

NO LIVING ON LAND OR IN AIR: DISCOURSE OF PUBLIC MORALITY AND HUMAN RIGHTS VIOLATIONS OF TRANSGENDER INDIVIDUALS IN TURKEY

The basic human rights of the lesbian, gay, bisexual, and transgender (LGBT) individuals living in Turkey are systematically infringed by the state and its institutions, as well as by private individuals. Analysis of a number of cases reveals systematic pursuit of a discourse of “public morality” to justify the human rights violations of LGBT individuals. The Turkish state remains reluctant to take preventive measures against these violations. Furthermore, safeguarding of the so-called public morality takes priority over the state’s fundamental responsibility of ensuring the health and well-being of its citizens.

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lthough homosexuality and transgenderism have never been codified as criminal acts in Turkey, the human rights of lesbian, gay, bisexual, and transgender (LGBT) individuals are systematically violated by individuals as well as the state and its institutions. Even though the Turkish Constitution acknowledges human rights, and the values of a democratic state, numerous articles enunciate that these rights can be restricted in order to protect national security, public order, public morality, and general health. Due to the subjective nature of these terms, basic human rights are susceptible to arbitrary restrictions. The human rights of LGBT individuals have been especially violated under the banner of “safeguarding public morality”. These human rights violations consist of many aspects ranging from right to live, right to education, right to housing, right to work, and to right to form an association, as well as practices such as arbitrary detentions, arbitrary fines, and police brutality. Every LGBT individual, refusing to appear as straight, gender conforming, or not being able to blend in the society, face violation of their rights one way or another. However, several problems faced by the transgender women on a regular basis give a unique characteristic that deserves a more profound analysis. For this reason, this article highlights some of the incidents that have taken place in the last two decades, and discusses mechanisms of stigmatization and marginalization experienced by transgender individuals.

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In September 2012, a group of residents of the Meis Building located in the Avcilar district of Istanbul, in cooperation with the residents of the neighboring buildings, organized a series of torchlight demonstrations in front of the building. These demonstrations, entitled by the protestors as “We Don’t Want Prostitution,” were highly organized rather than being spontaneous – for one thing, the protestors rode in cars in the neighboring areas in order to announce the protest. The announcement invited everyone to take part in exercising their democratic rights and informed that the protests would take place every Saturday night between 10-11 pm. The demonstrations continued for a month, during which children also took part, carrying signs and chanting slogans. Although the initial aim of the demonstrations was to condemn prostitution in the Meis Building, soon they became dominated by hate speech against transgender individuals living in the area. Several weeks before these demonstrations, the flats of eleven transgender women living in the building for the last decade had been raided by the police. The women were handcuffed as their flats were searched. Moreover, they were taken under custody after the search. However,

the police failed to discover any evidence of illegal prostitution activity at that time, and was compelled to release them.

The demonstrations became increasingly aggressive. One Saturday night, the protestors built a fire in front of the building. As a result, the transgender women started to fear for their life, and contacted human rights activists and lawyers. The latter, fearing a mob action, immediately informed their communities and alerted the police. The night ended before the demonstration got out of control. Nevertheless, the residents stated that they would continue their protests until the transgender individuals moved out of the building.

Counter-demonstrations by human rights activists followed. These activists also made solidarity visits to the transgenders living in the building during the residents' demonstrations.¹ The lawyers of Social Policies, Gender Identity, and Sexual Orientation Studies Association (SPoD) filed a complaint against several residents for libel, and demanded police protection for the transgender residents. Meanwhile, the press and media paid close attention to this incident. Some outlets portrayed the event as a rightful

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reaction by the locals against prostitution, while the majority questioned the motive of the residents. A few of the inhabitants were invited to several TV programs in order to explain what they were protesting. While tension decreased over the next few weeks, the transgender individuals continued to fear for their life as the residents interviewed on TV programs revealed the former's identities and called out to their families to take action in order to stop them from making their living as prostitutes. As many of the transgender people had originally migrated to Istanbul due to being subjected to severe violence in their former communities as well as humiliation and discrimination on the basis of their gender identity, they had been in hiding, fearing that their families may discover their whereabouts.

On 6 November 2012, the police, upon discovering evidence pertaining to illegal prostitution, sealed off nine flats inhabited by transgender individuals for three months. However, not all the transgenders living in these flats were actually sex

¹ The associations advocating for LGBT rights immediately issued a press release condemning the motive of these demonstrations. “Press Release: Is Avcılar Going to be a New Lynch Area?,” *Kaos GL*, 4 October 2012, <http://www.kaosgl.org/page.php?id=12615>

workers, nor was there any attempt to seal off the flats of biologically female sex workers living in the same building. Furthermore, only upon their arrival did the police inform the transgenders that their houses would be sealed off, with the consequence that the latter were not even given enough time to pack up their belongings. The fact that they were so hastily forced to leave their homes created considerable difficulties.²

Various organizations advocating for LGBT rights, together with their lawyers, demanded the removal of the seals to the Meis building. Due to similar previous experiences, the transgender residents as well as the activists and lawyers anticipated that the legal process would take longer than three months.

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In fact, this was not the first time that housing rights of transgender individuals had been violated. In the summer of 1996, Habitat II - the Second United Nations Conference on Human Settlements, was held in Istanbul. This conference was a golden opportunity to showcase Istanbul as a cosmopolitan capital. Not only the municipality, but also private citizens took part in preparing the city for the event. However, these preparations included the displacement of several groups of “unwanted” entities, such as stray dogs, street children, and transgender sex workers living in the vicinity of the conference venue. Ulker Street was one of these districts where the residents showed a keen interest in having a “clean” neighborhood, and initiated an aggressive campaign to force the transgender community to leave. With the support of the police, media, and the municipality, the locals succeeded in driving the transgender community to migrate to other parts of the city.³

The incidents in the Eryaman District of Ankara are another example for the violation of housing rights of transgender individuals. In 2006, some members of the extreme

2 During one of my solidarity visits, I witnessed five of these transgender women taking shelter in one of their friend’s small flat. As such, they lived the life of a refugee, unable to work or make plans about where to live, or how to survive for the following three months. They stated that they grew weary of the constant struggle with society and state authorities. One of them told me that already after the first visit by the police she grew suspicious, prepared a suitcase for a quick escape and did not put anything perishable in her fridge thereafter.

3 For a thorough research on the subject please see: Pınar Selek, *Maskeler, Süvariler, Gaçlar-Ülker Sokak: Bir Dışlanma Mekânı*, [Masks, Cavaliers, Gacis – Ulker Street: A Place of Marginalization] (Istanbul: Aykiri Publishing, 2001, Istanbul: Istiklal Publishing, 2007).

nationalist youth movement called *Ülkü Ocakları* began harassing transgender sex workers living in Eryaman. A gang of 20-30 men, armed with clubs and knives, patrolled the neighborhood with the objective to hunt down transgender sex workers. As one of the eyewitnesses stated, these attacks were brutal, with an intention to kill.⁴ The gang soon began raiding the flats of the transgenders and pressured them to move out. When the transgender women contacted the police, the latter showed reluctance to intervene and responded that the gang members would cease their harassments if they stopped working as prostitutes.⁵ However, after their houses were raided, the transgenders had no choice but to move to another part of the city.

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Eyewitnesses and LGBT associations claimed that the Eryaman attacks had been known in advance and even encouraged by the municipality and the Ministry of Interior. It was not a far-fetched claim; back in 2001, a special police force called the *Balyoz* (Sledgehammer) had been formed upon the special request of Hasan Yücesan, Ankara Police Chief of the time, “against those transvestites who cause trouble in residential neighborhoods.”⁶ The *Balyoz* team was still active during the Eryaman incidents, and cooperated with local gangs.⁷

All these cases suggest that there are systematic and regular attacks on the transgender community living in Turkey. In each case, the individuals’ basic human rights are violated, and state institutions fail to prevent these violations, even though both the Constitution, and international conventions signed by the Turkish government obliges authorities to protect individuals against such attacks and violations.

The second common point observed in all these cases is that being a sex worker is presented as a justification for violating the human rights of a transgender individual. As seen in the advice given to them by the police during the Eryaman incidents, for a sex worker, the only way to avoid a threat on her life is to quit her

4 For the full interview with Esma, the eyewitness, please see the press release of Lambdaistanbul LGBT Solidarity Association, “Eryaman’da Travesti ve Transseksüellere Sistemli Şiddet!,” [Systematic Violence against Transvestites and Transsexuals in Eryaman], *Kaos GL*, 3 May 2006, <http://www.kaosgl.com/sayfa.php?id=113>

5 *Kaos GL* (2006).

6 “‘Balyoz Team’ For Transvestites”, 15 August 2001, <http://hurarsiv.hurriyet.com.tr/goster/ShowNew.aspx?id=10202>

7 As one of the eyewitnesses states, Balyoz squad and gang members were kissing each other’s cheeks and greeting one by one whenever they run into each other. For the full interview please see: *We Need a Law for Liberation: Gender, Sexuality, and Human Rights in a Changing Turkey* (New York: Human Rights Watch, May 2008), p. 69-71.

job. However, this is indeed poor advice in many ways. First, it is the basic duty of the police to ensure the security of all citizens, regardless of their profession or gender identity. Second, transgender individuals face systematic discrimination in the job market. Even when they become employed, almost without exception, they experience workplace harassment and mobbing, ultimately forcing them to quit. Their work opportunities are also exceptionally limited, since, in both the public and the private sector, employers are reluctant to hire transgender individuals. A recent research conducted by Lambdaistanbul LGBT Solidarity Association with 116 transgender women has shown that, 89.7 percent of the interviewees believed that they were compelled to earn their living as sex workers since they could not find a job due to their gender identity.⁸

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Several other incidents clearly show that transgenders who are not sex workers also experience human rights violations on a regular basis. Since 2004, prostitution is no longer a criminal act under the Turkish Criminal Code.⁹ Nonetheless, crimes against public morality and public order are regulated under the Misdemeanor Law. Moreover, due to a lack of a clear definition of public morality and public order in the laws, transgender individuals are subjected to arbitrary fines, detentions, and expulsions from their homes. Since the law prosecutes misdemeanors and not crimes, the police administratively enforce the Misdemeanor Law in an extrajudicial manner. Consequently, the police can act with impunity while targeting various disadvantaged groups in an arbitrary manner. This situation has been exacerbated by the recent introduction of a bonus system, which gives officers “points” for the number of fines they issue and lawbreakers they apprehend. Moreover, under this bonus system, the terms “transvestite” and “known woman” were listed among other crimes such as theft, murder and pickpocketing.¹⁰

Violations of LGBT individuals’ human rights have never been acknowledged as a problem by the Turkish state; for many years, the governments refrained from discussing such issues. Nevertheless, since the beginning of the 2000s, LGBT rights

8 *İt İti İstırmaz! Bir Alan Araştırması: İstanbul’da Yaşayan Trans Kadınların Sorunları, [A Dog Won’t Bite Another Dog! A Field Research: The Problems of Transgender Women Living in Istanbul]* (Istanbul: Lambdaistanbul LGBT Solidarity Association, 2010), p. 34.

9 “Law No.5237, Article 227,” *Turkish Criminal Code*, 26 September 2004, http://www.wipo.int/wipolex/en/text.jsp?file_id=24712

10 “Police ‘Bonus’ System for Custodies and Arrests?,” *Bianet*, 20 February 2012, <http://www.bianet.org/english/human-rights/136285-police-bonus-system-for-custodies-and-arrests>

associations have began to exert some influence on civil society, media, academy, and politicians while urging various segments of society to recognize the importance and urgency to address related issues. This growth of the LGBT movement, together with the Turkey's European Union accession process, forced the state authorities to be accountable for their actions. The current government in Turkey, at present in the process of drafting a new constitution that will replace the one instituted in 1982, has a great opportunity to embrace democratic values, and recognize the human rights of all minority groups without any arbitrary limitations. Time will show whether the state is ready to take a step in fulfilling its responsibilities towards its citizens.