

# Licence to kill

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“The responsibility for the murder of the Armenian journalist lies firmly at the door of those who created Statute 301” claimed Orhan Pamuk winner of the Nobel Prize for Literature. These sentiments were also expressed by the prominent columnist Mehmet Ali Birand. At the funeral in Istanbul, many mourners carried posters bearing the inscription “Murder Statute 301”. This law made the Defamation of the State as well as any of the state apparatus and facilities an offence. Hrant Dink was the only critic sentenced using this law. He received a 6 months suspended prison sentence, a sentence viewed in fascist circles as a far too mild. After the founding of the Republic of Turkey, the new Turkish Criminal Code was created based on the example of the then Fascist Italian Criminal Code.

Already in 2004 the EU had demanded a reform of the almost 80 year old criminal justice system. In June 2005 the newly reformed Criminal Justice Code was passed. Sentences for torture were increased and Genocide, human smuggling, and crimes against humanity were included in the criminal law code. Moreover, rape within the marriage as well as sexual intimidation were made criminal offences. Günter Verheugen (SPD) the EU Commissioner responsible for the expansion of the EU, hailed this new Criminal Justice System as a “Master Work”. “Now, the Rule of Law has been strengthened and Freedom of Speech protected.”

The Turkish journalist association held a completely different view as the supposedly „Master Work“ also contained a few paragraphs resulting in further infringements to freedom of speech and freedom of the press. “The days of Turkey being talked about as the biggest prison for journalists lay before us” warned the Chairperson of the Journalist Association, Oktay Eksi. In Brussels these warnings were unheeded. A few months after the introduction of this new Criminal Code, EU entry negotiations with Turkey had begun.

The hardliners in Erdogan’s government were as satisfied with the reforms as the Military establishment, as defamation of the state and the state apparatus and attacks on fundamental national interests could be punished with up to 10 years imprisonment. In the introduction to the statute draft it was clear where and against whom these changes could be used against: Anyone suggesting the truth of the Armenian Genocide or the withdrawal of troops from Northern Cyprus would be

viewed as an offence against “fundamental national interests”.

Shortly after Statute 301’s introduction concerns were raised, as reactionary Public Prosecutors or lawyers used the possibilities given to intimidate critical intellectuals with threats of prosecution, thus forcing their acquiesce. Hrant Dink, Orhan Pamuk and Elif Shafak are only the most prominent victims of Statute 301. All three were prosecuted in connection with comments concerning the existence of the Armenian Genocide. The prosecutions were instigated by the Nationalist lawyer Kemal Kerincsiz.

Already in 2002 at a conference in the city of Urfa, Hrant Dink had created furore as he criticised the singing of the Turkish national anthem at the beginning of the school day in schools whereby the anthem emphasises pride in belonging to this “Heroic Race”. In addition the pupils were taught the parole “Happiness is being called a Turk”. Hrant Dink justifiably criticised this sentence as being racially discriminating. As the custodial sentence against Hrant Dink was confirmed by the highest appeals court in July 2006, the EU Commissioner Olli Rehn registered his disappointment. He demanded the Turkish authorities to change Statute 301 so as to guarantee the freedom of the Press.

Over 400 Intellectuals, Publishers, lawyers and Human rights activists protested through an advertising campaign against the restrictions in the Freedom of Speech. “I will not be silent” proclaimed Hrant Dink after the decision of the Appeals Court. A few days before his murder he had handed in an appeal to the Court of Human Rights in Strasburg to overturn the Turkish courts judgement. The unbending nature of this Armenian, so hated by Turkish nationalists, led in the end to his cold-blooded murder by those who felt responsible for executing the enemies of Turkishness.

What Statute 301 did not achieve was accomplished in the end by a young fascist killer. After his arrest he posed in front of the cameras with the Turkish flag and flanked by two good-humoured policemen. Nothing could illustrate more clearly the responsibility of the Turkish state for the murder than these pictures. Nationalist television channels presented the murderer as a national hero as he had converted Dink’s suspended sentence into a death penalty as only this could restore the Honour of Turkey.

In the wake of the impressive funeral demonstration followed the Nationalist response. “We are Turkey, we are Mustafa Kemal” is the current parole circulating in Turkey. The fascist lawyers and Public Prosecutors would have liked to have

prosecuted all of the 1000,000 demonstrators, who wanted to be Armenian for at least one day, for the “Defamation of Turkishness”.

In Turkey there now exists an underlying Lynch mentality complained the bestseller author Elif Shafak. Shafak, born in Strasbourg and daughter of a Turkish diplomat, is also a victim of Statute 301. In Shafaks novel “Father and Bastard” the ever alert protectors of Turkishness found one particular sentence in her book which was enough to start a prosecution. “I belong to family whose total family and relatives were massacred by the Turks in 1915. I have learnt to deny my roots and I was taught that there never was an Armenian genocide”. These were the words of a figure in a novel.

The judge suspended the proceedings as he was not able to find any evidence of a crime. Orhan Pamuk winner of the Peace Prize awarded by the German Booksellers Association and Nobel Prize winner for Literature was also taken to court for the defamation of Turkishness. In an interview with a Swiss newspaper he said that “they murdered 30,000 Kurds and 1 million Armenians and almost no one dares to mention the fact.” The proceedings against Orhan Pamuk aroused great attention. A European parliamentary delegation followed the proceedings on the ground. Even members of the delegation were not safe from the agitated Turkish fascists: the former British Minister for Europe, Dennis McShane explained that he had been hit as he entered the court and therefore would be lodging an official complaint.

EU Commissioner Olli Rehn explained that the Court proceedings against Pamuk would be a Litmus Test for Turkey. It would be suitable chance to set a positive precedence. In fact the proceedings were later suspended as a prosecution would have negatively influenced the decision regarding the beginning of entry negotiations between the EU and Turkey. Elif Shafak and Orhan Pamuk were lucky the Armenian Hrant Dink was not.

Turkish Criminal Code contains numerous laws which sound harmless and are less well known as Statute 301, which also serves to criminalise intellectuals and journalists. Laws which forbid incitement of the people and the protection of personal honour are formulated in such a way that they can serve the criminalisation of critics. According to the Association of Turkish Publishers more than twenty laws must be changed to ensure that authors and publishers enjoy legal certainty.

The publisher, Ragip Zarakolu has also felt the wrath of the Turkish Justice

Department. Most books concerning Armenia and the Genocide have been published by his publishing house. After the publishing the diary of the Armenian doctor, Garabet Hatcherian, Zarakolu was served with a writ. The diary contained Hatcherian's eye witness account of the destruction of the Armenian and Greek quarters of the Harbour town Izmir by the troops under Mustafa Paschas Kemal. The publication of the book from Armenian author George Jerjian, who is living in England, also resulted in charges being made. According to the Public Prosecutors, the Republic and its founder Mustafa Kemal Atatürk were in both books defamed. Ragip Zarakolu, who belonged to the closest circle of the murdered Hrant Dink, is considered as one of the most threatened intellectuals in Turkey.

Calls for the abolition of Statute 301 will certainly become louder after the murder of Hrant Dink. Erdogan won't give way to this pressure coming mostly from Brussels. As this year there are important elections in Turkey and the results will not be influenced by the mere 100,000 who took part in the Mourning demonstration for the murdered journalist. But even the complete abolition of Statute 301 and other minor laws which restrict the freedom of the press and freedom of speech, is no guarantee that political assassinations will have an end. Most of all, the racial incitement against the 50-60,000 Armenians still living in Turkey will not be prevented.

The reality is that the bravest voice of the Armenians in Turkey has been silenced for ever. Ismet Berkan, Editor of the Left/Liberal daily paper "Radical" described the murder of Hrant Dink as "a racist crime". "They murdered Hrant Dink, firstly, because he was Armenian and secondly, because he thought differently." Also, the world-famous author Yasar Kemal all clarity called the problem by its real name. "Racism is rampant in Turkey, more than anywhere else in the world."

This racism will not be stopped by a few changes in the Criminal Code. For this to happen radical changes in society and the political system must be undertaken and this must take place independent of any EU membership negotiations. Whether the death of an Armenian is enough to begin this process is questionable. Many Armenians, in view of the catastrophic prospects, prefer to leave the country. After the murder of Hrant Dink, hope that democracy also in Turkey is achievable, that the Armenian Genocide is recognised, that Armenians can live as equals and in security in Turkey has been brutally destroyed. The developments since the murder show clearly that Turkish racism and nationalism has gained strength and influence. It seems that the European public and politics which for a few days showed shock and outrage have slowly forgotten the murder of Hrant Dink.

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