politically motivated attempts to destabilize the country.

The corruption scandal of December 17, 2013, had far-reaching implications for Turkish society and politics. It shattered public trust in the ruling party and fueled widespread disillusionment with the state of governance. The scandal became a rallying point for opposition parties, civil society organizations, and ordinary citizens, demanding greater accountability, transparency, and an end to corruption.

In the aftermath of the scandal, there was a significant reshuffling of key positions and institutions. The government implemented personnel changes within the judiciary and law enforcement agencies, which further raised concerns about the independence of these institutions.

While the scandal initially sparked hopes for justice and accountability, the full extent of prosecution and accountability remained limited. Many individuals implicated in the investigations faced legal obstacles or were shielded from prosecution, leading to criticism of a lack of genuine efforts to combat corruption effectively.

3.3. End of the Peace Talks

The Kurdish conflict in Turkey has been a complex and protracted issue, marked by decades of violence, cultural suppression, and political strife. In an effort to find a peaceful resolution and address the grievances of the Kurdish population, the Turkish government, under the leadership of then-prime minister Erdoğan, initiated peace talks in 2012.

The peace talks, dubbed the Peace Process, marked a significant departure from previous approaches that primarily relied on military force to combat the Kurdish insurgency. Prior to the Peace Process, there were earlier attempts by the Turkish government to address the Kurdish issue. One notable initiative was the Oslo talks, which took place between 2009 and 2011. These secret negotiations were conducted between Turkish intelligence officials and representatives of the outlawed Kurdistan Workers' Party (PKK)⁷ with the aim of establishing a dialogue and finding a peaceful resolution.

⁷ The PKK has been waging an armed conflict against the Turkish state since 1984 and it is designated as a terrorist group by Ankara and much of the international community. For more information, see: Examining Extremism: Kurdistan Workers' Party (PKK), CSIS, <https://www.csis.org/blogs/examining-extremism/examining-extremism-kurdistan-workers-party-pkk>

However, the Oslo talks ultimately faltered due to leaks, disagreements over negotiation terms, and an escalation of violence on both sides. The Peace Process, launched in 2012, sought to address the underlying political, social, and cultural grievances of the Kurdish population through negotiations with the PKK. Facilitated by intermediaries and imprisoned PKK leader Abdullah Öcalan, the process aimed to find a peaceful settlement and achieve lasting peace in the region. The negotiations were initially conducted in secret to facilitate a more open and honest dialogue. Confidence-building measures were implemented as part of the Peace Process. In 2013, a ceasefire was declared between the PKK and the Turkish government, signaling a commitment to peaceful negotiations and a reduction in hostilities. This provided hope for a new era of dialogue and a genuine attempt to resolve the Kurdish conflict.

The negotiations during the Peace Process focused on a range of issues, including the recognition of Kurdish identity, political power-sharing and devolution to Kurdish regions, the disarmament and reintegration of PKK fighters, and the improvement of cultural and linguistic rights for the Kurdish population. These discussions aimed to address historical grievances and create a more inclusive and equitable society. While the early stages of the Peace Process showed promise, the road to peace was beset by significant challenges and obstacles. Acts of violence continued to occur, with both the PKK and the Turkish security forces accusing each other of ceasefire violations. These sporadic clashes undermined trust and hindered progress in the negotiations. Political dynamics within Turkey also played a critical role in the fate of the Peace Process.

Rising nationalist sentiments and opposition party criticism created an environment that was less conducive to reconciliation efforts. Critics questioned the government's commitment to the process and expressed concerns about potential concessions made to the PKK. Additionally, the secretive nature of the talks and limited public involvement hindered the broad support and understanding needed for the success of the Peace Process. Lack of transparency bred skepticism and suspicions among various segments of society, while also providing opportunities for misinformation and rumors to flourish. External factors further complicated the negotiations.

The Syrian civil war, which began in 2011, had a significant impact on the region and influenced the dynamics of the Kurdish conflict. The involvement of Kurdish groups

in Syria, particularly the People's Protection Units (YPG) and its political wing, the Democratic Union Party (PYD), raised concerns for the Turkish government. Turkey feared that the empowerment of Kurdish groups in neighboring Syria would strengthen the PKK and undermine its own national security interests. Ultimately, the Peace Process ended abruptly in 2015 following a devastating suicide bombing in the town of Suruç⁸, attributed to the Islamic State of Iraq and Syria (ISIS). This event sparked renewed hostilities between the PKK and Turkish security forces, shattering the fragile ceasefire and effectively terminating the negotiations. The breakdown of the ceasefire marked a turning point, leading to a significant escalation of violence and the re-emergence of a more militarized approach by the Turkish government. In the years that followed, intense clashes between the PKK and the Turkish military intensified in predominantly Kurdish areas. The government's focus shifted to counterterrorism operations⁹, further straining relations between the state and the Kurdish population. The hopes for a peaceful resolution and a comprehensive settlement were overshadowed by renewed violence and a rekindling of deeply rooted grievances.

Subsequent to the formal termination of the Peace Process, the Turkish government embarked upon a notably forceful and substantial military offensive directed at diverse provinces, neighborhoods, and localities situated within the southeastern precincts of Turkey, including Cizre. This emergent strategy diverged from the pre-existing paradigm not solely by its recourse to ground-based operations and imposition of curfews, but also by its explicit reliance on heavy artillery and extended-range aerial bombings. This approach, ostensibly aimed at diminishing the influence of the insurgent PKK, engendered multifaceted ramifications for the civilian populace that inhabited these regions.

Within the ambit of this heightened military endeavor, state forces marshaled an arsenal of substantial weaponry, encompassing heavy artillery ordnance and armored vehicles, to pinpoint conjectured PKK strongholds nestled within urban terrains. These artillery barrages were frequently executed from a considerable

⁸ For more information, see: Top court rejects claims of negligence of public officials in Suruç massacre, SCF
<https://stockholmcf.org/top-court-rejects-claims-of-negligence-of-public-officials-in-suru-c-massacre/>

⁹ For more information, see: Top court finds no rights violations of victims of 2015 curfew in Kurdish-majority city, SCF
<https://stockholmcf.org/top-court-finds-no-rights-violations-of-victims-of-2015-curfew-in-kurdish-majority-city/>

distance, thus targeting zones suspected of harboring entrenched militants. However, these military strikes transcended their initial objectives, engendering expansive repercussions. The indiscriminate nature intrinsic to such artillery assaults yielded pronounced collateral damage, perpetuating the destruction of critical infrastructure, residential edifices, and other vital civil structures.



People walk by the bombed buildings after the months-long curfew in Turkey's southeastern province of Şırnak.

Notably germane to the discourse is the disconcerting impact of these sustained artillery barrages upon the civilian demographic. Corroborated reports and empirical evidence prominently underscored the plight of civilians, encompassing women, children, and elderly individuals, ensnared within the crossfire and burdened with the brunt of the ensuing violence.¹⁰ The targeted shelling of inhabited vicinities from remote peripheries amplified the propensity for civilian casualties, exacerbated by the intricacies associated with the accurate

¹⁰ For more information, see: Briefing: End abusive operations under indefinite curfews in Turkey, Amnesty International
<https://www.amnesty.nl/actueel/briefing-end-abusive-operations-indefinite-curfews-turkey>

differentiation of combatants from non-combatants within densely populated urban milieus.

Moreover, the employment of heavy artillery alongside extended-range aerial bombings engendered a binary dynamic. While ostensibly furthering the annihilation of insurgent strongholds, this approach concurrently engendered an ambiance fraught with fear and precipitated the involuntary displacement of the civilian populace. The intensified violence and relentless attacks compelled many residents to abandon their domiciles, seeking sanctuary within more secure enclaves or rudimentary shelters. This culmination of events not only disrupted quotidian life but also catalyzed a humanitarian conundrum as displaced individuals contended with the manifold challenges associated with securing basic amenities and services.¹¹

Concomitantly, the strategic recourse to heavy artillery and long-range bombings within the rubric of these military engagements drew resounding censure from both internal and global observers. Human rights advocacy groups, in particular, amplified their concerns vis-à-vis potential infringements upon international humanitarian law and the disproportionality of civilian impact¹². The reverberating exhortations for impartial inquiries into the conduct of these operations gained momentum concomitant with escalating reports of civilian casualties and pervasive devastation.

In sum, the post-Peace Process military modality orchestrated by the Turkish government exhibited a pronounced deviation from prior methodologies, incorporating not only on-the-ground incursions and enforced curfews, but also an extensive reliance on robust artillery ordnance and expansive-range aerial bombardments. This ostensibly counterinsurgency-oriented approach, calibrated to neutralize presumptive PKK enclaves, paradoxically triggered unintended ramifications for the resident civilian populace, catalyzing unmitigated collateral damage, civilian casualties, and involuntary displacement. This multifaceted

¹¹ For more information, see: Inside Cizre: Where Turkish forces stand accused of Kurdish killings, BBC News <https://www.bbc.com/news/world-europe-36354742>

¹² Urgent Action Call, Amnesty International <https://www.amnesty.org/ar/wp-content/uploads/2021/05/EUR4432952016ENGLISH.pdf>
Turkey: State Blocks Probes of Southeast Killings, Human Rights Watch <https://www.hrw.org/news/2016/07/11/turkey-state-blocks-probes-southeast-killings>

outcome engendered comprehensive criticism and underscored the imperative of scrutinizing the government's adherence to international humanitarian protocols.

3.4. July 15 Coup Attempt



Government supporters cheer after the abortive putsch.

The Turkish socio political landscape bore witness to a momentous event on the fateful night of July 15, 2016, as a contested military coup attempt unfolded, engendering a multiplicity of interpretations. Prominent among these is the contention that this coup was meticulously stage-managed as a false flag operation, orchestrated with strategic precision to effectuate the consolidation of President Erdoğan's authoritative dominion. Employing this tactical stratagem, the objective was to eliminate dissident voices and neutralize influential bastions of power, with particular emphasis on the military establishment, thereby advancing Erdoğan's unbridled aspirations for unfettered governance. This complex machination bore grievous consequences, as the coup's thwarting resulted in the

lamentable loss of 251 lives, while leaving in its wake a multitude of individuals bearing injuries numbering over a thousand.¹³

Following the official declaration of the coup's quelling, the Turkish government apparatus embarked upon an ambitious and far-reaching initiative that underscored its dimensions both in scale and intensity. This concerted undertaking assumed the form of an extensive purging initiative, casting its net over a diverse cohort of professionals spanning military personnel¹⁴, judges and prosecutors, law enforcement officers, pedagogues, and sundry government functionaries. As part of the massive crackdown, 150 of the Turkish Armed Forces' 326 generals and admirals, 4,145 judges and prosecutors, more than 33,000 police officers and in excess of 5,000 academics were fired. Overall, more than 130,000 public servants lost their jobs.

Former public servants were not only fired from their jobs; they were also banned from working again in the public sector and getting a passport. The government also made it difficult for them to work formally in the private sector. Notes were put on the social security database about dismissed public servants to deter potential employers.¹⁵

Such a response resonated as a palpable disruptor within the civil service and the public domain at large, thereby augmenting the societal ramifications that had already accrued in the wake of the coup's abortive trajectory.

The aftermath of the 2016 Turkish coup attempt unfolded as a disconcerting epoch marked by an array of human rights violations, with distinct segments within Turkish society becoming recipients of these transgressions. These violations laid bare not only the erosion of civil liberties but also illuminated a more profound apprehension concerning the integrity of democratic values within the nation.

The government's response to the coup attempt included an ostensible justification for a series of unconstitutional actions. Exploiting the coup as a pretext, the

¹³ For more information, see: 15 July Erdogan's Coup, SCF
https://usercontent.one/wp/stockholmcf.org/wp-content/uploads/2017/07/15_July_Erdogans_Coup_13.07.2017.pdf?media=1701035580

¹⁴ For more information, see:
<https://stockholmcf.org/24706-expelled-from-turkish-military-since-coup-attempt-minister/>

¹⁵ For more information, see: Turkey: Purged beyond return? No remedy for Turkey's dismissed public sector workers, Amnesty International
<https://www.amnesty.org/en/documents/eur44/9210/2018/en/>

government embarked upon a sweeping crackdown on perceived adversaries, employing measures that blatantly disregarded the bedrock principles enshrined within its own constitution. In this narrative, the government invoked the need for national security and stability as grounds for the dilution of fundamental freedoms.

Individuals suspected of affiliations with Fethullah Gülen, the US-based Muslim cleric accused of orchestrating the coup, found themselves ensnared in a dragnet of arrests and detentions.¹⁶ This campaign, purportedly rooted in the coup's aftermath, unfolded without regard for the constitutionally guaranteed right to due process. The government's actions trampled upon the principle of presumption of innocence, a cornerstone of the legal framework it was bound to uphold.

Furthermore, longstanding tensions between the Turkish government and the Kurdish population were exacerbated by the government's response post-coup attempt. Employing the coup as a rationale, the government intensified restrictions on Kurdish political expression, leading to arrests of politicians, activists, and journalists. These actions, despite being rationalized by security concerns, sidestepped the constitutional protection of freedom of expression and the right to engage in political discourse.

The government's actions vis-à-vis the Alevi religious minority were equally emblematic of this dissonance between rhetoric and constitutional commitment. Discrimination persisted, despite the constitutional guarantee of equal treatment before the law.¹⁷ The government's inaction on this front perpetuated a systemic marginalization that collided with the constitutional pledge of safeguarding the rights of all citizens.

The LGBTQ+ community's plight underscored the divergence between constitutional principles and government actions. The government's prohibition of Pride events and its repression of LGBTQ+ individuals contravened the constitution's commitment to ensuring the right to peaceful assembly and

¹⁶ The Turkish government accused the Gülen movement, a faith-based group invested in education and relief work throughout the world and inspired by Fethullah Gülen, of masterminding the failed coup in July 2016. The movement strongly denies any involvement in it.

¹⁷ For more information, see: Alevi communities in Turkey feel under increasing pressure, say leaders, SCF <https://stockholmcf.org/alevi-communities-in-turkey-feel-under-increasing-pressure-say-leaders/>

freedom from discrimination.¹⁸ The government's post-coup actions betrayed the constitution's mandate to protect the rights of all citizens, regardless of sexual orientation or gender identity.

Furthermore, academics advocating for peace and an end to violence in Kurdish regions were met with reprisals. The government's dismissal of these academics under the banner of counterterrorism measures flouted their constitutionally protected academic freedom. The very constitution meant to safeguard intellectual inquiry and free expression was invoked to justify their silencing.

In summary, the post-2016 coup human rights violations in Turkey spotlighted a disconcerting disjunction between the government's constitutional obligations and its actions. The government's invocation of the coup as a basis for justifying unconstitutional practices represented a discord between the rhetoric of safeguarding national security and the practical subversion of civil liberties. By using the coup as a pretext, the government brazenly violated its own constitution and disregarded basic human rights that were constitutionally guaranteed. This dissonance between rhetoric and reality serves as a stark reminder of the imperiled state of democratic values and the essential rights enshrined in Turkey's constitutional framework.

3.5. Human Rights Violations

The evolution of Turkey's political landscape in recent years has been marked by a series of significant occurrences and policy shifts that have profoundly reconfigured the foundations of its democratic framework. This transformation has precipitated the erosion of civil liberties, the stifling of opposing voices, and a conspicuous centralization of power within the executive branch (Caman 2021). At the nucleus of this transformation resides a pivotal juncture: the attempted military coup on July 15, 2016. This incident acted as a catalyst, setting in motion a series of actions that exploited a state of emergency to enact far-reaching alterations, curtailing essential rights and freedoms while concretizing government control. Our examination traces the stages of this transformation, commencing with the initial indicators of democratic regression and culminating in a subsequent crackdown on civil society,

¹⁸ For more information, see: Pride march bans follow intensification of anti-LGBT discourse by Turkish officials: HRW, SCF
<https://stockholmcf.org/pride-march-bans-follow-intensification-of-anti-lgbt-discourse-by-turkish-officials-hrw/>

media outlets, and the judicial system. Collectively, these developments depict an unsettling tableau of Turkey's departure from its democratic ideals. As this analysis unfolds, the divergence of Turkey's contemporary political landscape from its earlier aspiration of a liberal democracy becomes strikingly evident.

In the aftermath of the attempted coup, Turkey grappled with a disconcerting wave of human rights violations perpetrated by its own government. These transgressions have engendered significant international concern and elicited condemnation from global human rights organizations. Our discourse delves into the egregious violations of human rights that unfolded following the coup attempt and scrutinizes the far-reaching consequences for democratic principles, civil liberties, and the integrity of the rule of law (Caman 2021).

Shortly after the coup attempt, an extensive crackdown on civil liberties and freedom of expression was initiated. The government's response entailed the widespread arrest of journalists, academics, public servants, and individuals labeled as dissenters. This clampdown extended to media platforms, leading to the closure of several outlets critical of the government.¹⁹ The suppression of opposition and the narrowing of public discourse pose a challenge to democratic values and cast doubt on the resilience of democratic principles (Caman 2021).

Beyond quashing dissent, the Turkish regime set its sights on undermining judicial independence. The aftermath of the coup attempt witnessed the removal of thousands of judges and prosecutors from their positions, raising concerns about the impartiality and integrity of the judicial system. The wholesale dismissal of judicial officials based on alleged coup affiliations or differing viewpoints raises pertinent inquiries into the prospects for fair trials and the due process rights of individuals accused of coup-related offenses.

Reports of arbitrary detentions, prolonged pretrial incarcerations, and allegations of torture and maltreatment during custody have emerged from various sources. The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) confirmed in two reports published on August 5, 2020, the continued existence of ill-treatment, torture, informal

¹⁹ For more information, see: Report on Freedom of the Press in Turkey, the Friedrich Naumann Foundation for Freedom
<https://www.freiheit.org/turkey/report-freedom-press-turkey-0>

questioning and restricted access to a lawyer as well as a fundamentally flawed medical screening system in Turkish detention facilities.²⁰

These allegations underscore a stark disregard for fundamental human rights, including the right to personal security, the prohibition of torture, and the right to a fair trial. The deployment of such coercive tactics not only violates international human rights agreements but also taints Turkey's global standing.

The government's response also extended to the right to assemble and associate. The declaration of states of emergency granted authorities the power to prohibit rallies, protests, and gatherings under the pretext of national security concerns. This constraint hindered citizens' capacity to peacefully voice opinions and engage in political activities, thereby curtailing democratic participation and the unimpeded exchange of ideas.

Furthermore, the media landscape underwent a transformation as independent media outlets were shuttered and journalists were detained. This campaign against the press stifled investigative reporting, muzzled dissenting voices, and impeded public access to diverse information. A free and independent press stands as a cornerstone of democracy, and its erosion poses a critical threat to mechanisms that forestall the abuse of power.

The AKP government declared a state of emergency (OHAL) in the aftermath of the failed coup that remained in effect until July 19, 2018. During the state of emergency, which ended on July 18, 2018, 31 decrees with the force of law were enacted. This period was exploited to consolidate governmental authority, resulting in the suppression of opposing voices and a gradual erosion of essential rights and liberties. Among the detrimental outcomes were unjustified detentions, abusive prosecutions, the dismissal of public servants, and a clampdown on media freedom and basic rights (Aydin and Avincan 2020; Human Rights Watch 2019).

Within this state of emergency, the president gained dominion over the cabinet, which could promulgate decrees without parliamentary oversight or recourse to the Constitutional Court. Many of these decrees contained provisions at odds with human rights norms and Turkey's obligations under international and domestic

²⁰ Press Release: Council of Europe anti-torture Committee publishes two reports on Turkey, Council of Europe
<https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-two-reports-on-turkey>

law. The post-July 2016 presidential decrees extended the emergency's purview to encompass actions against individuals linked to the "Fethullahist Terrorist Organization – FETÖ" (Decree 668, July 27, 2016)²¹ and public personnel with affiliations to FETÖ, along with their families (Decree 670, August 17, 2016) (Office of the United Nations High Commissioner for Human Rights 2017, 11). The rigorous implementation of these decrees precipitated the erosion of civil and political rights, including freedom of speech, press freedom, the right to assemble, protection against arbitrary detention, and the presumption of innocence (Girdap 2020).

These measures facilitated the establishment of an unchecked bureaucratic apparatus that contributed to an environment of pervasive oppression. Significantly, these decrees evaded judicial scrutiny and were impervious to the oversight of the Constitutional Court. In essence, these changes not only compromised the constitutional rights of Turkish citizens but also encroached upon the nation's international human rights responsibilities.

In conclusion, the trajectory of Turkey's political landscape has undergone a profound transformation in recent years, diverging from the democratic ideals it once held dear. The tumultuous aftermath of the 2016 attempted military coup served as a crucible for substantial shifts that redefined the fabric of the nation's democracy. The erosion of civil liberties, the suppression of opposition voices, the curtailment of judicial autonomy, and the assault on free expression and media freedom collectively illustrate a disheartening departure from the democratic aspirations Turkey once embraced. As this analysis elucidates, this transformation has been accompanied by a disconcerting array of human rights violations, invoking deep concern within the nation and beyond its borders. Turkey's journey, marred by a regression from democratic principles, underscores the paramount importance of safeguarding these principles to ensure the vitality of a truly democratic society.

3.6. Sculpting the Judiciary as a Puppet of the Executive

In the intricate tapestry of modern governance, the judiciary serves as the sentinel of justice, entrusted with upholding the rule of law and safeguarding the

²¹ "FETÖ" is frequently used as a derogatory term by President Erdoğan and his followers to smear the Gülen movement and amounts to hate speech.

democratic balance. Yet, within the Turkish context, the boundaries between the judiciary's independence and the executive's influence have become blurred, eliciting concerns over the erosion of a fundamental pillar of democracy. A poignant remark by ultranationalist Homeland Party chairman Doğu Perinçek, who opined that the judiciary was the “dog of politics,” underscores the complex interplay between political power and judicial autonomy.²² This chapter embarks on an analytical journey to explore the nuanced mechanisms through which the Erdoğan regime has extended its influence over the Turkish judiciary. By delving into a spectrum of factors, including appointments, disciplinary processes, and judicial review, we unravel the multifaceted strategies employed by the executive to assert control over a critical institution and examine the implications for the rule of law and democratic norms in Turkey. The spotlight on the Turkish judicial system under Erdoğan's leadership is emblematic of a larger pattern, wherein the regime appears to be wielding the judiciary as an instrument for the pursuit of political ends. What emerges is a disconcerting narrative wherein the judicial apparatus becomes a tool employed to enact Sippenhaft arbitrary punishment, akin to collective punishment, aimed at specific groups or individuals deemed opposed to the regime's objectives. This study delves into the multifaceted dimensions of this phenomenon, dissecting the symbiotic relationship between the judicial system's alleged manipulation and the state's orchestrated endeavors to consolidate authority through targeted punitive measures. By scrutinizing the intersection of political expediency and judicial proceedings, this investigation seeks to unravel the intricacies of the Turkish judiciary's role as a potential tool in the regime's strategic arsenal.

The bedrock of judicial autonomy finds profound anchorage within the contours of the Turkish Constitution. This cardinal tenet takes its moorings from the hallowed Article 2 of the Constitution, a sanctum designating the state as a paragon of democratic, secular, and societal governance entrenched under the rubric of the rule of law. Nestled within the intricate web of the Turkish legal matrix, the Constitution stands as the impenetrable citadel of legal supremacy, bestowing upon every legislative, executive, and judicial sinew, administrative echelon, institutional entity, and individual incumbent the obligation to hew steadfastly to its doctrinal precepts.

²² Ultra-nationalist Perinçek says Turkey's judicial system living its golden age, SCF <https://stockholmcf.org/ultra-nationalist-perincek-says-turkeys-judicial-system-living-its-golden-age>

Article 138 of the Constitution emerges as the clarion harbinger of judicial sovereignty, explicitly adumbrating the inviolable autonomy vested in Turkish courts. It pronounces in resounding cadence that the judicature's charge is to be executed in splendid isolation, wherein the pronouncements rendered reverberate harmoniously with the symphony of the Constitution, the arcana of laws, and the tapestry of personal legal convictions. Notably, this provision assumes the mantle of a staunch sentinel, sternly repulsing any overture by external apparitions, authoritative figments, institutional orifices, or individual personas, who in their temerity attempt to exert sway over courts or judges pertaining to the administration of judicial puissance. Moreover, the legislative forum is adjured to eschew discourse or interrogation concerning ongoing trials, thus erecting a dyke safeguarding the sanctity of judicial endeavors. An additional injunction is placed upon the legislative and executive empyreans, commanding unswerving fealty to the decrees of courts sans modicum of tampering or deferment in their execution.

Article 139 of the Constitution adorns the tapestry of tenure protection for judges and public prosecutors, an edict that artfully restrains the precipitate dismissal or premature retirement of these judicial custodians prior to reaching the age stipulated by the Constitution. No appellation for their emoluments, allowances, or entitlements attendant to their station is to be laid waste, even in the wake of court dissolution or post truncation. Enclosed within this precept are alcoves carved by law for specific instances—those transgressing the pale of the profession through convictions for offenses that merit excommunication, those impermeably ensconced within the confines of incapacitation impelled by infirmity, and those cast adrift from the realm of suitability for perpetuating their tenure within the profession's fold.

In seamless conjunction, Article 140 of the Constitution, in symbiotic fusion with Article 4 of Law No. 2802 on Judges and Prosecutors, bestows the mantle of authority upon judges, cast in the hallowed light of court autonomy and the sanctuary of judicial tenure. This collaborative diorama artfully chisels out a robust architectural edifice, one that stands sentinel as a bastion of judicial self-determination and the fortress of judicial incumbency. Thus, the legal firmament is etched with the indelible strokes of judicial sovereignty and security in the Turkish legal paradigm.

The aftermath of the abortive putsch has presented substantial obstacles to the autonomy of Turkey's judiciary. The repercussions of the subsequent purges have wielded a profound impact on the structural and operational aspects of the nation's justice system. The ousting of 3,926 judges and prosecutors by November 2019, coupled with the incarceration of over 500 legal practitioners, has generated ramifications reaching beyond mere numerical figures. These events have not only precipitated a scarcity of experienced legal personnel but have also elicited apprehensions concerning the overall efficacy and ethical underpinnings of the judiciary. This depletion of adept judges and prosecutors bears particular significance as their sagacity plays a pivotal role in upholding the precepts of the rule of law and ensuring equitable trials.

This unfolding narrative becomes more intricate when considering the surge in litigation, predominantly stemming from cases connected to the coup attempt. The investigation of over half a million individuals associated with the coup has engendered a cascade of legal actions, a reality underscored by the approximate 30,000 individuals languishing in anticipation of trial as of late 2019. This influx of cases has precipitated an insurmountable backlog, overburdening the judicial framework's capacity for prompt and proficient case disposition. The protracted pretrial detention of certain individuals bereft of formal indictments or trial dates further compounds the strain on the system and casts doubts upon the system's commitment to safeguarding due process rights.

The divergence of opinions within the legal community augments the intricacies of this discourse. Although President Erdoğan and his legal counsel extol the fairness of the trials pertaining to the coup attempt, this narrative is subject to debate. A notable contingent of Turkey's legal experts manifest their misgivings through the conspicuous boycott of a judges' ceremony by 51 of the nation's 81 bar associations.²³ This act of defiance signifies not merely a clash of allegiances but also underscores profound ethical concerns. By selecting Erdoğan's presidential palace as the venue, the symbolic resonance casts shadows over the separation of powers and amplifies the quandaries surrounding ethical conduct. Moreover, the erosion of faith in the impartiality of judges and prosecutors, concomitant with perceived

²³ Turkish lawyer groups to boycott judicial ceremony over separation of powers, Reuters <https://www.reuters.com/article/us-turkey-judiciary/turkish-lawyer-groups-to-boycott-judicial-ceremony-over-separation-of-powers-idUSKCN1V80FK/>

curtailment of the defense's latitude, reinforces the prevailing narrative of eroding judicial independence.

A further layer of complexity interlaces with the issue through the continued waves of arrests, particularly in relation to online expressions of discontent towards the government. The detainment of individuals for their vocal dissension serves to accentuate a multifaceted dynamic: the government's endeavor to curtail the contours of free expression, a linchpin of a functioning democracy, and the judicial system's interaction with this broader context.

The reverberations of the attempted coup in Turkey have ushered in a period marked by strain on the judiciary's autonomy. The ramifications of the purges, coupled with burgeoning litigation and discordant perspectives within the legal community, cumulatively undermine the foundational tenets of judicial independence. As the government's grip tightens and divergent viewpoints persist, the predicament surrounding the safeguarding of an independent judiciary remains a poignant concern, reverberating through the prism of the rule of law within the nation.

The extensive wave of purges and dismissals of judges and prosecutors in the aftermath of the 2016 failed coup has exerted a profound influence on the structure and operational dynamics of the judicial system. The mass removal of numerous seasoned judges and prosecutors, complemented by the enlistment of a substantial cohort of fledgling jurists possessing limited experience, has engendered inquiries into the judicial apparatus's adeptness, ethical standing, and autonomous character.

The substantial infusion of nascent judges and prosecutors, a significant portion of whom have been designated to posts with inadequate preparatory training, reflects an expedited and disorderly endeavor to replenish the ranks of the judiciary. This expedient selection process, conjoined with the onerous caseload resulting from the surge in litigation linked to the coup episode, has swamped the judiciary's capacity to ensure impartial and expeditious proceedings. The paucity of experienced adjudicators and prosecutors, as underscored by the president of the Supreme Court of Appeals, not only jeopardizes the temporal dimensions of proceedings but also encroaches upon the fundamental entitlement to a just and equitable trial.

Furthermore, the absence of substantial experience among a substantial segment of the judiciary kindles apprehensions concerning their capability to uphold the supremacy of the law and equitably dispense justice. The presence of judges possessing modest experience in pivotal positions, including the apex appellate court, imperils the credibility and functionality of the judiciary as an institution. The corrosion of judicial expertise and autonomous authority could culminate in erroneous legal judgments, thereby eroding public confidence in both the judicial system and the overarching rule of law.

The observations articulated by members of Turkey's Justice Commission and the chief of the judiciary himself, in regard to the inadequacies and hazards entailed within the recruitment and appointment mechanisms, accentuate the pressing necessity for a judicial overhaul aimed at fortifying autonomy, competence, and ethical probity. The concerns articulated by legal professionals, including the boycott of a judges' ceremonial event by a substantial number of bar associations, further accentuate the perception that the judicial autonomy has been impaired.

The erosion of both the structural autonomy inherent to the judicial institution and the personal autonomy vested in individual judges constitutes a significant predicament in the Turkish context, primarily attributed to the introduction of politicized dimensions within the realm of the judiciary and its corresponding establishments. This phenomenon of "politicization" encompasses actions that obscure the distinctive essence and objectives of the judiciary, thereby transmuting them into tools subject to manipulation by the political strata of the governmental apparatus. The genesis of this phenomenon can be traced to interventions that disrupt the seamless progression of the judicial process through gratuitous interpositions by political entities. These interpositions might assume forms of overt or veiled restrictions, untoward influences, inducements, coercions, or intimidations. Moreover, this distortion can be perpetuated through formalized, legally sanctioned, and structurally ingrained frameworks that engender impediments to the unfettered functionality of the judicature. On certain occasions, this phenomenon can also be attributed to the inclinations and orientations exhibited by individual adjudicators themselves.

The government, including the Ministry of Justice, has rationalized the detention, prosecution, and disciplinary actions against judges since 2014 by framing them as essential for the eradication of "Gülenist parallel state" influences. These influences

were purportedly aimed at infiltrating and commandeering the judiciary, alongside other fundamental state institutions, to advance their self-interested agendas. This narrative portrays such infiltration as a peril to national security, tantamount to a conceivable "judicial coup," and occasionally even characterizes it as a form of "terrorist" menace.

Amidst the current climate marked by intensified politicization, a conspicuous void arises, encapsulating the essence of an impartial judicature. Such an entity, devoid of political concessions, is vested with the capacity to scrutinize the executive authority and vested interests through an unbiased adjudicative process aligned with the cardinal tenets of the rule of law. This conceptualization of the judiciary's role echoes resoundingly in the United Nations Basic Principles pertaining to judicial autonomy. These principles oblige judges to dispense verdicts in an impartial manner, anchored in empirical substantiation and congruent with legal norms, while being shielded from any overt or latent influences, constraints, coercions, or encroachments. This standpoint gains fortification from the pronouncements of the UN Human Rights Committee, which emphasize that safeguarding the right to a fair trial demands the implementation of safeguards that ensure the judiciary's sovereignty, thereby guarding judges against the encroachment of political pressures, conflicts of interest, and the specter of intimidation.

The predicament of judicial self-determination in Turkey is further compounded by instances where officials from the executive realm have categorically rejected or overtly obstructed the execution of judicial orders. Coupled with impassioned critiques of judicial pronouncements, deeming them politically skewed against the government, these occurrences propel a gradual erosion of the judiciary's credibility. This contributes to the perception that the impartial exercise of judicial authority is essentially a calculated maneuver orchestrated against the government. A notable illustration of this trend emerges from Erdoğan's response to a Constitutional Court ruling in February 2016.²⁴

This ruling deemed the detention of two journalists unconstitutional, citing violations of their liberties, security, and freedom of expression. President Erdoğan's unwavering refusal to accept or adhere to the court's pronouncement not only

²⁴ Turkey's Erdogan says does not respect court ruling on journalists, Reuters <https://www.reuters.com/article/us-turkey-media-erdogan-idUSKCNOW10E6/>

truncates the sacrosanct principle of the separation of powers but also corrodes the bedrock of judicial autonomy itself. These actions contravene established international standards and Turkey's binding obligations, including commitments delineated within the European Convention on Human Rights and the UN Basic Principles underscoring judicial independence. These tenets explicitly underscore the compelling obligation entrusted upon all governmental and institutional entities to shield and revere the autonomous self-determination of the judiciary. It is noteworthy that the Council of Europe's recommendation on judges underscores that the executive and legislative branches should abstain from disseminating criticisms that cast doubt on judicial independence or undermine public faith in the judiciary. Furthermore, they should refrain from actions that cast suspicions on their willingness to comply with judicial determinations, unless a formal intention to appeal is explicitly declared.

The Turkish judicial system faces several issues that undermine its integrity and independence. These are: 1) Separation of powers: The executive and legislative branches have engaged in actions and rhetoric that blur the separation of powers, compromising the autonomy of the judiciary. This includes legislation and public statements that challenge the judiciary's role. 2) Judicial appointments: The process of appointing judges lacks independence as it is influenced by the Ministry of Justice and other executive bodies. This compromises the impartiality of the judiciary. 3) Disciplinary proceedings: Disciplinary cases against judges and prosecutors are not consistently aligned with international legal standards. Due process is not consistently followed, and decisions lack transparency and fair appeal mechanisms. 4) Transfers of judges and prosecutors: The transfer of judges and prosecutors lacks transparency and due process safeguards. This can lead to the misuse of transfers as a form of disciplinary action. 5) Appeals process: The process of appealing decisions made by criminal judgeships of peace is not adequately defined, potentially impacting the fairness of judicial outcomes. 6) Freedom of association and expression: Judges and prosecutors face restrictions in their freedom to associate and express themselves, with pressure to join or resign from professional associations. 7) Protection of lawyers and human rights defenders: Lawyers and human rights defenders are not consistently protected from threats and harassment, and some government actions and statements undermine their safety.

To conclude, the enlistment of a substantial cohort of inexperienced judges and prosecutors, coupled with the escalating caseload resulting from the post-coup legal proceedings, has engendered formidable impediments to the autonomy of the judiciary in Turkey during Erdoğan's tenure. The attrition of accomplished legal practitioners, coupled with the erosion of public reliance and anxieties pertaining to the impartiality of proceedings, engenders inquiries into the judiciary's efficacy in upholding legal tenets and ensuring justice for all members of society. A proactive endeavor to invigorate the autonomy and proficiency of the judiciary is imperative to the restoration of public faith and the preservation of the cardinal tenets of a just and impartial judicial establishment.

3.7. Creation of the new regime: rise of authoritarianism

Commencing around the year 2011 and extending onward, Turkey has been ensnared within a twofold trajectory characterized by a noticeable regression in democratic norms, a trajectory that coincides with the ascendancy of a freshly established authoritarian regime helmed by Erdoğan (Çaman 2021). Emblematic of this shift towards authoritarian governance is the fundamental reshaping of Turkey's political framework into a presidential system, effectively consolidating an extensive gamut of executive and legislative powers within the grasp of Erdoğan. This transformation has concomitantly engendered the dilution of the once-sacrosanct principle of the separation of powers, thereby eroding the checks and balances traditionally employed to curb the latitude of executive authority.

In the contemporary milieu, the landscape is punctuated by the ascendancy of Erdoğan's Justice and Development Party (AKP) in tandem with its political ally, the Nationalist Movement Party (MHP). Within this political confluence, their sphere of control extends dominantly over key facets of the Turkish state machinery, encompassing not only the judiciary but also the Turkish intelligence apparatus, the police force, the labyrinthine state bureaucracy, and to a certain extent, even the military establishment (Yılmaz, Çaman & Bashirov 2020). This chapter delves into the intricate dynamics that characterized the transformation of the Erdoğan regime in Turkey, tracing its evolution from a semi-democratic system during the EU membership negotiations to its current state of despotism. The study explores the underlying causes of this transformation, focusing on the erosion of constitutional mechanisms, the decline of institutional robustness, and the consolidation of power within a single individual. The essay investigates the

interplay between political factions, particularly the military and the Erdoğan-led AKP, shedding light on the factors that facilitated the dismantling of democratic checks and balances. Additionally, the role of economic partnerships, the subversion of democratic principles for personal gain, and the influence of external powers are analyzed to understand their contributions to the ongoing state of authoritarianism. The essay concludes by examining the power dynamics between Erdoğan and the emerging Eurasian-nationalist faction. It also contemplates the repercussions of such internal power struggles on Turkey's foreign policy and democratic future.

In the Turkish context, the inquiry into the presence or absence of democracy has transcended the realm of mere conjecture. Presently, the imperative resides in comprehending the genesis of the prevailing regime, or more aptly, the strategies instrumental in its establishment. Addressing this quandary assumes a paramount significance. One is compelled to investigate and elucidate the manner in which Turkey has traversed, adopting the configuration of what James Madison and Thomas Jefferson have denominated "elective despotism" within democratic literature. This evolution prompts an inquiry into the transformation of electorally derived authority into despotic governance. Consequently, a series of inquiries emerge, including inquiries into the beneficiaries of this trajectory, the cohesive forces sustaining this amalgamation of interests, the durability of this amalgam, and the prospects for democratic resurgence subsequent to its dissolution. The explication of Turkish political dynamics, it is posited, remains an elusive endeavor bereft of an in-depth engagement with these interrogations.

Within the Turkish paradigm, the conceptualization of democracy has historically pivoted on the procedural framework of electoral processes. The crux of this notion rested in the ascendancy of the collective will, denoted more aptly as the will of the populace, to positions of power. Nonetheless, while electoral ascension assumes a pivotal role, it does not engender a comprehensive panorama. The rationale behind this contention emanates from the observation that parties or individuals attaining power via electoral endorsement, irrespective of the magnitude of votes garnered, acquire a specific manifestation of authority—namely, the prerogative of executive dominion, subject to surveillance. This executive authority encompasses an array of spheres within daily political discourse, spanning transitory to medium-term economic strategies, foreign policy formulations, environmental imperatives, and

other comparable facets. Moreover, it encompasses reactions to established political, societal, and economic quandaries.

In democratic paradigms, however, authority is not circumscribed solely within the precincts of executive purview. The legitimacy and juridical accountability conferred upon an individual or a party via electoral processes to administer the state notwithstanding, their jurisdiction does not extend towards the lawmaking (legislation) or the adjudication of statutes (judiciary). The axes of legislation and judiciary embody two-thirds of the concept of authority. Though the executive sphere might, theoretically, establish an oblique relationship with the legislative domain, its interface with the judicial facet remains devoid of any interaction. This dichotomy stands as an uncontested precept, both theoretically and pragmatically. This convention warrants inquiry into its rational underpinnings.

Democratic *modus operandi* enshrines the principle of majority will—wherein the pre-eminence is vested in the party or aspirant that secures the most widespread endorsement and votes through equitable electoral processes—within the ambit of competition, demarcated until the juncture of ascertaining victors and vanquished in the power struggle. Consequent to this contestation, the resultant authority assumes the form of executive ascendancy. Often, the party or coalition clinching electoral triumph concurrently commands a majority within the legislative assembly, thereby exerting a pivotal influence on the legislative process. However, it is frequently observed that a solitary party seldom attains the essential majority requisite for the modification of the constitution. This holds true even in the context of polities typified by high electoral thresholds—Turkey, for instance—fostering concomitant disparities between votes amassed and parliamentary seats obtained. Accordingly, authority is obtained for a finite tenure, followed by periodic iterations of equitable elections. The perpetuation or relinquishment of authority is contingent on public endorsement or censure of the government's policies. In instances where public sentiment is disenchanted with the government's actions, electoral success eludes the incumbents, prompting the ascendancy of a fresh party or individual. The potency of the majority will be underscored in this dynamic.

Conversely, the custodians of executive authority are rendered amenable to the oversight of the legislative arm (parliament), manifesting both internal and external dimensions. This supervisory function, predicated upon constitutional edicts and legal frameworks, is characterized by a continuous character. Of equal, if not

greater, importance is the ceaseless vigilance exercised by the judicial echelons—encompassing the Constitutional Court, appellate courts, and subordinate judiciaries. This oversight, predicated upon the powers vested in them by the existing constitutional schema, is sustained. Notably, this judicial apparatus undertakes an appraisal of the congruence between legislation enacted by the legislative arm (parliament) and the constitution, as well as the constitutional order. Illustratively, functional democracies proscribe legislative endeavors that contravene foundational human rights and liberties, or that encroach upon established rights and freedoms. It is impermissible, for instance, to promulgate legislation negating women's electoral franchise and candidacy. Similarly, acts of racial discrimination are deemed unlawful. The rationale underpinning these constraints extends beyond mere moral imperatives. Concomitant legal and theoretical premises emphasize the binding force and hierarchical precedence of the constitution and international compacts. Deviations from these precepts entail a departure from democratic propriety. Should the legislative arm enact legislation contravening the constitution, the judicial echelons possess the prerogative, underpinned by constitutional authority (exemplified by the Constitutional Court's intervention), to annul such legislation. In this manner, the judiciary interjects within the province of the legislative branch (parliament). The democratic character of such an intervention is ratified by virtue of the conception of democracy transcending procedural and formal parameters, as foregrounded at the outset of this discourse. Democracy encompasses a gamut of essential criteria safeguarding values such as freedom of expression, minority rights, untrammelled media, equitable trial and defense rights, gender parity, and analogous tenets. These safeguards, entrenched within both legislative and judicial arms, are pivotal. To whom are these fortifications extended? These rights are susceptible to erosion by the executive arm—denoting political authority. Consequently, the majority will not be endowed with unbridled autonomy. The self-assertion of government entities as reflective of the majority will, despite its derivational link to electoral ascendancy, is contravened by an essential reality—namely, that Jean-Jacques Rousseau's erroneous conceptualization of a homogenized "national will" is inherently flawed. Public opinions are inherently divergent and multifarious, encapsulating disparate perspectives. Thus, although the party garnering the greatest electoral endorsement may ostensibly wield primacy within the realm of quotidian political discourse, individual rights and freedoms are constitutionally enshrined. By extension, those harboring dissident viewpoints are effectively represented within

the legislature (parliament), with the entitlements of citizens who did not support or cast votes for the incumbent government being conscientiously safeguarded. The executive arm is circumscribed by these parameters. Any transgression triggers an encounter with the judiciary. Instances of mechanisms failing, culminating in the appropriation of the legislative and judicial apparatuses by the collective national will—supplanting its untrammelled control—profoundly undermine democratic provenance. This precipitates the emergence of what is termed the "tyranny of the majority," a concept interrogated by classical democratic theorists including Alexis de Tocqueville and John Stuart Mill, alongside their contemporary counterpart, Giovanni Sartori. Notwithstanding terminological variations, the essence converges, often designated in Turkish discourse as "majority dictatorship." It follows that within any domain encompassing electoral undertakings, democracy remains an inconstant attribute, with the existence of elections not invariably indicative of democratic substance.

Redirecting attention to Turkey, where such mechanisms remain unimplemented, it is incumbent to acknowledge the presence of a president and government structure that ascended to power through electoral channels, albeit amidst vehement contestation regarding the legitimacy of this mode consequent to the Supreme Electoral Council's acceptance of unsealed ballots as valid votes following a prior referendum. It is, however, noticeable that the democratic benchmarks outlined earlier are currently lacking in implementation. A constitution exists in situ, yet its efficacy has been compromised. This predicament cannot be exclusively ascribed to the protracted imposition of the state of emergency, which continued for two years. This erosion predates the advent of this state of emergency. In instances illustrative of its manifestation, it is evident that the presidency, absent a constitutional mandate, has effectively imposed its authority over the cabinet via de facto channels. A constitutional amendment that was enacted in 2019 was in fact de facto in use since 2015. The implications of this practice for the extant 1982 constitution are innately conflicting. Currently, the influence of the Constitutional Court is noticeably missing. Erdoğan's consolidation of power, evolving from a coup d'état into an appropriation and aggressive expansion of authority following a coup attempt, has effectively paralyzed both the Constitutional Court and senior levels of the judiciary, leaving them without any significant public protest.

Against the backdrop of the beginning of a state of emergency in the summer of 2016, the Turkish Grand National Assembly was effectively immobilized.

Consequently, a new conceptual framework, "civil coup," was introduced into the Turkish lexicon. This "civil coup" entails twin dimensions: the first pertains to the subversion of the judiciary, which started following the corruption investigations of December 17/25; and the second entails the curtailment of the legislative arm. This seismic transition, involving a shift from majority rule as an organic and legal corollary of the national will to a regime emblematic of majority dictatorship—a manifest contravention of the constitution and established jurisprudential tenets—mandates unequivocal acceptance.

It is undeniable that the orchestration of a civil coup embodies a grievous infraction. The perpetration of an offense against the nation constitutes an act of treason, warranting sanctions exempt from the statute of limitations. The significance attributed to Erdoğan's allegiances notwithstanding, the cooperative entanglements instrumental in the commission of these constitutional violations and the acquisition of power, alongside the identity of patrons lending support and the latent power nodes operating surreptitiously, these dimensions, in the domain of this exposition, are relegated to a secondary status. The principal concern remains the dismantlement of Turkish democracy. Pertinently, these alliances bear additional significance within the rubric of democracy: The forces galvanizing this coalition of interests warrant explanation. The objectives pursued by each constituent entity within this tapestry of illicit and nonconforming affiliations merit exploration. Additionally, the temporal durability of this coalition emerges as a pertinent question, as does the feasibility of democratic reinstatement subsequent to its dissolution. These inquiries are not subsidiary; instead, they encapsulate the questions posed by citizens committed to democratic values, subscribing to constitutional and juridical norms. The elucidation of these concerns assumes primacy, engendering a palpable anticipation for responses from the corridors of law-abiding democratic entities, whose reverence for established laws and constitutional frameworks remains undiluted.

4. SIPPENHAFT AS A TOOL OF PUNISHMENT IN TURKEY

Embedded within punitive practices lies a particularly intricate mechanism that has garnered historical and contemporary attention: Sippenhaft. This chapter delves into the profound implications of Sippenhaft as a punishment tool within the context of Turkey's socio-political landscape. Through an exploration of its historical underpinnings and its resonance in modern times, we embark on an examination of the intricate dynamics that underscore this method of retribution. With roots reaching into historical contexts, Sippenhaft unveils a mechanism whereby culpability extends beyond the individual, creating a paradigm that holds entire families or kin groups accountable. Against the backdrop of Turkey's complex historical tapestry and evolving legal milieu, we dissect the instances where Sippenhaft has emerged as a contentious modality of punishment, showing its impact on social cohesion, individual rights, and the very tenets of justice. By navigating the nuances of this practice, we endeavor to illuminate the tensions that arise when collective accountability collides with principles of individual criminal responsibility, providing a deeper understanding of the socio-political, legal, and ethical implications that arise from the utilization of Sippenhaft as a punitive tool in Turkey.

4.1. Definition of Sippenhaft

Family punishment (or kin liability), known as Sippenhaft, emerges as a socio-legal concept that starkly contradicts the foundational principles of the rule of law and is frequently used by totalitarian and authoritarian regimes to suppress political dissent. Grounded in the idea of holding not only individuals but also their family members responsible for actions, kin liability directly challenges the core notions of individual responsibility and due process integral to the rule of law. In its authoritarian application, which extends liability asymmetrically, Sippenhaft embodies negative classifications (Sutterlüty, 2010) and subverts the bedrock elements of legal fairness and predictability (Hayner, 2001). This manipulation permits oppressive regimes to exploit familial connections, effectively establishing a narrative of shared culpability that cultivates an environment of apprehension and self-censorship within opposition circles (Sunny, 2001).

The subversion of the rule of law through kin liability is emblematic of a broader authoritarian strategy to dismantle democratic institutions and consolidate power

(Levitsky & Way, 2010). Totalitarian regimes historically and contemporaneously have harnessed kin liability as a tool to maintain dominance, using the fear of reprisals against family members to coerce submission (Davenport, 2007). The Soviet Union, for instance, systematically employed kin liability to suppress opposition, with the family members of dissidents often facing harassment, surveillance, and persecution (Conquest, 1971).

The mechanisms by which kin liability is wielded highlight its antithetical nature to the rule of law. In the absence of transparent legal procedures, the state arbitrarily designates certain individuals as responsible for the actions of their kin, sidestepping the principles of individual autonomy and due process (Beinin & Stork, 1997). Such tactics exploit the emotional bonds inherent in familial relationships to engender compliance through fear, ultimately corroding the principles of justice and accountability (Gagliardone, 2014).

In contemporary contexts, kin liability remains a favored instrument of authoritarian regimes seeking to quell dissent and maintain control. In nations like North Korea, where loyalty to the ruling regime is paramount, the threat of collective punishment has perpetuated a culture of silence, rendering the populace hesitant to express opposition due to the fear of repercussions extending to their family members (Kang, 2009). Similarly, the Chinese government's persecution of Uighur Muslims involves extensive kin liability measures, resulting in the widespread detention of family members to suppress religious and ethnic identity (Zenz, 2020).

In conclusion, kin liability is a poignant illustration of the erosion of the rule of law under the weight of authoritarian rule. Undermining principles of individual culpability, due process, and accountability allows repressive regimes to manipulate familial connections to quash dissent and perpetuate an environment of fear and self-censorship (Maihold, 2005). Its historical and contemporary manifestations attest to its potency as a mechanism of oppression and highlight the intricate interplay between kinship dynamics and the fragility of legal frameworks within authoritarian contexts. The deployment of kin liability underscores the urgent need for a robust defense of the rule of law as a safeguard against the erosion of fundamental rights and democratic principles.

4.2. Sippenhaft Practice in Some Authoritarian and Totalitarian Regimes

The strategic utilization of Sippenhaft, a socio-legal construct transcending conventional legal frameworks, assumes a pivotal role within the arsenal of authoritarian regimes bent on solidifying their dominion and quelling opposition. This intricate mechanism, rooted in the imposition of collective culpability upon familial units for the deeds of an individual, bears profound ramifications for human rights, societal dynamics, and the very bedrock of legal governance. The adroit deployment of Sippenhaft facilitates the manipulation of affective ties, the exploitation of societal norms, and the extension of authoritative dominion from the realm of the individual to the intricate web of familial and communal affiliations.



After the failed plot to assassinate Adolf Hitler on July 20, 1944, SS chief Heinrich Himmler told a meeting that he would “introduce absolute responsibility of kin.”

Resonances of historical Sippenhaft manipulation resound through past regimes, underscoring its profound effectiveness as a tool of political dominance. Embodied

by the totalitarian regime under Adolf Hitler's dominion, emblematic of Nazi Germany, Sippenhaft emerges as a chilling illustration of its potency in quelling opposition (Conquest, 1971). The punitive paradigm frequently translated into the confinement of kin and the looming prospect of property expropriation (Loeffel, 2007). This inquiry illuminates the intricate essence intrinsic to the post-1944 German strategy of terror, wherein punitive sanctions and apprehension converged. The Gestapo's practice of attributing liability to family members for perceived infractions committed by dissenters propagated a climate of fear within households, culminating in self-censorship and an aversion to dissent. Exploiting the emotive bonds of kinship, the Nazi regime orchestrated compliance, perpetuating its autocratic rule while curbing individual liberties. Amid the Hitler regime, Sippenhaft manifested across a spectrum of guises, interwoven into the Nazi administration's design to subjugate and intimidate the opposition.

Those embroiled in acts of resistance against Nazi authority routinely faced severe repercussions. Should an individual take part in anti-Nazi demonstrations, propagate anti-regime literature, or offer sanctuary to persecuted individuals, their kin was vulnerable to collective punitive measures, encompassing confinement, harassment, and even internment in concentration camps. Furthermore, instances of soldiers deserting the German military during World War II triggered reprisals affecting their families, predicated on the presumption that family units shared complicity in the soldier's decision to desert. Penalties encompassed asset seizure, incarceration, and coerced labor. Following the thwarted assassination attempt against Adolf Hitler in 1944—Operation Valkyrie—families of implicated figures often faced arrest, interrogation, and, at times, execution. The regime's suspicion centered on potential awareness or endorsement of the plot by these relatives, irrespective of their direct engagement. Analogously, family members of minor participants within resistance networks encountered targeting as a deterrent against involvement with opposition endeavors, aiming to discourage support or collaboration. Furthermore, non-Jewish relatives of Jewish individuals apprehended, deported, or slain endured repercussions, including classification as "mixed-race" or "Jewish sympathizers," precipitating social ostracism, job loss, or maltreatment.

Parallel to this, the employment of Sippenhaft within the Soviet Union during the Stalinist epoch illustrates its role as a tool of repression in stark relief (Conquest, 1971). Kin of those accused of political dissension were subject to persecution, exile,

and societal alienation. This pervasive practice eroded familial bonds and engendered a milieu of mistrust, thereby rendering even the most intimate relationships susceptible to the manipulation of state authority. Sippenhaft's chilling reverberations transcended individual realms, casting an ominous pall over entire communities while perpetuating an ambiance of dread.

In contemporary settings, manifestations of Sippenhaft continue to underscore its efficacy within authoritarian regimes. The regime of North Korea exemplifies a variant of Sippenhaft targeting not solely dissenters but their families, effectively quelling opposition through apprehensions of retribution (Kang, 2009).

In North Korea, the principle of kin liability constitutes a conspicuous reflection of the regime's rigorous oversight of its populace, coupled with a resolute determination to suppress divergent perspectives and forms of opposition. This stratagem encompasses not only the penalization of the purported offender but also the imposition of punitive measures on their entire familial lineage, thereby establishing a framework of comprehensive retribution. The underlying rationale for animating kin liability revolves around cultivating an environment characterized by trepidation and deterrence, wherein individuals are dissuaded from engaging in activities that might be construed as challenging the prevailing authority.

Upon identifying an individual suspected of engaging in actions deemed antithetical to the state's interests, such as expressing dissent, contemplating defection, or engaging in unsanctioned interactions with external entities, the North Korean regime invokes kin liability as an instrument of societal regulation. The ensuing ramifications can be both severe and multifarious, encompassing forced labor within labor camps, internment, public degradation, and, in the gravest instances, capital punishment.

The scope of kin liability's application transcends immediate kinship bonds and frequently extends to relatives spanning up to three-generational strata. This methodological approach is underpinned by the regime's conviction that neutralizing prospective threats emanating from the families of perceived adversaries is imperative for preserving its dominion. By imposing collective accountability for the actions of a singular member, the regime endeavors to extinguish any proclivity toward insurrection or dissidence within the broader societal fabric.

This institutionalized practice remains intimately intertwined with North Korea's doctrinal precept of "Juche," which foregrounds allegiance to the state and its paramount leader above all else. It reinforces the axiom that even the most inconsequential transgressions could yield dire ramifications not solely for the implicated individual but also their entire kinship unit. This fear-inducing modality engenders a pervasive milieu of self-censorship and vigilant surveillance, compelling individuals to abstain from expressing opinions or taking part in activities that might provoke suspicion or reprisal.

In summation, the phenomenon of kin liability as operationalized in North Korea functions as a stratagem wielded by the regime to assert dominion over its citizenry through the medium of collective chastisement. Targeting the kin of those perceived as adversaries; this practice seeks to extinguish dissent and reinforce the regime's pre-eminence, guaranteeing the preponderance of loyalty to the state and the prompt quelling of potential challenges.

In the context of China, the kin liability construct embodies a practice intricately interwoven with the strategic framework employed by the Chinese government to uphold societal equilibrium, exert ideological hegemony, and secure political allegiance. This practice is predicated upon the foundational premise that individuals bear not only personal responsibility for their conduct but also collective responsibility for the actions of their familial cohorts, particularly when those actions are perceived as posing challenges to the state's strategic interests or ideological fabric.

When an individual becomes subject to suspicion due to engagement in activities perceived as incongruent with the state's objectives—such as advocating for political reform, taking part in religious practices outside state-sanctioned parameters, or voicing dissenting viewpoints—the repercussions extend beyond the individual purview. Consequent to such circumstances, the family members of the implicated individual often encounter a spectrum of pressures and punitive measures. These ramifications encompass various domains, ranging from social isolation and the curtailment of professional prospects to restricted access to educational avenues and even instances of surveillance and intimidation by state entities.

The underlying rationale that underpins the practice of kin liability in the Chinese context is multidimensional. Primarily, it serves as a potent deterrent against prospective dissenters, engendering an environment of trepidation within familial units that effectively discourages any deviation from the state-sanctioned narrative or involvement in activities liable to attract the government's attention. Secondly, it underscores the principle of shared responsibility, accentuating that individual deeds reverberate across the family reputation and welfare spectrum. This aspect draws upon deeply embedded cultural tenets in China, where familial bonds bear profound significance.

Furthermore, the application of kin liability harmonizes with the Chinese Communist Party's tenet of maintaining social cohesion and a homogenized front. By holding families collectively accountable for the actions of one member, the state endeavors to exercise indirect sway over the behavior and choices of individuals. This begets a network of mutual observation within family units and communities, fostering an environment where relatives are incentivized to report any behavior from the sanctioned ideological trajectory.

It is imperative to underscore that the instantiation of kin liability in China is not a codified legal doctrine but rather a tool of social and political governance exercised by the state through diverse conduits, including local authorities, party bodies, and communal entities. The degree to which kin liability is actualized is contingent upon regional dynamics, local administrators, and the nature of the perceived transgressions.

In essence, the mechanism of kin liability in China functions as an instrument through which the state extends its influence into the private spheres of citizens, cultivating a milieu of self-restraint and compliance. By interlacing individual agency with communal and familial repercussions, the government aspires to mold a societal framework that aligns with its ideological tenets and political objectives while tempering the prospects of dissent and upheaval.

The Chinese government's treatment of Uighur Muslims particularly exemplifies a broader application of Sippenhaft, wherein family members often endure detainment as retaliation for purported dissent (Zenz, 2020). These instances accentuate Sippenhaft's adaptability as a mechanism encompassing not only the control of political resistance but also the subjugation of cultural and ethnic

identities, thus further illuminating its pervasiveness within diverse strata of societal dynamics.

Vitaly, the implications of Sippenhaft transcend immediate victims, corroding democratic ideals and fundamental human rights. By framing dissent as a collective transgression, authoritarian regimes foster an environment characterized by self-censorship, thereby stifling open discourse and unfettered expression (Suny, 2001). This attenuation of individual liberties ultimately undermines the quintessence of democratic governance, eroding the bedrock principles of accountability and transparency. Ergo, the strategic utilization of Sippenhaft constitutes not only a challenge to human rights but also a deliberate assault on the axioms of justice and equity underpinning democratic societies.

In summation, the calculated manipulation of Sippenhaft by authoritarian regimes stands as a cogent testament to the intricate interplay between legal constructs, political stratagems, and human rights. By exploiting familial bonds, these regimes engender compliance, silence opposition, and extend their dominion beyond individuals to the broader tapestry of societal affiliations. Historical as well as contemporary instances of Sippenhaft—exemplified by Nazi Germany, the Soviet Union, North Korea, and China—affirm its enduring relevance as an instrument of repression, thus underscoring the imperativeness of comprehending its multifaceted implications for human rights, societal cohesion, and the rule of law. As a central motif within authoritarian tactics discourse, this analysis elucidates the delicate equilibrium between political expediency and the preservation of foundational values in the face of manipulative strategies.

4.3. Turkey and Sippenhaft

Kin liability, a socio-legal construct fundamentally at odds with the principles of the rule of law, assumes profound significance within the contemporary Turkish landscape, as the Erdoğan regime strategically deploys this concept to quash political opposition. Emerging from the premise of holding individuals accountable not only for their own deeds but also for the actions of their kin, kin liability starkly contrasts with the bedrock values of individual responsibility and due process intrinsic to the rule of law (Hayner, 2001). This targeted expansion of liability erodes the pillars of transparency, consistency, and fairness underpinning legal systems,

thereby affording authoritarian regimes the means to exploit familial bonds to consolidate control and stifle dissent.

In the Turkish context, the Erdoğan regime's calculated use of kin liability reflects a comprehensive agenda to solidify its grip on power while concurrently dismantling democratic institutions (Levitsky & Way, 2010). Through framing political dissension as a peril to the nation's stability, the regime astutely capitalizes on the emotional ties inherent within familial relationships to foster an environment suffused with trepidation and self-restraint among dissenting voices (Suny, 2001). This deliberate manipulation of kin liability is a symbolic emblem of the regime's readiness to contort established legal norms and principles in pursuing its political ascendancy.

The ramifications of kin liability in Turkey transcend immediate targets, permeating the social fabric and corroding the foundations of a just legal framework. As the Erdoğan regime implicates not solely the alleged dissidents but also their family members, a culture of collective punishment burgeons, fundamentally challenging the rule of law's pledge to individual accountability (Hayner, 2001). Furthermore, the regime's portrayal of opposition factions as a monolithic menace intricately interweaves the principles of kin liability with more extensive political narratives, further eroding the legal process's credibility.

Erdoğan's calculated utilization of kin liability harmonizes with a more significant trend of eroding democratic norms, as the regime systematically truncates media liberties, represses dissent, and centralizes authority within the executive domain (Levitsky & Way, 2010). This strategic direction underscores the inherent paradox between authoritarian strategies and democratic ideals. In this schema, kin liability subverts individual rights and fundamentally destabilizes the bedrock of an equitable and just legal system.

In summation, the manifestation of kin liability within the politically repressive tactics of the Erdoğan regime emerges as a poignant and illustrative study of its contentious interplay with the rule of law. Through leveraging the bonds of kinship to repress opposition and perpetuate power, the regime not only distorts the cornerstones of accountability and due process but also imperils the essential tenets of democratic governance. This systematic deployment of kin liability within the Turkish context accentuates the ongoing conflict between authoritarian

methodologies and the rule of law, reinforcing the crucial imperative to preserve legal norms and individual rights despite distortion motivated by political calculus.

4.4. Impact of Sippenhaft

The nuanced analysis of the impact of Sippenhaft on affected families and the broader implications for human rights in Turkey since 2016 underscores the profound complexities inherent in this socio-legal construct. Delving into this intricate landscape reveals the multifaceted dynamics that not only shape the lives of individuals but also reverberate across societal and legal realms, shedding light on the challenges faced by families caught in the web of oppressive tactics and the enduring consequences for human rights.

At its core, kin liability exhibits a dual nature, simultaneously magnifying families' distress while emboldening authoritarian regimes. The families of individuals targeted under this construct often experience anxiety, social isolation, and economic hardship (Gagliardone, 2014). The stigmatization and collective punishment these families face engender a cycle of fear and vulnerability, as the threat of reprisals or discrimination remains a constant specter (Kang, 2009). Moreover, the erosion of familial bonds, essential for social support networks, exacerbates the psychological toll, affecting the emotional well-being of these families over the long term (Zenz, 2020).

The impact, however, extends beyond the microcosm of individual families, seeping into the broader fabric of human rights within Turkey. The Erdoğan regime's calculated utilization of kin liability exemplifies the regime's willingness to manipulate familial connections for political gain, demonstrating a flagrant disregard for democratic principles and individual liberties. The collective suppression of dissent through kin liability disrupts the foundations of freedom of expression and association, essential pillars for a democratic society (Levitsky & Way, 2010). This echoes a larger pattern of curtailed media freedoms, restricted civil society, and increased executive control, collectively imperiling the human rights ecosystem within Turkey.

Furthermore, the resonance of kin liability's implications for human rights transcends national boundaries. The systematic application of this construct establishes a disconcerting precedent, sending ripples beyond Turkish shores. It

emboldens other authoritarian regimes to adopt similar tactics under the guise of maintaining stability and security, thereby undermining international norms and mechanisms designed to protect human rights (Davenport, 2007). The erosion of due process, individual accountability, and fair legal proceedings can catalyze a global erosion of human rights standards, reinforcing the interconnectedness of these implications.

4.5. Blacklisting as a Tool of Sippenhaft

The systematic utilization of blacklisting as a method of kin liability in Turkey unveils a chilling reality where more than two million individuals, including alleged supporters of the Gülen movement and people associated with the Kurdish political movement, have been criminalized based on fabricated accusations, leading to their subsequent blacklisting.²⁵ This disconcerting phenomenon highlights the calculated strategies employed by authoritarian regimes to suppress dissent, consolidate power, and undermine democratic institutions. Rooted in manipulating familial bonds, this method is a potent instrument through which the Erdoğan regime strategically exploits emotional connections and coerces compliance. The alarming scale of this practice and its focus on the Gülen movement and the Kurdish political movement underscores the regime's commitment to perpetuating control, even at the cost of subverting fundamental human rights.

At its core, blacklisting as a form of kin liability implicates family members of supporters of the Gülen movement and people associated with the Kurdish movement who have been targeted on fabricated charges. These individuals are portrayed as threats to the regime's stability, effectively associating their actions or affiliations with the perceived transgressions of their relatives. This calculated strategy capitalizes on the profoundly ingrained emotional ties of kinship, generating a climate of collective culpability that instills fear and suppresses any form of political activism or opposition (Suny, 2001). By casting a wide net of suspicion on alleged supporters of the Gülen movement and individuals linked to

²⁵ Erdogan's blacklist: Voices of Turkey's purge, Financial Times

<https://ig.ft.com/vj/turkey-purge-victims-voices/>

The Remarkable Scale of Turkey's "Global Purge": How It Became a Threat to the Rule of Law Everywhere, Foreign Affairs

<https://www.foreignaffairs.com/articles/turkey/2018-01-29/remarkable-scale-turkeys-global-purge>

the Kurdish political movement, the regime employs blacklisting as a psychological tool, coercing submission through the threat of ostracism and potential reprisals.

The implications of blacklisting extend far beyond the immediate targets, permeating the very fabric of Turkish society. The publication of blacklisted people through state-controlled media outlets exacerbates the stigmatization of individuals and their families, subjecting them to public shaming and vilification (Levitsky & Way, 2010). This method aligns with the regime's agenda of shaping public narratives, effectively solidifying its authority while marginalizing dissenting voices. Thus, blacklisting becomes a mechanism of isolating specific individuals and perpetuating a culture of fear and self-censorship that undermines open dialogue and critical discourse.

Blacklisting's strategic nature lies in its institutionalization through legal and bureaucratic means, which underscores the regime's systematic approach to silencing alleged followers of the Gülen movement, individuals from the Kurdish movement, and opposition. Administrative measures, such as canceling passports or imposing travel restrictions on family members of those targeted, effectively confine individuals within the country's borders, curtailing their ability to seek refuge, engage with international support networks, or advocate for their rights (Kang, 2009). By curtailing these individuals' mobility and their families, the regime exacerbates the sense of entrapment and vulnerability, thereby amplifying the efficacy of blacklisting as a control method.

The enduring ramifications of blacklisting extend beyond individual cases, profoundly impacting Turkey's political and societal landscape. By exploiting familial bonds to enforce compliance among individuals with links to the Gülen movement or the Kurdish political movement, and other opposition members, the regime undermines the foundational principles of individual accountability and due process integral to the rule of law (Hayner, 2001). The staggering number of individuals being criminalized on fabricated accusations and the ensuing blacklisting of their family members expose the erosion of democratic values, eroding freedoms of expression, association, and political participation.

For instance, in one case, a disabled teenager named Yakup Ali Çetin was denied disability benefits because his father was arrested for alleged links to the Gülen

movement.²⁶ Another case involves Nurefşan Ketenci²⁷, 16, a young girl with major disabilities, who had been forced to leave a public special needs school in Turkey because her father used to work for an institution that was shut down by a government decree for its affiliation with the Gülen movement. Rüveyda Tekgöz, an autistic teenager, was also denied government assistance because her father was fired from his job due to alleged Gülen links.²⁸



Former NBA star Enes Kanter Freedom

Sometimes the blacklisting goes as far as preventing family members of Gülen movement supporters from being employed. Renowned former NBA player Enes Kanter Freedom said his siblings could not find jobs in Turkey and added that they were prevented from leaving the country as well.²⁹ Freedom's family is only one of

²⁶ Turkish authorities deny financial assistance to severely disabled teenager due to father's links to Gülen movement, SCF

<https://stockholmcf.org/turkish-authorities-deny-financial-assistance-to-severely-disabled-teenager-due-to-fathers-links-to-gulen-movement/>

²⁷ Special needs school forces disabled girl to leave due to father's links to Gülen movement, SCF

<https://stockholmcf.org/special-needs-school-forces-disabled-girl-to-leave-due-to-fathers-links-to-gulen-movement/>

²⁸ Gov't denies assistance to autistic teen due to father's alleged links to Gülen movement, SCF

<https://stockholmcf.org/govt-denies-assistance-to-autistic-teen-due-to-fathers-alleged-links-to-gulen-movement/>

²⁹ <https://x.com/EnesFreedom/status/1183949336901816326?s=20>

hundreds, maybe thousands, of examples.³⁰ Human rights defender and opposition politician Ömer Faruk Gergerlioğlu said the post-coup purge had affected the entire society, not just individuals who were investigated on Gülen charges, and that families had borne most of the burden.³¹

In conclusion, the method of blacklisting as a manifestation of kin liability within the Turkish context illuminates the regime's calculated approach to silencing alleged Gülenists and individuals from the Kurdish movement, and maintaining a stranglehold on power. The sheer magnitude of more than two million individuals being criminalized based on fabricated accusations, and the ensuing blacklisting of their family members, underscores the authoritarian tactics employed to undermine democratic institutions and manipulate societal dynamics. Understanding the extent of blacklisting's impact on these diverse groups compels us to confront the urgent imperative of defending democratic values, upholding human rights, and challenging manipulative strategies that compromise justice, transparency, and individual liberties.

4.6. Arbitrary Detention as a Tool of Sippenhaft

Arbitrary detention refers to the act of detaining individuals without proper legal justification or adherence to established legal procedures. It is characterized by the absence of legitimate grounds for arrest, detention, or incarceration, often violating fundamental human rights and the principles of the rule of law.

Arbitrary detention entails the apprehension and confinement of individuals at the discretion of authorities, irrespective of whether there exists credible evidence of their involvement in criminal activities or a clear legal basis for their detention. This practice infringes upon key legal principles, such as due process and the presumption of innocence until proven guilty, which are integral to upholding human rights and ensuring fairness within legal systems.

Instances of arbitrary detention can encompass a range of situations, including political dissent, social activism, religious beliefs, or personal affiliations, where

³⁰ Turkey: The Great Purge: Four lives upturned by Erdogan's 'cleansing', France 24 <https://webdoc.france24.com/turkey-referendum-purge-erdogan-cleansing/>

³¹ OHAL'in 3. yılında mağdurların yoksulluğu büyüdü, psikolojik desteğe ihtiyaç arttı (In the 3rd year of the state of emergency, the poverty of the victims and their need for psychological support increased.), Evrensel <https://www.evrensel.net/haber/409235/ohalin-3-yilinda-magdurlarin-yoksullugu-buyudu-psikolojik-destege-ihtiyac-artti>

individuals are targeted due to their perceived opposition to the ruling regime or their expression of dissenting views. Such detentions often occur without proper legal recourse, adequate access to legal representation, or the opportunity for a fair trial.

The concept of arbitrary detention underscores the importance of safeguarding the principle that deprivation of liberty should be based on objective, well-defined legal criteria and subject to judicial oversight. Its occurrence violates individual rights, erodes trust in legal institutions, undermines the rule of law, and contributes to an environment of fear and repression. Addressing and preventing arbitrary imprisonment is vital for ensuring the protection of human rights and maintaining the integrity of legal systems within societies.

The application of imprisonment as a method of kin liability represents a distinctive tactic employed by authoritarian regimes to exert control over perceived dissident individuals and groups. Rooted in the notion of holding individuals accountable for their family members' actions, as indicated above, this concept starkly contrasts the principles of individual culpability and due process inherent in the rule of law (Hayner, 2001). Imprisonments as a form of kin liability allow regimes to extend punishment beyond the alleged wrongdoer to their relatives, enabling the manipulation of emotional bonds and collective responsibility for strategic purposes.

The Turkish regime's utilization of arbitrary detention has been a subject of international concern and scholarly analysis due to its implications for human rights and the rule of law. Arbitrary detention in Turkey refers to the practice of detaining individuals without proper legal justification, often targeting political dissidents, journalists, activists, academics, and perceived opponents of the government. This practice has escalated in the context of broader political developments, including the government's response to the attempted coup in 2016.

It happens on six levels: 1) Broad interpretation of terrorism laws: The Turkish government has employed sweeping anti-terrorism laws to target a wide range of individuals, often equating peaceful dissent with terrorism. This broad interpretation allows authorities to arrest and imprison individuals based on vague or overly broad charges, circumventing the need for concrete evidence of criminal activity. 2) Suppression of opposition voices: Journalists critical of the government,

human rights activists, academics, and members of political parties deemed oppositional have been subject to arbitrary arrest and detention. These arrests are often accompanied by allegations of links to terrorist organizations or conspiracies against the state, with evidence that may not meet internationally accepted legal standards. 3) Lack of due process: Arbitrary imprisonments in Turkey are frequently characterized by due process violations. Detainees may be held in custody for extended periods without formal charges, access to legal representation, or the opportunity for a fair trial. Moreover, detainees are sometimes denied access to evidence against them, hindering their ability to mount a proper defense. 4) Limited judicial independence: The erosion of judicial independence in Turkey has compromised the fairness of legal proceedings. The judiciary's close alignment with the executive branch has raised concerns about the impartiality of trials involving individuals accused of political offenses. 5) Crackdown on civil society: Arbitrary imprisonment is often used as a tool to suppress civil society organizations that challenge government policies or advocate for human rights. Activists associated with these organizations may face arbitrary arrests, detention, and charges. 6) Retaliation for political criticism: The Turkish regime has tended to target individuals who criticize government policies, particularly on social media. Individuals expressing dissenting views can be subject to arrest and imprisonment under the guise of suppressing "terrorist" propaganda.

Within this context, the Erdoğan regime in Turkey exemplifies the calculated and systematic implementation of imprisonments as a method of kin liability. The regime strategically targets family members of individuals it perceives as threats, exploiting emotional connections to suppress opposition, generate fear, and maintain political dominance. Such an approach aligns with the regime's broader strategy of consolidating power by dismantling democratic institutions (Levitsky & Way, 2010). By framing political opposition as a destabilizing force, the regime capitalizes on the emotional bonds inherent in familial relationships, fostering an environment of self-censorship and intimidation among dissenting voices (Sunny, 2001).



Former football star Hakan Şükür and his father Sermet Şükür.

A poignant illustration of this method is the case of Hakan Şükür and his father in Turkey. Hakan Şükür, a renowned football player and former deputy from the ruling Justice and Development Party (AKP), faced persecution due to his affiliation with the Gülen movement. As part of the regime's larger strategy to suppress opposition, arrest warrants were issued, for example, for Hakan Şükür, confiscating his properties, businesses, and bank accounts in Turkey.

In a telling manifestation of kin liability, Hakan Şükür's father, Sermet Şükür, was also ensnared in this web of repression. He received a prison sentence for "aiding a terrorist organization" based on his alleged links to the Gülen movement. Sermet Şükür's case illustrates the regime's calculated approach to extending repercussions to family members, leveraging their emotional connection to Hakan Şükür to generate a climate of fear and silence among dissidents.³² This method of persecution not only affects the immediate targets but also sends a chilling message to broader communities, effectively stifling open dialogue and critical engagement (Levitsky & Way, 2010).

³² For more information, see: The Famous Soccer Player Hiding in Plain Sight in a California Bakery, The New York Times
<https://www.nytimes.com/2018/05/03/sports/hakan-sukur.html>

In a similar example, the father of Enes Kanter Freedom, a former professor at Istanbul University, was incarcerated for seven years on terrorism charges.³³ Mehmet Kanter was accused of having links to the Gülen movement, but he was acquitted of all charges in 2020. After his father's release from prison, Freedom shared his thoughts on X (formerly Twitter): "Wow! I could cry ... Today I found out that 7 years after arresting my dad, taking him through a Kangaroo court and accusing him of being a criminal just because he is my dad, my dad has been released," he tweeted.



In another case that was cited in the US State Department's "The 2016 Country Reports on Human Rights Practices," the wife of journalist Bülent Korucu was arrested when the police were unable to find her husband. On July 30, 2016, shortly after the coup attempt, the police came to arrest Korucu, the editor-in-chief of the critical *Yarına Bakış* daily, but instead arrested his wife, Hacer Korucu. The police's message was that she would be kept as a hostage until her husband surrendered himself. Hacer, a mother of five who had nothing to do with journalism other than being an avid reader of the daily her husband managed, was formally arrested on August 9, 2016. Police went to the Korucu home several times afterwards,

³³ NBA's Enes Kanter says father acquitted of terrorism charges, The Guardian <https://www.theguardian.com/world/2020/jun/19/nbas-enes-kanter-says-father-acquitted-of-terrorism-turkey>

threatening their children with jail as well. Hacer Korucu was released pending trial after a long detention subject to a travel ban.³⁴

The wives of 13 deputy police chiefs who were fired following the incrimination of then-prime minister Erdoğan, his cabinet ministers and family members in the corruption investigations of December 2013 were also detained by the Turkish police and some later arrested on charges of links to the Gülen movement.³⁵

With these examples we witness a poignant case study of the Erdoğan regime's utilization of imprisonments as a method of kin liability. The regime engenders an environment characterized by collective trepidation and compliance by exploiting familial ties and wielding emotional connections. This persecution underscores the systematic nature of imprisonments used to erode democratic values, infringe upon human rights, and challenge the very foundations of justice, transparency, and individual liberties. It compels us to confront the imperative of defending democratic principles, upholding human rights, and countering manipulative strategies that undermine the essence of a just and equitable society.

4.7. Revoking of Passports as a Tool of Sippenhaft

It is widely acknowledged that Turkey has embarked on a discernible shift towards autocratic governance under the consolidation of Erdoğan's leadership. Recent disclosures have highlighted another facet of the Turkish government's transgressions against its populace. The authorities have initiated a series of covert tactics aimed at specific demographics, including journalists, businesspersons, and representatives of nongovernmental organizations. These tactics involve the arbitrary cancellation of their passports through fabricated applications.

This disconcerting stratagem unfolds through a multi-step process orchestrated by the Turkish establishment. The preliminary stage entails the creation of a “loss notice” that finds its way into a newspaper, ostensibly attributed to the targeted individual. This contrived notice serves as a precursor to the government's

³⁴ US Human Rights Report: Tens of thousands jailed in Turkey with little clarity on charges, SCF
<https://stockholmcf.org/us-human-rights-report-tens-of-thousands-jailed-in-turkey-with-little-clarity-on-charges/>

³⁵ Turkish gov't detains wives of 13 jailed police chiefs over alleged links to Gülen movement, SCF
<https://stockholmcf.org/turkish-govt-detains-wives-of-13-jailed-police-chiefs-over-alleged-links-to-gulen-movement/>

subsequent withdrawal of the individual's passport. Astonishingly, those ensnared in this scheme become aware of the nullification of their travel documents only as they are on the brink of departure at the airport. Acting on government directives, the police swiftly confiscate their passports, effectively obstructing their outbound journeys. Equally unsettling, this scenario may also arise while individuals are already abroad. A considerable number of individuals residing outside Turkey have encountered similar predicaments during passport control. These travelers are explained that their passports have been logged as "lost" within the system and subsequently advised to approach their respective embassies or consulates for resolution. Paradoxically, upon heeding this advice, the authorities who were supposed to help them have instead seized their passports without explanation.

The Turkish regime's utilization of revoking passports as a tool akin to Sippenhaft, or collective punishment, is a noteworthy manifestation of its strategy to suppress dissent and control perceived political opponents. This practice involves the systematic cancellation or denial of passports for individuals deemed undesirable by the government and, in many cases, their family members. By employing this tactic, the regime extends the repercussions of perceived transgressions beyond the individual to their immediate familial circle, creating an environment of fear, intimidation, and compliance.

Examples of how the Turkish regime utilizes passport revocation as a form of collective punishment include:

Political dissenters and activists: The government targets individuals who express political dissent or engage in activism critical of government policies. Those who have participated in protests, spoken out against the regime, or supported opposition parties often find their passports revoked. In some instances, these individuals face difficulty renewing or obtaining passports, thus hindering their ability to travel internationally and participate in global forums for advocacy.

Journalists and academics: Journalists and academics who have written critically about the government or reported on sensitive issues have been subjected to passport revocation. This practice restricts their ability to conduct research, attend international conferences, or collaborate with colleagues abroad.

Alleged links to "terrorism": The Turkish regime employs an expansive interpretation of terrorism-related charges to target a wide range of individuals,

including civil society activists, members of minority groups, and human rights defenders. Those accused of having affiliations with banned organizations or participating in activities labeled as "terrorist propaganda" can face passport revocation.

Family members: The regime extends its practice of passport revocation to family members of individuals it considers undesirable. For instance, the passports of family members, including spouses and children, can be revoked as a form of collateral punishment. This tactic aims to pressure the targeted individual to comply with the government's demands or to silence their activities.

The government issued a decree in the aftermath of a coup attempt on July 15, 2016, which said the Interior Ministry could revoke the passports of the spouses for security reasons if the passports of their husbands or wives had also been revoked. The practice attracted widespread criticism as an example of collective punishment and violating freedom of movement. Many people suffered from it until Turkey's Constitutional Court abolished this controversial regulation in 2019.³⁶

In 2018 police at İstanbul's Atatürk International Airport seized the passport of Fatma Tunç, the wife of Alevi writer Aziz Tunç while on her way to visit her husband in Germany.³⁷ Briefly detained at the airport, Tunç was told by police that there were people who were "suspected of criminal activity" in her family and that she could go abroad only if her husband and son returned to Turkey. Fatma Tunç's passport was seized and revoked.

³⁶ Top court cancels regulation used to revoke passports of suspects' spouses, SCF <https://stockholmcf.org/top-court-cancels-regulation-used-to-revoke-passports-of-suspects-spouses/>

³⁷ Turkish gov't seizes woman's passport while on way to visit writer husband in exile, SCF <https://stockholmcf.org/turkish-govt-seizes-womans-passport-while-on-way-to-visit-writer-husband-in-exile/>



Can and Dilek Dündar

Maybe the most notorious and publicized case was that of Dilek Dündar, wife of exiled journalist Can Dündar, whose passport was seized by Turkish authorities and who was prevented from reuniting with her husband in Germany. Dilek Dündar's passport was canceled and she was told she could not leave the country.³⁸

In addition to revoking and seizing the passports of dissidents and their family members, the government has refused to renew the passports of some citizens with temporary residency permits in other countries on political grounds, claiming they were members of "Gülenist" organizations. These individuals were unable to travel outside of their countries of residence.³⁹

Exiled dissidents: Turkish citizens who flee the country due to political persecution may find their passports revoked in absentia. This further isolates them and restricts their ability to seek asylum, move freely, or engage in international advocacy against the regime.

³⁸ Convicted editor says wife banned from leaving Turkey, rfi
<https://www.rfi.fr/en/contenu/20160903-convicted-editor-says-wife-banned-leaving-turkey/>

³⁹ 2020 Country Reports on Human Rights Practices: Turkey, US Department of State
<https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/turkey/>

Dual nationals: Dual nationals, particularly those with Turkish citizenship and citizenship from another country, may be disproportionately affected by passport revocation. In some instances, the Turkish government cancels their Turkish passports, effectively limiting their mobility and diplomatic protections.

The regime's strategic use of passport revocation as a tool of collective punishment is emblematic of its broader strategy to deter dissent, curtail opposition activities, and control the movement of individuals critical of the government. By targeting the individuals and their family members, the regime creates a climate of apprehension and conformity. This practice highlights the government's willingness to manipulate familial ties and exploit the emotional bonds between individuals to extend its control beyond the individual sphere.

However, this practice has drawn significant criticism from human rights organizations and the international community for its violations of individual rights, including the right to travel and the right to freedom of expression. The Turkish government's use of passport revocation exemplifies its broader approach to stifling dissent and reinforcing its grip on power, even at the cost of undermining democratic principles and human rights protections.

4.8. Confiscating Private Property as a Tool of Sippenhaft

Confiscating private property within the framework of a kin liability policy emerges as a meticulously calculated strategy harnessed by the Turkish regime to assert control over individuals perceived as substantial threats to its authority or as vocal opponents of its policy trajectories. This stratagem encompasses the methodical appropriation of assets, corporate entities, and holdings that not only pertain to the direct subjects under scrutiny but also extend their ambit to encompass their immediate familial constituents. This practice, in essence, constitutes a form of collective retribution, echoing the age-old principle of Sippenhaft, wherein the actions of a singular individual are extrapolated to implicate their entire kinship unit collectively. By embarking on this course, the regime navigates the profound bonds of kinship and adroitly manipulates emotional entanglements to discourage dissent and ensure a culture of subservience effectively.

The initial phase of this approach involves a meticulous identification process. This entails singling out individuals or families suspected of affiliations with opposition

groups, harboring dissident inclinations, or espousing ideologies that diverge from the government's prescribed narrative. Such individuals, categorized as dissenting voices or potential adversaries, are earmarked for punitive measures, notably confiscating their properties.

Following the identification of targets, the regime initiates intricate legal procedures that give way to the formal process of expropriation. Assets, businesses, and properties owned by the marked individuals and their immediate family circles are subject to these procedures. These legal mechanisms are often introduced through emergency decrees or legislative enactments, particularly in the aftermath of the tumultuous events of the 2016 coup attempt. Through this procedural course, jurisdiction over the properties is transferred to the hands of the government, thus granting it unrestricted access to the economic resources inherently tied to the targeted individuals.

Central to this strategy is appointing state-endorsed trustees or administrators vested with authoritative control over the confiscated assets. This administrative tactic serves a dual purpose. On one hand, it perpetuates the regime's enduring influence over the properties and business ventures; on the other, it simultaneously sidelines the original proprietors, thereby hindering their capacity to access or leverage their resources. Within this context, these trustees act as intermediaries, orchestrating the management of the seized properties in alignment with government interests.

The confiscation of private property reverberates with tangible economic consequences that extend beyond mere financial setbacks. This strategy intrinsically disrupts ongoing economic activities, thereby affecting livelihoods and investments. The economic ripples, however, expand beyond the confines of the primary targets, impacting their family members and the broader network of associates.

Nevertheless, the strategy extends beyond economics, aiming to exert a coercive influence on the targeted individuals and their families. The regime aims to instill fear, vulnerability, and isolation by imposing consequences on the familial unit. This approach is orchestrated with the goal of pressuring individuals to either conform to the government's directives, abstain from opposition activities, or dissociate from particular ideological or political affiliations.



Hacı and Memduh Boydak

In terms of financial implications, the scale of these confiscations can be considerable, leading to significant monetary losses and impairing economic prospects. For instance, within the context of the Boydak Group, a conglomerate spanning diverse sectors, assets worth billions of Turkish lira were seized.⁴⁰ This move resulted in substantial disruptions across operational facets and the family's financial standing. Similarly, the İpek Group, engaged in various sectors, including media and mining, experienced the seizure of its assets, thus significantly impacting its operational integrity and fiscal viability.⁴¹

Per the disclosures of the Savings Deposit Insurance Fund of Turkey, the period extending up to July has witnessed the authoritative appropriation by the government of no less than 796 enterprises, commanding a cumulative valuation approximating 61.2 billion lira, equivalent to \$7.85 billion. This comprehensive annexation transpired after the foiled coup attempt of 2016. A staggering \$32.2

⁴⁰ Supreme appeals court upholds convictions of Boydak Holding executives on Gülen links, SCF
<https://stockholmcfc.org/supreme-appeals-court-upholds-convictions-of-boydak-holding-executives-on-gulen-links/>

⁴¹ For more information, see: Turkish government taken to international tribunal: Recep Tayyip Erdoğan's regime accused of illegally seizing company assets, The Guardian
<https://www.theguardian.com/world/2018/jul/12/turkish-government-taken-to-international-tribunal>

Written evidence from Hamdi Akın İpek (AFP0019) submitted to UK House of Parliament:
<https://committees.parliament.uk/writtenevidence/100797/html/>

billion, inclusive of business establishments and their attendant assets, encompassing an array of domains such as media companies, schools, healthcare establishments, financial institutions, private enterprises, and various other holding companies, had been seized after the coup, manifesting a flagrant breach of domestic legal stipulations.⁴²

Nevertheless, this strategy has attracted considerable criticism for its apparent disregard for due process, infringement on property rights, and its far-reaching implications for democratic principles and the rule of law. Utilizing such a tactic fosters an environment of intimidation, effectively challenging political dissent and freedom of expression. The application of property confiscation as a component of the kin liability policy underscores the regime's commitment to sustaining its authority through measures that extend punitive consequences beyond the individual. This multifaceted approach seeks to quell opposition, curtail individual freedoms, and cultivate a climate of conformity.

Transitioning from the theoretical realm to the practical terrain, the Turkish government's inclination to confiscate media outlets, television stations, academic institutions, and universities associated with organizations allegedly aligned with the Gülen movement embodies its comprehensive modus operandi of securing dominion and stifling dissent through capricious enactments and the infusion of a policy reminiscent of Sippenhaft. This approach extends punishment to individuals directly affiliated with these organizations and their broader networks, thereby encompassing educational and media establishments. The application of this policy carries profound implications for the realms of freedom of expression, education, and the dissemination of information.

When examined closely, one can understand that the Turkish government's actions regarding media outlets is in fact a strategic maneuver as part of its broader endeavor to suppress voices perceived as critical of its policies. This suppression is achieved through judicial mechanisms, emergency decrees, and legislative measures. By asserting control over media organizations, the regime gains considerable authority over the narrative and content disseminated to the public. This encompasses newspapers, television channels, and online platforms. The

⁴² Persecutory Confiscation Amounting To Crimes Against Humanity: Case Of The Gülen Group, Institute
<https://www.institute.org/report/persecutory-confiscation-amounting-to-crimes-against-humanity-case-of-the-gulen-group>

confiscation of these outlets effectively suppresses voices critical of the government, curtails independent journalism, and eliminates sources of alternative viewpoints.

Simultaneously, the seizure of schools and universities affiliated with organizations associated with the Gülen movement exemplifies an expansion of the Sippenhaft paradigm into the educational realm. The appropriation of these institutions often involves the appointment of state-endorsed administrators to oversee their operations. This approach disrupts not only students' educational journeys but also engenders broader implications for academic freedom, autonomy, and the diversity of educational offerings. Regardless of direct involvement in any alleged activities, faculty members, students, and staff associated with these institutions become subjects of the collateral consequences.

The implications of this strategy radiate into the domains of education and information dissemination. The appropriation of educational and media institutions triggers far-reaching consequences. It curtails the freedom to access information, constrains academic inquiry, and undermines the diversity of media representation. This can result in the homogenization of information and ideas, restricting the public's ability to engage with diverse perspectives and make well-informed decisions critically. The confiscation of educational institutions further compromises the quality of education, as administrative changes disrupt the continuity of academic programs and undermine the integrity of the learning environment.

At its core, confiscating media outlets, schools, and universities operates as a mechanism of coercion and control. This strategy sends an unequivocal message to individuals affiliated with these organizations: Dissent or perceived opposition will result in punitive consequences, not solely for themselves but for their broader networks. By exerting control over educational and media institutions, the government endeavors to shape public discourse, regulate the dissemination of information, and constrain the scope of critical thought and expression.

This comprehensive appropriation strategy also contributes to the gradual erosion of checks and balances within the societal framework. Targeting and confiscating media outlets, schools, and universities aligned with Gülen-affiliated organizations undermine the mechanisms underpinning transparency and accountability.

Independent media and educational institutions are pivotal in nurturing a democratic ethos rooted in an informed citizenry. Confiscating these institutions undermines these foundations, concentrating power within the government and constraining spaces for dissent and open dialogue.

In summary, the Turkish government's recourse to the confiscation of media outlets, television stations, schools, and universities under the pretext of countering perceived threats is emblematic of an arbitrary disposition, manifesting as a form of collective punitive action. This strategy, aligned with Sippenhaft-like principles, endeavors to broaden the spectrum of punitive implications, encompassing a network beyond the individual. It seeks to suppress dissent, regulate the dissemination of information, and enforce adherence to government directives. The employment of this approach raises concerns about human rights, freedom of expression, and the erosion of democratic principles within Turkish society.

4.9. Social Genocide as a Method of Sippenhaft

Social genocide refers to a deliberate and systematic strategy employed by authoritarian regimes to isolate, marginalize, and exclude specific societal groups or communities that are associated with political dissent or opposition. In this context, the term "genocide" does not necessarily imply physical extermination, as seen in conventional understandings, but instead denotes the intentional destruction of targeted groups' social fabric and identity. This method involves stigmatizing, discriminating against, and often coercively displacing individuals and families linked to perceived political opponents. The objective of social genocide is to weaken dissent, solidify the regime's control over society, and deter any challenges to its authority by disrupting the social bonds and cohesion of the targeted communities.

The concept of social genocide, as orchestrated by authoritarian regimes, constitutes a methodical strategy to ostracize and marginalize expansive societal entities, encompassing even families, that bear connections to political dissidents or adversaries. This method unfolds as a deliberate course of action encompassing the deliberate process of stigmatization, isolation, and exclusion, facilitated through the apparatus of authority inherent to the authoritarian regime. The multifaceted

nature of this strategy is harnessed to undermine the perceived legitimacy of dissent while concurrently fortifying the regime's command over the societal fabric.

At its core, the essence of social genocide rests upon the classification of individuals and family units associated with political opponents as "traitors," thereby casting them as adversaries of the state and proponents of ideologies antithetical to the regime's interests. This categorization gives rise to a dichotomy, fragmenting these groups from the broader societal context and portraying them as a peril to the state's stability and ideology. The regime exploits this dichotomy to endorse discriminatory practices and institutional measures that segregate and penalize these connected groups.

To orchestrate the effective execution of social genocide, authoritarian regimes wield various mechanisms. These encompass the dissemination of propaganda and misinformation that depict these targeted groups as threats to national security, generating fear and mistrust among the broader populace. Concurrently, the regime leverages legal and administrative tools to curtail their rights and opportunities, impeding access to education, employment, healthcare, and other fundamental services. This overarching strategy is intended to render them socially and economically marginalized, eroding their societal standing and obstructing their role as integral components of the broader community.

In conjunction with legal restraints, the regime may deploy informal social pressures and surveillance as supplementary tools to amplify the isolation of the targeted groups. This involves fostering a culture of mutual suspicion and self-policing, encouraging citizens to report on activities or affiliations deemed suspicious. Consequently, the ostracized groups experience heightened surveillance, fostering apprehension about forming relationships or associations that deviate from the regime's prescribed norms.

The authoritarian regime's narrative of social genocide is bolstered through cultural channels, such as controlling media and historical narratives that vilify the targeted groups. This manipulative portrayal serves to rationalize their exclusion, depicting them as posing existential threats to the state and its established order. Over time, the perpetual repetition of this narrative engrains public sentiment, further justifying the discriminatory treatment of these groups and reinforcing their marginalization.

The Erdoğan regime portrayed Gülen movement supporters as traitors, terrorists, and enemies of the state through an extensive propaganda campaign. This narrative created a deep societal divide, labeling Gülen movement supporters as threats to national security and fostering an environment of suspicion and fear.

Top AKP officials have repeatedly targeted Gülen movement supporters and their families on Turkish media, calling them demons and promising to make life unbearable for all of them. Erdoğan himself has vilified the movement, and studies have shown he has used 240 different concepts to insult the Gülen movement. In his address to the nation after the 2016 coup attempt, the president depicted informing on Gülen supporters as a “patriotic duty,” encouraging citizens to become voluntary informants that spy on their co-workers, neighbors, relatives, and even family members (Perry, Akca, Karakuş & Baştuğ, 2020).

The regime undertook widespread purges within state institutions, judiciary, military, academia, and civil service. Thousands of individuals suspected of having ties to the Gülen movement were dismissed from their positions. This mass expulsion profoundly impacted the livelihoods and careers of anyone with real or perceived ties to the Gülen movement, effectively excluding them from their professional and societal roles. The purge left thousands of families facing economic difficulties and social marginalization.⁴³

Many purge victims have had to work in uninsured jobs with very little workplace safety. There have also been cases where former public servants have died due to occupational accidents in physically demanding jobs.

The Justice for Victims Platform and former Peoples’ Democratic Party (HDP) deputy Ömer Faruk Gergerlioğlu released a joint report in July 2020 which said that the two-year-long state of emergency declared after the coup in Turkey

caused immense suffering among civil servants who were dismissed from their jobs by the government as well as their families.

⁴³ Then-and-now photos of dismissed public servants reveal extent of Turkey’s purge, SCF
<https://stockholmcf.org/then-and-now-photos-of-dismissed-public-servants-reveal-extent-of-turkeys-purge/>

"The decree-law victims were not only removed from their jobs but also barred from seeking employment in the private sector and denied access to social security benefits," said Gergerlioğlu.



Ömer Faruk Gergerlioğlu

The dismissed public servants lost 70 percent of their average monthly income, a circumstance that reduced them to dire financial straits, according to a survey conducted for the joint report.

Purge victims were not able to find jobs in the private sector either, because they were blacklisted in the social security database and the employers were afraid of attracting the government's wrath.⁴⁴

Gülen movement supporters were subject to arrests, detentions, and trials on charges of terrorism or affiliation with a "terrorist organization." The legal proceedings were criticized for lacking due process and transparency, resulting in convictions based on insufficient evidence. The trials contributed to the alienation and disempowerment of Gülen movement supporters. The regime targeted businesses, foundations, and institutions linked to the movement. Seizures of assets, bank accounts, and properties led to economic disempowerment, impacting the financial stability of supporters of the movement and affiliated organizations.⁴⁵

⁴⁴ Turkey purge victims unable to find jobs, cannot leave country, Turkish Minute <https://turkishminute.com/2016/10/21/turkey-purge-victims-unable-find-jobs-leave-count-ry/>

Turkey: "Professional annihilation" of 100,000 public sector workers in post-coup attempt purge, Amnesty International <https://www.amnesty.nl/actueel/turkey-professional-annihilation-of-100000-public-sector-workers-in-post-coup-attempt-purge>

More than 83 pct of Turkey's post-coup purge victims can't make ends meet: report, SCF <https://stockholmcf.org/more-than-83-pct-of-turkeys-post-coup-purge-victims-cant-make-ends-meet-report/>

⁴⁵ For more information, see: Turkey's Transnational Repression: Abuse of asset freezing mechanisms under the pretext of prevention of terrorist financing, SCF <https://stockholmcf.org/new-report-sheds-light-on-how-erdogan-govt-weaponizes-mechanisms-to-prevent-terrorist-financing-to-target-his-opponents/>

The regime tightly controlled media narratives, disseminating propaganda that portrayed the Gülen movement supporters as existential threats to the state. This reinforced the stigmatization and contributed to their social exclusion. The regime encouraged citizens to report on suspected Gülenist activities, creating an atmosphere of mutual distrust and self-policing. This heightened surveillance led Gülen movement supporters to limit social interactions, fearing being reported for their affiliations.

Many purge victims had their next of kin branded as terrorists and discriminated against. Children of dismissed parents were bullied in school and called “children of terrorists.” Some parents said even teachers openly called their children terrorists, leading to psychological problems.⁴⁶

Children of purge victims have died by suicide due to social marginalization and discrimination. Bahadır Odabaşı, 16, killed himself due to depression caused by the imprisonment of his father after the coup attempt.⁴⁷

Suicide is also becoming worryingly common among purge victims. In early March a former sergeant, Ahmet Olgun, took his own life in Ankara.⁴⁸ The week before, a former police officer died after setting himself on fire in Turkey’s northern province of Ordu. “I’m not a traitor,” he said in a suicide note.

According to a report, between October 2016 and October 2022 a total of 78 purge victims or their family members died by suicide.⁴⁹

In summation, the concept of social genocide serves as a strategic *modus operandi* utilized by authoritarian regimes to systematically isolate, stigmatize, and exclude extensive groups, including families, linked to political adversaries. This calculated approach enhances the regime’s dominion by sowing discord within society,

⁴⁶ Victim of Turkey’s post-coup purge says she was insulted and subjected to physical violence by neighbors, SCF
<https://stockholmcf.org/victim-of-turkeys-post-coup-purge-says-she-was-insulted-and-subjected-to-physical-violence-by-neighbors/>

⁴⁷ Turkey’s purge victims protest against gov’t policies that lead to youth suicides, SCF
<https://stockholmcf.org/turkeys-purge-victims-protest-against-govt-policies-that-lead-to-youth-suicides/>

⁴⁸ Second purge victim dies by suicide in a week, SCF
<https://stockholmcf.org/second-purge-victim-dies-by-suicide-in-a-week/>

⁴⁹ 78 post-coup purge victims or their family members have died by suicide since 2016: report, SCF
<https://stockholmcf.org/78-post-coup-purge-victims-or-their-family-members-have-died-by-suicide-since-2016-report/>

characterizing these groups as traitorous, and legitimizing discriminatory measures that marginalize them across economic, social, and political dimensions. By cultivating an environment of fear, distrust, and exclusion, authoritarian regimes consolidate their authority and suppress any prospective challenges to their supremacy. The actions taken against Gülen movement supporters in Turkey following the 2016 coup attempt resemble a form of "social genocide." While not formally recognized as a legal classification, the regime's systematic approach to stigmatize, isolate, and marginalize Gülen movement supporters effectively disrupted their social bonds, economic stability, and political engagement. This strategy aimed to suppress dissent, consolidate power, and prevent challenges to the regime's authority. The cumulative impact of these actions has had profound implications for the individuals targeted and for the broader societal fabric in Turkey.

The concept of social genocide entails a deliberate authoritarian tactic to isolate and marginalize societal factions associated with political opposition, distinct from physical extermination. This method encompasses the stigmatization, discrimination, and displacement of individuals and their families tied to perceived adversaries, aiming to weaken dissent and reinforce the regime's dominion. This strategy brands these collectives as "traitors," divides them from the broader populace, and legitimizes discriminatory measures constraining their rights and opportunities.

Authoritarian governments wield an array of methods to execute social genocide, including propaganda that portrays targeted groups as national security threats, legal measures curtailing their rights, and informal pressures fostering mutual distrust. Cultural channels, such as controlled media and historical narratives, further this narrative and validate exclusion. Turkey's Erdoğan regime similarly applied this approach against Gülen movement supporters, extensively propagating them as threats, resulting in purges from state institutions, job terminations, arrests, and asset seizures. This orchestrated effort aimed to weaken the influence of the Gülen movement, destabilize their financial well-being, and cultivate an atmosphere of apprehension and suspicion.

In summary, social genocide serves as a calculated maneuver utilized by authoritarian administrations to segregate and marginalize dissent-associated groups. As observed in Turkey's handling of the Gülen movement, this strategy

disrupts social ties, erodes economic stability, and bolsters government authority through intimidation and isolation.

5. CONCLUSION

In summary, this report has undertaken a comprehensive and nuanced scrutiny of the intricate challenges of applying the Sippenhaft concept, explicitly emphasizing the persecution of family members in the Turkish context. Employing a multidimensional approach that integrates legal analysis, historical contextualization, and scholarly discourse, this research aspires not only to elucidate the multifaceted nature of these challenges but also to offer substantive contributions to ongoing dialogues concerning justice, individual rights, and the operational dynamics of the Turkish legal framework. Through this exploration, mainly focusing on instances of targeted political actions, the intent has been to yield profound insights into the nuanced ramifications of Sippenhaft persecution within the Turkish milieu. Concurrently, it underscores the foundational significance of upholding individual accountability, equity, and fundamental rights within the scope of the legal system. In this endeavor, the overarching aspiration of this study has been to actively catalyze progressive advancements toward a more equitable and just legal paradigm in Turkey, harmoniously aligned with the cardinal principles underpinning the rule of law.

Pursuing the outlined research objectives, this inquiry has meticulously delved into the intricacies of legal doctrines, historical precedents, and scholarly discourses. By immersing itself in the intricate realm of challenges brought about by the persecution of family members through the Sippenhaft mechanism, this research endeavor has sought to contribute substantively to the ongoing discourse concerning justice, individual rights, and the functional efficacy of the Turkish legal framework. The analytical spotlight, predominantly focused on instances involving politically motivated targeting, has been crafted to yield nuanced insights into the intricate dynamics interwoven with Sippenhaft persecution within the Turkish milieu. Moreover, it underscores the pivotal importance of upholding individual accountability and safeguarding the foundational principles of equity and fundamental rights enshrined within the legal framework. Ultimately, the scope of this study extends towards fostering advancements that propel a more equitable and just legal landscape in Turkey, seamlessly in consonance with the principles that constitute the essence of the rule of law.

Turkey's recent historical trajectory unfolds a nuanced narrative through which the current Erdoğan regime has solidified its grip on power. Through astute strategic

maneuvers, pivotal junctures such as the Gezi Park protests, the corruption scandal of December 17, 2013, the abrupt termination of the peace process with the Kurds, and the tumultuous military coup attempt of July 15 have been adroitly leveraged as conduits for orchestrating a comprehensive recalibration of Turkey's sociopolitical fabric. As evidenced by the Gezi Park protests, ostensibly aimed at safeguarding public space, the movement swiftly evolved into a broader platform for expressing grievances against the governance of the Erdoğan regime. The regime's response, marked by the utilization of excessive force against peaceful demonstrators, signals a disconcerting erosion of democratic principles and ethos.

Another seminal inflection point was the corruption scandal of December 17, 2013, which considerably eroded public trust in the ruling establishment due to allegations of systemic corruption involving high-ranking officials. Rather than addressing these allegations transparently, the regime resorted to suppression, purges, and media control strategies, effectively undermining the democratic mechanisms intended to function as checks and balances.

Furthermore, the cessation of the peace process with the Kurdish movement underscored a strategic shift within the Erdoğan regime. Departing from the trajectory of peaceful negotiations, the regime embraced a more nationalist stance, intending to appeal to a broader cross-section of the population. This calculated pivot curtailed the prospects for diplomatically resolving deeply rooted issues and subsequently heightened tensions.

Of particular note is the alleged false-flag military coup attempt of July 15, 2016, which revealed the regime's willingness to manipulate events to its strategic advantage. This event served as a pretext for a comprehensive government crackdown ostensibly aimed at restoring national stability. However, this crackdown exceeded its stated targets, encompassing a diverse array of groups and suppressing dissent and opposition. Subsequent developments witnessed the expulsion of numerous public servants, the closure of media outlets, and the surreptitious confiscation of significant assets.

Amidst this tumultuous political landscape, the introduction of the Sippenhaft practice emerged as a historically rooted method employed by the regime to suppress dissenters. By holding family members accountable for an individual's actions, this mechanism extends punitive measures beyond the immediate alleged

wrongdoer, implicating their relatives. This practice has primarily been directed at individuals affiliated with the Gülen movement, thereby revealing the regime's intention to suppress perceived threats selectively.

A meticulous exploration into the repercussions of Sippenhaft on both directly affected families and the broader human rights landscape in Turkey since 2016 has illuminated this socio-legal phenomenon's intricate and interconnected nature. This inquiry has shed light on the intricate dynamics that not only shape the trajectories of individuals but also reverberate throughout societal and legal domains, thereby underscoring the multifaceted challenges confronted by families entrapped in oppressive strategies and the enduring ramifications for human rights.

The essence of kin liability embodies a dualistic character, accentuating the adversities borne by families while concurrently fortifying the toolkit of authoritarian regimes. Families associated with individuals targeted under the aegis of kin liability frequently grapple with an amalgamation of anxiety, isolation, and financial adversity (Gagliardone, 2014). The collective retribution and stigma these families endure create an environment of sustained fear and vulnerability, given the ever-present specter of reprisals or discrimination (Kang, 2009). Furthermore, the erosion of familial bonds, pivotal for the sustenance of support systems, exacerbates the psychological toll, thereby detrimentally impacting the well-being of these families over prolonged durations (Zenz, 2020).

However, the ramifications of this practice transcend individual families and permeate the broader human rights panorama within Turkey. The Erdoğan regime's strategic deployment of kin liability underscores its readiness to exploit familial connections for political expediency, thereby revealing a pronounced disregard for democratic principles and individual liberties. The collective curtailment of dissent through kin liability compromises the foundational tenets of freedom of expression and association, quintessential cornerstones of a well-functioning democratic society (Levitsky & Way, 2010). This aligns with a broader pattern of curtailed media freedoms, restricted civil society engagement, and an expansion of executive authority, collectively jeopardizing the human rights ecosystem in Turkey.

The present report, in particular, has uncovered several modalities through which the Sippenhaft strategy is operationalized. Among these, the systematic deployment of blacklisting as a mechanism of kin liability within the Turkish milieu emerges as a compelling illustration of authoritarian regimes' strategic calculus to suppress dissent, consolidate control, and harness familial ties as instruments for coercive compliance. This methodology constitutes a stark departure from democratic principles, eroding individual rights and cultivating an environment characterized by fear and self-censorship among those at odds with the regime.

The process of blacklisting implicates not only individuals but also the families of those ostensibly affiliated with the Gülen movement, thereby artificially connecting them with the alleged actions of their relatives. This calculated approach capitalizes on emotional bonds, fostering a sense of collective responsibility while inducing an atmosphere of trepidation. The ramifications extend beyond the immediate victims, permeating the societal fabric, shaping narratives, and stifling open discourse. Its institutionalized implementation through legal and bureaucratic channels amplifies vulnerability and functions as a mechanism for confining targeted individuals within the borders of Turkey, thereby impeding their mobility and infringing upon their rights. The enduring consequences of blacklisting extend beyond the immediate victims, compromising democratic values and the essence of transparent justice. The persecution endured by the Şükür family vividly illustrates the extension of punitive actions through the conduit of kin liability, cultivating an environment of fear and silence among dissenters. This underscores the necessity of safeguarding democratic values and confronting manipulative strategies that undermine principles of justice and transparency.

Another method systematically employed within the Sippenhaft framework is the practice of arbitrary imprisonment. This method, involving the detention of individuals without due legal justification or adherence to established legal procedures, constitutes a critical concern fraught with profound implications for human rights. This practice often transgresses fundamental rights and undermines the foundational tenets of the rule of law. Arbitrary imprisonment entails the apprehension and confinement of individuals at the behest of authorities, regardless of credible evidence or adherence to transparent legal precepts. This approach dispenses with cardinal legal principles such as due process and the presumption of innocence, thereby inflicting profound harm upon human rights and equitable legal frameworks. Instances leading to arbitrary imprisonment

frequently revolve around political dissent, activism, religious convictions, or personal affiliations, wherein individuals are targeted due to their perceived opposition to the reigning regime. Such detentions routinely lack avenues for redress, adequate legal representation, or opportunities for an impartial trial.

The Turkish context is a potent illustration of the challenges wrought by arbitrary imprisonment, drawing international concern and scholarly scrutiny due to its bearing on human rights and the rule of law. Within Turkey, the practice of arbitrary imprisonment predominantly targets political dissidents, journalists, activists, academics, and individuals perceived as antagonistic to the government. Implementing arbitrary imprisonment within the Turkish regime is intricate, functioning through various mechanisms. Broader interpretations of anti-terrorism statutes have been exploited to target an expansive spectrum of individuals, culminating in arrests devoid of substantial evidentiary support. The stifling of dissenting voices, scarcity of due process, compromised judicial independence, suppression of civil society activism, and reprisals against political critique collectively contribute to an environment fraught with apprehension and repression. The Erdoğan regime's calculated use of arbitrary imprisonment encapsulates a broader strategy to suppress dissent and perpetuate its dominion. Notable instances, such as the ordeal of Hakan Şükür and his father, exemplify how imprisonments as instruments of kin liability extend repercussions to encompass family members, fostering an environment characterized by fear and silencing. These tactics, by eroding democratic principles, human rights, and the bedrock principles of justice, underscore the urgency of safeguarding democratic values and challenging strategies that compromise the integrity of transparent justice.

Furthermore, systematic illegal passport cancellations have emerged as a prominent method of the Sippenhaft strategy within the Turkish landscape. Under Erdoğan's leadership, Turkey is transitioning towards an autocratic trajectory. This transformation has come under scrutiny with recent revelations exposing covert tactics aimed at specific demographics through the arbitrary revocation of passports. The Turkish regime's adoption of passport revocation as a mechanism for collective retribution bears semblance to Sippenhaft principles, extending repercussions to the targeted individuals and ensnaring their families. This practice targets dissenters, journalists, academics, those with alleged "terrorist" affiliations,

dissident exiles, dual nationals, and their kin, engendering an atmosphere of coercion and conformity.

The calculated utilization of passport revocation as a tool of collective retribution underscores the regime's broader approach to suppress dissent, manipulate opposition, and restrain the movements of critical individuals. This practice has drawn rebuke from human rights organizations and the global community for infringing upon individual rights, including freedom of movement and expression. The Turkish government's resorting to passport revocation encapsulates a broader strategy to quash dissent and consolidate its authority, even at the cost of democratic values and the sanctity of human rights.

Property confiscation, as part of the kin liability strategy, represents a calculated maneuver by the Turkish regime to control perceived threats and stifle opposition. This approach entails seizing assets, businesses, and holdings from the targeted individuals and their families, reflecting a principle akin to Sippenhaft. This methodology identifies dissenters and adversaries, initiating intricate legal processes to expropriate their assets, often through expedited decrees. State-appointed trustees assume control, impeding access and disrupting economic endeavors while conveying a coercive message of acquiescence to the government's mandates.

This strategy has been met with censure for its encroachment upon property rights, democratic principles, and due process. It aims to induce fear and conformity by exacting consequences upon families. The confiscation of media outlets and educational establishments further underscores this approach, effectively stifling dissenting voices and constraining the dissemination of critical information. These actions undermine the checks and balances integral to a functional democracy, concentrating authority and undermining democratic values. This trajectory raises concerns about human rights, freedom of expression, and the erosion of democratic ideals within the Turkish societal framework.

Social genocide embodies a meticulously calculated approach harnessed by authoritarian regimes to isolate and marginalize societal groups entwined in political dissent. This method, vividly exemplified in the Turkish government's treatment of Gülenists, engenders the fragmentation of social ties, the destabilization of economic foundations, and the augmentation of governmental

authority through intimidation and exclusion. In conclusion, the present study not only discerns the contours of this insidious practice but also underscores its profound implications for individuals, societies, and the broader human rights fabric.

This study brings attention to the Erdoğan regime's strategy of terror by highlighting how the Turkish regime has employed the systematic tactics of Sippenhaft and other punitive measures to suppress targeted people and consolidate power. Through its multifaceted analysis, this research offers a comprehensive understanding of the intricate challenges these strategies pose within the Turkish context. It emphasizes the vital importance of upholding democratic principles and human rights in the face of such authoritarian tactics.

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