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One public sphere at a time:  
*A post-structural analysis on Turkey's  
social media law*

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# Abstract

This thesis investigates the amendments of the *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications* regarding its impact on the public sphere in Turkey, and explores the importance of the political background in which one analyses law. The study argues that social media is the last free public sphere in Turkey and analyses how the law aims to attack this sphere. The study explores the government's conceptualising the social media law through problematising the law and the significance of the social media law on the public sphere in Turkey. The shrinking of the freedom of expression in Turkey which the social media law is evident to can be conceptualised through using Jürgen Habermas' public sphere as a theoretical framework. A post-structural policy analysis was implemented to investigate the social media's representation as a problem by the Turkish government. This particular law was studied by the virtue of the importance of social media to the Turkish public sphere and how this will affect the critical voices. My analysis shows a strong correlation between the government's attack on each and every public sphere; from peaceful protests to social media networks. I conclude that the law's amendments problematise the issue in a way that it is effortless to punish critical voices.

**Keywords:** Social media, public sphere, Turkey, post-structural analysis, Habermas, freedom of expression, penal code, problem representation, human rights, critical voices

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# 1.Introduction

## 1.1 Purpose and research question

The purpose of this thesis is to examine the ramifications around the freedom of expression and the public sphere in Turkey by studying the effects of the amendments on the *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications*<sup>1</sup> (from here, the social media law) which was passed by the Parliament in 29 July 2020. This study addresses the law's requirements and explores the importance of the political context in which one analyses the law's amendments which regulates the social media companies' responsibilities in Turkey. The study argues that the social media was the last free sphere in Turkey and analyses how the law aims to attack on this last sphere. The study also explores the influence of the Turkish Penal Code Article 301 (*Denigrating the Turkish Nation, the State of the Turkish Republic, the Institutions and Organs of the State*<sup>2</sup>) and Article 299 (*Insulting the President of the Republic*<sup>3</sup>) on the social media law while aiming to scrutinise the agenda of the government in power over a long period of time. The purpose of this research is to investigate the social media's representation as a problem by the Turkish government which then required to be regulated. This investigation of the law will be done through a policy analysis method. I chose the social media law to be studied by the virtue of the importance of the social media to the Turkish public sphere and how this will affect the critical voices. I regard the social media law as matter that will affect the future of the country.

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<sup>1</sup> *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications 2020* (Law No: 7253)

<sup>2</sup> *The Turkish Penal Code 2004 (Türk Ceza Kanunu /TCK)* Law No: 5237, Article 301

<sup>3</sup> *The Turkish Penal Code 2004 (Türk Ceza Kanunu /TCK)* Law No: 5237, Article 299

The preliminary research questions are:

- How has the government conceptualised *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications* through problematising the law?
- What is the impact of *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications* on the public sphere in Turkey?

## 2. Background and previous research

### 2.1 The political and legal context

#### 2.1.1. The social media law's framework

Turkey is a country where the government's authoritarian tendency is increasing day by day. The leading political party Justice and Development Party (Adalet ve Kalkınma Partisi, AKP from here) has been in power for the last 19 years and the human rights violations are increasing in relation to the authoritarian tendency. The social media law, which is a set of amendments to the existing *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publication*, drafted by the ruling AKP and its ally the Nationalist Movement Party (Milliyetçi Hareket Partisi, MHP from here), placed new obligations and requirements for social media platforms with more than one million users per day. As per the law, social media platforms are required to appoint local representatives, store user data in Turkey and comply with content removal requests within a limited time frame. Those who fail to comply face heavy fines from 10 million to 30 million Turkish liras, advertising bans and gradual bandwidth reductions from 50 to 90 percent. The law also forces social media platforms with more than one million users to store user data in Turkey, which makes it available for state and judicial authorities to access on request. It requires social media platforms to respond to individual or institutional applications to implement blocking and content

removal requests within 48 hours. The penal Judgeships of Peace, which were already authorized to block access to websites, can also ask for the removal of content.<sup>4</sup> As of this February, the social media companies who have not obliged with the law so far are being faced with advertising bans. These social media companies are Facebook, Twitter and Instagram.<sup>5</sup>

President Erdoğan's statement before the law was passed was that the government was working on a legislation that would "abolish such [social media] platforms completely or to have them controlled", claiming this was in response to users' critical comments on Erdoğan's new-born grandson.<sup>6</sup>

The existence of a similar law in Germany called *the Network Enforcement Act*<sup>7</sup>, commonly known as *NetzDG* makes it more interesting to study the Turkish counterpart of the social media law, since it is critical to investigate the political and social climate in which the law was shaped, as this has a variety of implications for the public sphere. In the Routledge Companion to Media and Human Rights' Chapter 14 author Sebastian Stier states that the magnitude of government interference critically depends on the political context in which governments and news media operate.<sup>8</sup> This is important to note because Turkish government officials presented the law during the discussions in the parliament and press conferences by arguing that the German model was taken as an example for the Turkey model. Human Rights Watch Turkey Director Emma Sinclair-Webb argues that the two countries cannot be compared because there is a clear separation of powers and an independent judiciary in Germany.<sup>9</sup>

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<sup>4</sup> International Press Institute, 'IPI renews its call on Turkey to withdraw the new social media law and penalties on big tech companies', *International Press Institute*, 21 January 2021, <https://freeturkeyjournalists.ipi.media/ipi-renews-its-call-on-turkey-to-withdraw-the-new-social-media-law-and-penalties-on-big-tech-companies/>, (accessed 21 January 2021)

<sup>5</sup> Hamdi Firat Buyuk, "Turkey Fines Social Media Giants Second Time For Defying Law", *Balkan Insight*, 11 December 2020, <https://balkaninsight.com/2020/12/11/turkey-fines-social-media-giants-second-time-for-defying-law/>, (accessed 8 February 2021).

<sup>6</sup> Deutsche Welle, "Erdoğan: Sosyal medya mecralarının düzene sokulması şarttır", *Deutsche Welle*, 1 July 2020, <https://www.dw.com/tr/erdo%C4%9Fan-sosyal-medya-mecralar%C4%B1n%C4%B1n-d%C3%BCzene-sokulmas%C4%B1-%C5%9Fart%C4%B1r/a-54014453>, (accessed 8 February 2021).

<sup>7</sup> Act to Improve Enforcement of the Law in Social Networks 2017 (Network Enforcement Act)

<sup>8</sup> S. Stier, 'Political Determinants of Media Freedom', in H. Tumber and S. Waisbord (eds), *The Routledge Companion to Media and Human Rights*, London/New York, Routledge, 2017, p. 150

<sup>9</sup> Daniel Heinrich, "User safety or censorship? Turkey targets social media platforms", *Deutsche Welle*, 4 October 2020, <https://p.dw.com/p/3jP9p>, (accessed 8 March 2021)

## 2.1.2. The Penal Code and its application through the social media

I will here present these two articles of the Penal Code underlining their connection with social media. The existence of The Penal Code Article 301 and 299 creates a problematic aspect and takes us back to think of the dependency of the law and the political climate of the country in which the law was shaped.

The Article 301 reads as follows:

*Denigrating the Turkish Nation, the State of the Turkish Republic, the Institutions and Organs of the State*

1. *A person who publicly denigrates Turkish Nation, the State of the Republic of Turkey, the Grand National Assembly of Turkey, the Government of the Republic of Turkey or the judicial bodies of the State, shall be sentenced a penalty of imprisonment from a term of six months and two years.*
2. *A person who publicly denigrates the military or security structures shall be punishable according to the first paragraph.*
3. *Expressions of thought intended to criticize shall not constitute a crime.*
4. *The prosecution under this article shall be subject to the approval of the Minister of Justice.<sup>10</sup>*

This law has been used since 2005 to prosecute individuals who peacefully express their views.<sup>11</sup> Many high profile cases has been brought into the Court by the government; from Nobel laureate Orhan Pamuk to Booker Prize nominee Elif Şafak, from veteran journalist Hasan Cemal to writer Murat Belge were prosecuted under this law.<sup>12</sup> Amnesty International finds this law ambiguous and not accessible, and argues that the terms that

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<sup>10</sup> *The Turkish Penal Code 2004 (Türk Ceza Kanunu /TCK) Law No: 5237, Article 301*

<sup>11</sup> Amnesty International, 'Turkey: Article 301: How the law on "denigrating Turkishness" is an insult to free expression', *Amnesty International*, 2006, p. 1, <https://www.refworld.org/pdfid/44c611504.pdf> , (accessed 6 March 2021).

<sup>12</sup> Orhan Kemal Cengiz, 'Turkey resurrects deadly Article 301 against dissent', *Al-Monitor*, 24 October 2019, <https://www.al-monitor.com/originals/2019/10/turkey-nationalism-killer-penal-code-article-has-come-back.html> , (accessed 8 March 2021).

are used in the law are wide and vague and states that the government applies the law arbitrarily to criminalise a wide range of peacefully-expressed opinions.<sup>13</sup> The report also highlights the problematic status of the law regarding the distinction between criticism and denigration,<sup>14</sup> which under a political climate where the judiciary is not independent, a social media law which aims to target social media companies can become an apparatus to online surveillance. According to the report, the intolerance of dissent and punitive sanctions of free speech discourage wide public participation in civil society.<sup>15</sup>

Even though the article has been subject to so many adjustments from reduced punishment to approval of the Ministry of Justice as a Condition for Trial, throughout the years especially with then-close relationship with the European Union for the opening of negotiations for Turkish membership, the problem with the law is ongoing. Bülent Algan elaborates the problem with the word “*denigrate*”, and how Turkish Courts interpret “*denigration*” is of vital importance.<sup>16</sup> The interpretation of the word “denigration” and “insult” by the Turkish judges determine who gets a criminal penalty or not. The recent example is two young adults posting a TikTok video about the status of the Turkish passport since Turkish citizens need visa to 101 countries whereas for example Swedish citizens need visa to 56 countries.<sup>17</sup> These two young adults made fun of with the passport by using it as a coaster and oven glove reflecting its uselessness compared to other passports. These two young adults were detained and questioned by the police, and judicial control measures were implemented in the form of an international travel ban for the crime of “humiliating the signs of the state's sovereignty” which emerge from the Article 301 of the Turkish Penal Code.<sup>18</sup>

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<sup>13</sup> Amnesty International, ‘Turkey: Article 301: How the law on “denigrating Turkishness” is an insult to free expression’, *Amnesty International*, 2006, p. 3, <https://www.refworld.org/pdfid/44c611504.pdf> , (accessed 6 March 2021).

<sup>14</sup> Ibid.

<sup>15</sup> Amnesty International, ‘Turkey: Article 301: How the law on “denigrating Turkishness” is an insult to free expression’, *Amnesty International*, 2006, p. 4, <https://www.refworld.org/pdfid/44c611504.pdf> , (accessed 6 March 2021).

<sup>16</sup> B. Algan, ‘The Band New Version of Article 301 of Turkish Penal Code and the Future of Freedom of Expression Cases in Turkey’, *German Law Journal*, Volume 9, Issue 12, 2008, p. 2238

<sup>17</sup> The Passport Index, <https://www.passportindex.org/byRank.php> , (accessed 6 May 2021).

<sup>18</sup> ‘Türk pasaportunu aşağıladıkları' gerekçesiyle gözaltına alınan gençlere yurtdışına çıkış yasağı’, Sputnik Türkiye, 28 April 2021, <https://tr.sputniknews.com/turkiye/202104281044377370-turk-pasaportunu-asagiladiklari-gerekcesiyile-gozaltina-alinan-genclere-yurtdisina-cikis-yasagi/> (accessed 28 April 2021).

Hereinafter, I will present the other law that is critical when analysing the new social media law is the Turkish Penal Code Article 299 as follows<sup>19</sup>:

*Article 299: Insulting the President of the Republic*

1. *Any person who insults the President of the Republic shall be sentenced to a penalty of imprisonment for a term of one to four years.*
2. *(Amended on 29/6/2005 – By Article 35 of the Law no. 5377) Where the offence is committed in public, the sentence to be imposed shall be increased by one sixth.*
3. *The initiation of a prosecution for such offence shall be subject to the permission of the Minister of Justice.*

According to Human Rights Watch, since the year 2014 when Recep Tayyip Erdoğan was elected as President, the number of people prosecuted and convicted for “insulting the president” has increased drastically.<sup>20</sup> The report also states the following figures: while 40 persons were convicted for insulting the president in 2014, 238 were convicted in 2015, the number almost quadrupled to 884 in 2016, and jumped to a staggering 2,099 convictions in 2017.<sup>21</sup> European Commission for Democracy Through Law (Venice Commission) Opinion on Articles 216, 299, 301 and 314 of the Penal Code of Turkey which was adopted by the Venice Commission on March 15, 2016 comments that the wording of the Article 299 of the Penal Code is not in line with the emerging European consensus on press freedom<sup>22</sup> and finds that the insult allegations include profanity on top expressions by the individuals.<sup>23</sup> The report then gives examples from investigations and

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<sup>19</sup> *The Turkish Penal Code 2004 (Türk Ceza Kanunu /TCK)* Law No: 5237, Article 299

<sup>20</sup> Human Rights Watch, ‘Turkey: End Prosecutions For ‘Insulting President’, *Human Rights Watch*, Berlin, Human Rights Watch, 2018, <https://www.hrw.org/news/2018/10/17/turkey-end-prosecutions-insulting-president> , (accessed 8 March 2021).

<sup>21</sup> *Ibid.*

<sup>22</sup> Council of Europe, ‘European Commission for Democracy Through Law (Venice Commission), Opinion (No: 831/2015) on Articles 216, 299, 301 and 314 of the Penal Code of Turkey’, *Venice Commission*, Strasbourg, 2016, p. 15, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)002-e) , (accessed 10 March 2021).

<sup>23</sup> Council of Europe, ‘European Commission for Democracy Through Law (Venice Commission), Opinion (No: 831/2015) on Articles 216, 299, 301 and 314 of the Penal Code of Turkey’, *Venice Commission*, Strasbourg, 2016, p. 16, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)002-e) , (accessed 10 March 2021).

prosecutions which were all from important debates around matters of public interest such as protests against the government policies regarding the fight against terrorism.<sup>24</sup>

### 2.1.3 The Shrinking Public Sphere in Turkey: Data from Reports

According to Birgün Daily's report, every year the number of individuals being investigated for insulting the president rises, with 36,066 people facing charges only in 2019.<sup>25</sup> According to another report from the Duvar News, between 2014 and 2019 128,872 people were investigated under the Article 299, while majority of the posts were based on social media posts.<sup>26</sup> These figures led to the Venice Commission report that underlines the increase in the number of legal lawsuits filed against journalists, writers, social media users, and other members of the public for alleged insult to the President.<sup>27</sup> This intimidating atmosphere has resulted in increased self-censorship, according to the same report.<sup>28</sup> A total of 9,554 people has been sentenced until the year 2020 under the Article 299.<sup>29</sup>

According to the Reuters Institute Digital News Report 2018, 65 per cent of the respondents in Turkey think that sharing their political views on social media will create trouble with the authorities, and from 37 countries that were studied for this report,

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<sup>24</sup> Reuters Staff, 'Erdogan sues Turkey's main opposition leader over dictator remarks', *Reuters*, 18 January 2016, <https://www.reuters.com/article/us-turkey-president-idUSKCN0UW1FR> (accessed 8 March 2021).

<sup>25</sup> Nurcan Gökdemir, 'Bir yıl içerisinde 36 bin soruşturma', *Birgün*, 13 September 2020, <https://www.birgun.net/haber/bir-yil-icerisinde-36-bin-sorusturma-315383>, (accessed 25 February 2021).

<sup>26</sup> Eren Topuz, 'Increasing number of Erdoğan 'insult' cases quantifies crackdown on dissent', *Duvar English*, 15 January 2021, <https://www.duvarenglish.com/increasing-number-of-erdogan-insult-cases-quantifies-crackdown-on-dissent-news-55873>, (accessed 25 February 2021).

<sup>27</sup> Council of Europe, 'European Commission for Democracy Through Law (Venice Commission), Opinion (No: 831/2015) on Articles 216, 299, 301 and 314 of the Penal Code of Turkey', *Venice Commission*, Strasbourg, 2016, p. 17, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)002-e), (accessed 10 March 2021).

<sup>28</sup> Council of Europe, 'European Commission for Democracy Through Law (Venice Commission), Opinion (No: 831/2015) on Articles 216, 299, 301 and 314 of the Penal Code of Turkey', *Venice Commission*, Strasbourg, 2016, p. 9, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)002-e), (accessed 10 March 2021).

<sup>29</sup> Eren Topuz, 'Increasing number of Erdoğan 'insult' cases quantifies crackdown on dissent', *Duvar English*, 15 January 2021, <https://www.duvarenglish.com/increasing-number-of-erdogan-insult-cases-quantifies-crackdown-on-dissent-news-55873>, (accessed 25 February 2021).

Turkey is the first on the spectrum, and Singapore and Malaysia are following Turkey on this list.<sup>30</sup>

The Institute's following report from 2020 states that 57 per cent of the citizens get their news from social media platforms<sup>31</sup> such as Facebook Youtube, Instagram, Whatsapp and Twitter. This brings us back to the importance of the new social media law and the need to analyse it within the context of these data in hand. On top of the differences between judiciary's independence, it is not feasible to compare this law with Germany as when President Erdoğan and government officials state that they mirrored the *NetzDG* when preparing the law for Turkey. The reason why it is not logical is because the same report of Reuters from 2020 states that only 21 per cent get their news from social media platforms in Germany.<sup>32</sup> These data show that the mentioned laws from Germany and Turkey that were claimed to be similar, have influence on different amounts of people. According to the Doğruluk Payı's report which they collected data from the Ministry of Justice shows that between 2014 and 2019, 128.872 individuals were investigated under the Article 299 of Turkish Penal Code which resulted in 27.717 of these cases ending with public prosecution.<sup>33</sup>

Additionally, according to The International Press Institute's "Turkey Free Expression Trial Monitoring Report" from March 2020, the Turkish Penal Code Article 299 & 301, and the Anti-Terror Law are commonly used against journalists and ordinary citizens

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<sup>30</sup> N. Newman, R. Fletcher, A. Kalogeropoulos, D. A. L. Levy and R. K. Nielsen, 'Reuters Institute Digital News Report 2018', *Reuters Institute for Study of Journalism*, 2018, p. 14, <http://media.digitalnewsreport.org/wp-content/uploads/2018/06/digital-news-report-2018.pdf>, (accessed 8 March 2021).

<sup>31</sup> N. Newman, R. Fletcher, A. Schulz, S. Andı and R. K. Nielsen. 'Reuters Institute Digital News Report 2020', *Reuters Institute for Study of Journalism*, 2020, p. 84, [https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2020-06/DNR\\_2020\\_FINAL.pdf](https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2020-06/DNR_2020_FINAL.pdf), (accessed 8 March 2021.)

<sup>32</sup> N. Newman, R. Fletcher, A. Kalogeropoulos, D. A. L. Levy and R. K. Nielsen, 'Reuters Institute Digital News Report 2018', *Reuters Institute for Study of Journalism*, 2018, p. 80, <http://media.digitalnewsreport.org/wp-content/uploads/2018/06/digital-news-report-2018.pdf>, (accessed 8 March 2021).

<sup>33</sup> Ceren Satıl, 'Cumhurbaşkanına Hakaret Suçundan Kaç Kişi Yargılandı?', *Doğruluk Payı*, 18 November 2020, <https://www.dogrulukpayi.com/iddia-kontrolu/ali-mahir-basarir/1994-yilindan-2014-yilina-kadar-cumhurbaskanina-hakarettten-dolayi-1280-saniktan-386-vatandasimiz-mahkum-olurken-tayyip-erdogan-in-goreve-geldigi-2014-yilindan-gunumuze-kadar-63-bin-41-saniktan-9-bin-5>, (accessed 7 April 2021.)

expressing their opinions on social media.<sup>34</sup> The report also argues that the new social media regulations will offer the Turkish authorities a new tool to remove online content and accelerate censorship in the country.<sup>35</sup>

## 2.2 Previous Research

In this chapter, I will provide a brief overview of the research field regarding the studies which focused on the regression of Turkey's human rights perspective especially with regards to press freedom and freedom of expression. The studies that I will be mentioning are showcasing the effects of politics in Turkey towards the drop back in human rights.

Several researches have done studies on the political climate in Turkey and its effects on freedom of expression and press freedom.<sup>36</sup> These studies were focusing on the history of the regime in Turkey and the type of attacks the journalists have faced throughout the years; AKP's response to the political crises such as Gezi Park Movement and Roboski Massacre which took place on December 28, 2011, near the Iraq-Turkey border, when the Turkish Air Force bombed a group of Kurdish civilians and killing 34 individuals; the closure of 150 media outlets after the 2016 coup attempt; monopolisation of the power in the hands of the government by connecting institutions such as the Radio and Television High Council and Information Technologies and Communication Institution to the Presidency under the President Recep Tayyip Erdoğan who is the party leader of the AKP which is in power the last 19 years of the Turkish Republic.<sup>37</sup> Bilge Yeşil says that the press censorship in Turkey dispersed among a variety of regulatory agents and

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<sup>34</sup> International Press Institute, 'Fears of draconian social media law in Turkey', *International Press Institute*, 14 July 2020, <https://freeturkeyjournalists.ipi.media/fears-of-draconian-social-media-law-in-turkey/>, (accessed 8 March 2021).

<sup>35</sup> Ibid.

<sup>36</sup> B. Yeşil, *Media in New Turkey: The Origins of an Authoritarian Neoliberal State*, Chicago, University of Illinois Press, 2016.

T. E. Filibeli, and Y. G. İnceoğlu, 'From political economy of the media to press freedom: obstacles to the implementation of peace journalism in Turkey', *Conflict & Communication Online*, Vol. 17, no. 1, 2018.

M. Akser and B. Baybars-Hawks, (2012). 'Media and Democracy in Turkey: Toward a Model of Neoliberal Media Autocracy', *Middle East Journal of Culture and Communication*, Vol. 5, no. 3, 2012.

A. Çarkoğlu and S. Andı, 'Support for Censorship of Online and Offline Media: The Partisan Divide in Turkey', *The International Journal of Press/Politics*, August 2020.

S. Pukallus et al., 'From Repression to Oppression: News Journalism in Turkey 2013-2018', *Media, Culture & Society*, Vol. 42, No. 7-8, 2020.

<sup>37</sup> Ibid.

practices.’’<sup>38</sup> Previous research also focused on clientelism, political parallelism and strong state intervention in the Turkish media companies who owns the mainstream newspapers in Turkey which focuses on the journalists who are jammed between their journalism ethics and their employer who is being managed by the pro-government conglomerate.<sup>39</sup> Additionally, studies which are concentrating on the Press Law, the Penal Code and the Anti-Terror Law which focuses on the broad definition of the terrorism and terrorist propaganda which makes it easier to prosecute journalists and individuals especially with Kurdish identities. The studies investigate political climate which Turkey is in and the consequences from the freedom of expression point of view or specifically journalism and study the effects of Kurdish issue and the Gülen movement which is listed as a terrorist organisation in Turkey since May 2016.<sup>40</sup> Ann Cudd states that the legal institutions have been turned into agents of “fundamental injustice.”<sup>41</sup> All these issues which were studied in these researches made Freedom House to change Turkey’s media freedom class from partly free to not free in 2019.<sup>42</sup> Furthermore, Turkey had become the country with the highest imprisonment rate of journalists, and the highest number of cases of violations of freedom of expression before the European Court of Human Rights by 2015. Freedom of expression organisations Article 19 and PEN International’s unpublished draft display that the specific articles from the Turkish Penal Code started to be used more systematically than before to bring charges against critical journalists.<sup>43</sup> The study also highlights the Index on Censorship from 2017 and the central role of the Turkish courts regarding the deterioration of the press freedom in the country.<sup>44</sup>

If I move on from the attack on press freedom to Turkey’s internet policy after the coup attempt with the guiding of Bilge Yeşil’s study *Turkey ’s Internet Policy After the Coup*

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<sup>38</sup> B. Yeşil, ‘Press Censorship in Turkey: Networks of State Power, Commercial Pressures, and Self-Censorship’, *Communication, Culture & Critique*, Vol. 7, no. 2, 2014, p. 169

<sup>39</sup> S. Corke, A. Finkel (eds.), ‘Democracy in Crisis: Corruption, Media, and Power in Turkey’, *Freedom House*, 4 February 2014, <https://freedomhouse.org/report/special-report/2014/corruption-media-and-power-turkey> (accessed 6 May 2021.)

<sup>40</sup> Committee to Protect Journalists, ‘Turkey’s Press Freedom Crisis: The Dark Days of Jailing Journalists and Criminalising Dissent’, United Book Press, NY, 2012, p. 15

<sup>41</sup> S. Pukallus et al., ‘From Repression to Oppression: News Journalism in Turkey 2013-2018’, *Media, Culture & Society*, Vol. 42, No. 7-8, 2020, p. 1447

<sup>42</sup> Freedom House, ‘Freedom in the World 2019’, <https://freedomhouse.org/country/turkey/freedom-world/2019> (accessed 21 May 2021).

<sup>43</sup> Pukallus et al., 2020, p. 1453

<sup>44</sup> Pukallus et al., 2020, p.1454

*Attempt: The Emergence of a Distributed Network of Online Suppression and Surveillance*, some bullet points can be identified: direct control over Internet Service Providers and interception of digital communication by way of presidential decree law, facilitation of social media censorship by means of Twitter, Facebook, YouTube content removals, coordinated online harassment campaigns by pro-government users against alleged coup planners, Kurdish activists and governments critics in general.<sup>45</sup> Bilge Yeşil calls this the ‘monopolisation of the state power.’<sup>46</sup> She links these repressive policies to the government seeing ethnic and religious identity claims as national security threats.<sup>47</sup>

The restriction of the freedom of the press through financial obstacles and government owned conglomerates have already been studied before and advocated against by the international non-governmental organisations throughout the years in Turkey. The brutal attacks by the police forces to protestors who are protesting for the right related the specific causes have been documented by the national non-governmental organisations for years. The decline in freedom of peaceful assembly mainly started with the April 2015 amendment to the internal security law. With the amendment made, wide powers have been given to the civil administration and law enforcement agencies.<sup>48</sup> After 2016, during and after the State of Emergency period, the powers given to the civil administration and law enforcement agencies increased with the legislative changes far from human rights perspective and new measures taken. On the other hand, there are no provisions preventing the arbitrary use of these powers in the laws. The broad powers given to the civil administration is the authority to postpone or prohibit peaceful meetings and demonstrations in certain provinces or districts. However, this authority is interpreted unlimitedly and is used arbitrarily without taking into account certain or verifiable intelligence information, court decision, obvious or imminent danger. The data accessible by Association for Monitoring Equal Rights generally shows an increasing trend in civil administration decisions announced since 2016. The number of administration decision

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<sup>45</sup> B. Yeşil, E. K. Sözeri, E. Khazraee, ‘Turkey’s Internet Policy After the Coup Attempt: The emergence of a distributed network of online suppression and surveillance’, *UPenn Center for Global Communication Studies (CGCS)*, 2017, p. 4

<sup>46</sup> B. Yeşil, *Media in New Turkey: The Origins of an Authoritarian Neoliberal State*, Chicago, University of Illinois Press, 2016, p. 132

<sup>47</sup> B. Yeşil, 2016, p. 135

<sup>48</sup> *The Law on Police Duties and Powers (Law Arrangements on Organisation, Duties and Powers of the Gendarmerie)* 2015, Law no: 6638

to ban peaceful assembly (general ban + event specific ban) was 101 in 2016<sup>49</sup>; 120 in 2017<sup>50</sup>; 127 on 2018<sup>51</sup>; 298 on 2019 and 368 on 2020.<sup>52</sup> On top of these administrative decisions on a governorship level; data accessible by Association for Monitoring Equal Rights has also been on an increasing trend in police interventions since 2016. The number of police interventions were 227 in 2016<sup>53</sup>; 282 in 2017<sup>54</sup>; 215 in 2018<sup>55</sup>; 1371 in 2019; 552 in 2020.<sup>56</sup> The use of the right is punished in a way that creates a deterrent effect. Although there is no reference in the law, disproportionate fines are imposed on the participants of peaceful meetings and demonstrations. The use of the right is often prosecuted for violating the *Law no. 2911 Peaceful Assembly and Demonstrations*.<sup>57</sup> Additionally, participants of peaceful gatherings and demonstrations are prosecuted on

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<sup>49</sup> Association for Monitoring Equal Rights, Freedom of Peaceful Gathering and Assembly Report 2016, *Association for Monitoring Equal Rights*, Istanbul, 2016, p. 36 <https://www.esithaklar.org/wp-content/uploads/2017/03/Toplant%C4%B1-G%C3%B6steri-Hakk%C4%B1-Raporu.pdf> (accessed 10 May 2021.)

<sup>50</sup> Association for Monitoring Equal Rights, Freedom of Peaceful Gathering and Assembly Report 2017, *Association for Monitoring Equal Rights*, Istanbul, 2017, p. 14-20 [https://www.esithaklar.org/wp-content/uploads/2019/06/Toplant%C4%B1-G%C3%B6steri-Hakki\\_2017.pdf](https://www.esithaklar.org/wp-content/uploads/2019/06/Toplant%C4%B1-G%C3%B6steri-Hakki_2017.pdf) (accessed by 10 May 2021.)

<sup>51</sup> Association for Monitoring Equal Rights, 2018 Jan-Feb Newsletter, *Association for Monitoring Equal Rights*, Istanbul, 2018, [Newsletter Jan-Feb 2018](#) (accessed 10 May 2021).;

Association for Monitoring Equal Rights, 2018 Mar Newsletter, *Association for Monitoring Equal Rights*, Istanbul, 2018, [Newsletter Mar 2018](#) (accessed 10 May 2021).;

Association for Monitoring Equal Rights, 2018 Special Newsletter, *Association for Monitoring Equal Rights*, Istanbul, 2018, [Newsletter Special 2018](#) (accessed 10 May 2021).;

Association for Monitoring Equal Rights, 2018 Oct- Nov - Dec Newsletter, *Association for Monitoring Equal Rights*, Istanbul, 2018, [Newsletter Oct-Nov-Dec 2018](#) (accessed 10 May 2021).

<sup>52</sup> Personal Interview with Association for Monitoring Equal Rights Project Coordinator Alara Sert on 10 May. (Recording in possession of author, Ipek Sezer.)

<sup>53</sup> Association for Monitoring Equal Rights, Freedom of Peaceful Gathering and Assembly Report 2016, *Association for Monitoring Equal Rights*, Istanbul, 2016, p. 59 <https://www.esithaklar.org/wp-content/uploads/2017/03/Toplant%C4%B1-G%C3%B6steri-Hakk%C4%B1-Raporu.pdf> (accessed 10 May 2021.)

<sup>54</sup> Association for Monitoring Equal Rights, Freedom of Peaceful Gathering and Assembly Report 2017, *Association for Monitoring Equal Rights*, Istanbul, 2017, p. 40 [https://www.esithaklar.org/wp-content/uploads/2019/06/Toplant%C4%B1-G%C3%B6steri-Hakki\\_2017.pdf](https://www.esithaklar.org/wp-content/uploads/2019/06/Toplant%C4%B1-G%C3%B6steri-Hakki_2017.pdf) (accessed by 10 May 2021.)

<sup>55</sup> Association for Monitoring Equal Rights, 2018 Jan-Feb Newsletter, *Association for Monitoring Equal Rights*, Istanbul, 2018, [Newsletter Jan-Feb 2018](#) (accessed 10 May 2021).;

Association for Monitoring Equal Rights, 2018 Mar Newsletter, *Association for Monitoring Equal Rights*, Istanbul, 2018, [Newsletter Mar 2018](#) (accessed 10 May 2021).;

Association for Monitoring Equal Rights, 2018 Special Newsletter, *Association for Monitoring Equal Rights*, Istanbul, 2018, [Newsletter Special 2018](#) (accessed 10 May 2021).;

Association for Monitoring Equal Rights, 2018 Oct- Nov - Dec Newsletter, *Association for Monitoring Equal Rights*, Istanbul, 2018, [Newsletter Oct-Nov-Dec 2018](#) (accessed 10 May 2021).

<sup>56</sup> Personal Interview with Association for Monitoring Equal Rights Project Coordinator Alara Sert on 10 May. (Recording in possession of author, Ipek Sezer.)

<sup>57</sup> *The Law Peaceful Assembly and Demonstrations (Toplantı ve Gösteri Yürüyüşleri Kanunu) 1983 (Law No: 2911)*

the basis of anti-terrorism or criminal laws, especially in demonstrations containing opposing messages.

Bilge Yeşil claims that arrests of journalists, the reshuffling of ownership structures, and the AKP's strategic use of economic carrots and sticks all played a part in reshaping the media arena in Turkey between 2005 and 2013 (The Gezi protests began on May 28, 2013).<sup>58</sup> She argues that the state interference has been challenging journalistic autonomy for years and she says that the AKP has exacerbated the existing repressive environment by abusing the legal framework to criminalize Kurdish journalists, by instrumentalizing a major political investigation—the Ergenekon—to prosecute dissenting journalists, and by exploiting its economic relationships with media conglomerates to engender self-censorship in the press.<sup>59</sup>

A study of Pukallus, Bradley, Clarke and Harrison focuses on 2013-2018 and the effects on press freedom in Turkey and argue that throughout the years the government had started to shift from repression to oppression.<sup>60</sup> Later they examined that this shift was authorized and legalized by the constitutional changes that came into force on July 9, 2018.<sup>61</sup>

All these studies which I have mentioned above show a pattern which Turkish government has demonstrated over the years of the 19 year of governing the country, even stricter and common pattern after the coup attempt in 2016. The pattern is squeezing the public and legal sphere by taking the control of media and influencing the legal system. My contribution to the research is focusing on the next space where government is targeting to squeeze the critical voices of the public. Previously they succeeded this through banning and attacking peaceful protests and assemblies, making pro-government conglomerates to buy mainstream newspapers. The government's consolidation of its

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<sup>58</sup> B. Yeşil, *Media in New Turkey: The Origins of an Authoritarian Neoliberal State*, Chicago, University of Illinois Press, 2016, p. 104

<sup>59</sup> B. Yeşil, 'Press Censorship in Turkey: Networks of State Power, Commercial Pressures, and Self-Censorship', *Communication, Culture & Critique*, Vol. 7, no. 2, 2014, p. 155

<sup>60</sup> S. Pukallus et al., 'From Repression to Oppression: News Journalism in Turkey 2013-2018', *Media, Culture & Society*, Vol. 42, No. 7-8, 2020, p. 1444

<sup>61</sup> S. Pukallus et al., 2020, p. 1452

powers in every side of the state institutions is worrying and shows its effects the public sphere as well; from newspapers to streets. The consolidation of the social media through *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications* is the last place on the radar. That last space is social media.

Evidence that these studies focus on the journalists and therefore mostly press freedom, what my thesis will bring to this conversation is the effects of the social media law on Turkey's public sphere and the government usage of the social media law to squeeze the critical voices in the country with draconian measures. The study argues that social media is currently the last free space and seeks to examine what this new law means for the public sphere and freedom of expression in Turkey. The study highlights the social media as a part of public sphere as well the media and the protests where people express their views. Therefore, I claim that the government is taking steps to close down the spaces where people express their views one by one with laws they pass from the Parliament.

# 3.Theory and Method

## 3.1 Theory

I will discuss the theoretical concept of this thesis below which is public sphere and what it means for this study. I have chosen public sphere as a theoretical tool in order to explore my research question as it highlights the severe state of the possible consequences of the social media law from a human rights perspective. It is important to the study the law through a human rights perspective regardless of the financial outcomes of the law towards the social media companies. I argue that at its core this law it is an attack to freedom of expression and intervention to society's public sphere. Therefore, my research aims to explore the attack to the last free space of the public sphere in Turkey through the social media law which places new obligations and requirements for social media platforms.

### 3.1.1 The Public Sphere

Jürgen Habermas defines the public sphere as “a virtual or imaginary community which does not necessarily exist in any identifiable space and is made up of private people gathered together as a public and articulating the needs of society with the state.”<sup>62</sup> For Paul Rutherford, the public sphere is the source of public opinion and therefore needed to “legitimate the authority in any functioning democracy.”<sup>63</sup> Thomas McCarthy explains Habermas' definition as follows: “The public sphere, [is] a political public of private persons reasoning publicly, [in order] to exercise a critical function in mediating the relations between the essentially separate realms of civil society and the state.”<sup>64</sup> Basically, he conceptualises a public institution, venue, or arena in which private persons can engage in conversation free of coercive restraints or forms of dominance, in order to resolve questions of broad interest or common good through such talks. For Habermas,

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<sup>62</sup> J. Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a category of Bourgeois Society*, Cambridge, MA, MIT Press, 1991, p. 176

<sup>63</sup> P. Rutherford., *Endless Propaganda: The Advertising of Public Goods.*, Toronto: University of Toronto Press, 2000, p. 18.

<sup>64</sup> I. Ward, ‘How Democratic Can We Get?: The Internet, the public sphere, and public discourse’, *JAC*, Vol. 17, no. 3, 1997, p. 366.

the press played an important role in the democratisation process of Europe because it created an environment for people who wanted to discuss conversations politically. This environment can be described as a space which mediates between society and the state. According to Pieter Boeder, central in Habermas' thinking is the notion that the quality of society depends on our capacity to communicate, to debate and discuss.<sup>65</sup>

For the purpose of this thesis regarding Turkey; freedom of expression, freedom to peaceful assembly and such political rights are the core values which wrap around the public sphere. The political theory of Claude Lefort argues that human rights are the core of a democracy, and political action and contestation.<sup>66</sup> According to Andrea Karlsson, human rights claiming along Lefort's lines helps us to isolate its basic logic and traits, namely, that it is a contestation of Turkey's political systems and intellectual legacy<sup>67</sup>. Andrea Karlsson comments on Lefort by saying the experience of injustice and oppression makes people claim rights and that is how human rights politics work.<sup>68</sup> Additionally, Lefort highlights that the claim of human rights open civil public spaces outside state power and this claim comes from injustices, as mentioned above.<sup>69</sup> In the case of Turkey, it is reflected it in a way that every time a right is being suppressed the critical voices always find another way to express their views. Karlsson justifies this by stating that invoking human rights thereby calls into question the basic foundations of governmental power, authority, and legitimacy<sup>70</sup>. Karlsson also highlights the dependence of public sphere on the right to free expression and freedom of speech.<sup>71</sup> As a result of the emergence of the pro-government conglomerates started to own the media companies, critical journalists fired from their jobs and many of them started their own podcasts or created their YouTube channel or hired by foreign media company as a Turkey correspondent. Therefore, the oppression and injustice made individuals more

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<sup>65</sup> P. Boeder, 'Habermas' heritage: The future of the public sphere in the network society', *First Monday*, 2005, <https://firstmonday.org/ojs/index.php/fm/article/view/1280/1200>, (accessed 23 April 2021).

<sup>66</sup> A. Karlsson, *Liberal Intellectuals and Human Rights in the Turkish Public Sphere: Contestation and Pragmatism from the 1990s to the AKP-era*, Lund, 2017, p. 32

<sup>67</sup> A. Karlsson, *Liberal Intellectuals and Human Rights in the Turkish Public Sphere: Contestation and Pragmatism from the 1990s to the AKP-era*, Lund, 2017, p. 17

<sup>68</sup> A. Karlsson, *Liberal Intellectuals and Human Rights in the Turkish Public Sphere: Contestation and Pragmatism from the 1990s to the AKP-era*, Lund, 2017, p. 32

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> A. Karlsson, *Liberal Intellectuals and Human Rights in the Turkish Public Sphere: Contestation and Pragmatism from the 1990s to the AKP-era*, Lund University, 2017, p. 156

aware of their right and continued to speak their truth from different platforms. Reflecting this from Lefort, this is a claiming of their freedom of expression right which was rejected by the government.

Another example can be given from the Gezi Park Movement; when the government decided on selling a city park to a private property owner and cutting down the trees in the park, the city residents opposed this act by showing a solidarity. This movement that started from closure of a city park turned into a resistance against the government and resistance against the government policies and the attitude of the governing party, AKP. The attack towards a tangible matter turned into people claiming not just environmental rights but right to free speech as well since the government's method of dealing with the resistance was through police attacks and detentions of people who were protesting or sharing their views through social media posts. It is important to note that social media played a huge part in the resistance of the Gezi Park Movement. Together with many other resistance movements from all over the world (the Gezi Park movement in the Turkish context) social media platforms especially Twitter, became the leading communication tool.<sup>72</sup> Based on the results of a qualitative study which analysed tweets during the Gezi Park protests, Twitter platform was widely used to mobilize protesters, share information about the events, and express opinions about the policing of the protests.<sup>73</sup> Reflecting through this, it can be said that Twitter platform has served its purpose from Habermas' public sphere definition which is "a virtual or imaginary community which does not necessarily exist in any identifiable space and is made up of private people gathered together as a public and articulating the needs of society with the state."<sup>74</sup> Therefore the importance of the social media platforms is self-evident in Turkey's public sphere.

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<sup>72</sup> F. Demir, M. F. Bastug, A. Douai, 'Keeping it peaceful: Twitter and the Gezi Park Movement', *Communication and the Public*, Vol. 5, no: 3-4, 2020, p. 153

<sup>73</sup> Ibid.

<sup>74</sup> J. Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a category of Bourgeois Society*, Cambridge, MA, MIT Press, 1991, p. 176.

According to Habermas, the public sphere exists between the state and society as “a network for communication information and points of view.”<sup>75</sup> Therefore, it is the place where citizens come together as individuals and express their independent viewpoints in order to influence the democratic structures in society, whereas the public sphere is an integral component of socio-political organisation. Habermas defines “a public sphere in which the ruler’s power was merely represented before the people with a sphere in which state authority was publicly monitored through informed and critical discourse by the people”,<sup>76</sup> and according to Manuel Castells, the ideal form of the public sphere has changed in its current practice.<sup>77</sup> Furthermore, in the modern age, since information networks of any sort constitute the public sphere, this encompasses the plurality of both the mass media and internet based communication networks, as Robert Waterman McChesney puts it.<sup>78</sup>

Habermas states that we call events and occasions “public” when they are open to all, in contrast to closed or exclusive affairs.<sup>79</sup> Therefore it is important to define social media in this case. In relevant studies which focuses on the politics and social media; social media was defined as “an important channel of communication through which political communities or individual citizens as simple members of the public can provide information about their activities, publicise their positions on specific topics, share information coming from multiple sources, as well as reporting about issues surrounding them at a specific time.”<sup>80</sup> Irene Ward studies the relation between the public sphere and the internet, and she states that in Habermas’ concept, the internet would have to provide a public place or arena for individuals to debate topics in order to affect civil society and the state. Furthermore she adds that the public discourse that emerges as a result of such discussion would have been “legitimised” by the inspection and challenge of other people

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<sup>75</sup> J. Habermas, *Between facts and norms: Contributions to a discourse theory of law and democracy*, Cambridge, MA, MIT Press, 1996, p. 360

<sup>76</sup> J. Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a category of Bourgeois Society*. Cambridge, MA, MIT Press, 1991, p. 6

<sup>77</sup> M. Castells, ‘The New Public Sphere: Global Civil Society, Communication Networks and Global Governance’, *The Annals of the American Academy of Political and Social Science*, Vol. 616, 2008, p. 79

<sup>78</sup> Ibid.

<sup>79</sup> J. Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a category of Bourgeois Society*. Cambridge, MA, MIT Press, 1991, p. 1

<sup>80</sup> A. Calderaro, ‘Social media and politics’ in W. Outhwaite & S. P. Turner (eds.), *The SAGE Handbook of Political Sociology, Two Volumes Set*, Newbury Park, California, Sage, 2018, p. 783

and stakeholders.<sup>81</sup> Therefore, I claim that the public place or arena that can be provided for public sphere within the internet is in fact social media.

### 3.1.2 Networked Sphere

Andrew Chadwick and Philip N. Howard explores an understanding on how political communities use the internet to build their own networks and contribute to the advancement of political information through a political science lens.<sup>82</sup> They identify these principles: the internet as a platform for political discourse; the collective intelligence emergent from political web use.<sup>83</sup> According to the study on social media and politics, using internet as a platform for political discourse results in the exchange of political claims and discussion, as well as the collaboration of citizens.<sup>84</sup> The second principle of collective intelligence, which according to Andrea Calderaro's work on social media and politics identify the social media platforms as to enable the coordination of different communities to produce collective goods.<sup>85</sup> With the introduction of social media, the developments in the communication technologies has resulted in a more democratic form of public communication, says Yochai Benkler<sup>86</sup> and emphasizes the media's position as "the fourth estate" and highlights how media is regarded as an important watchdog over government procedures, as well as a major forum for transforming social movements mobilisation into salient, and eventually actionable, political statements.<sup>87</sup> Benkler explores a shift from mass-mediated public sphere which previously revolved around traditional media to the emergence of internet with increasing

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<sup>81</sup> I. Ward, 'How Democratic Can We Get?: The Internet, the public sphere, and public discourse', *JAC*, Vol. 17, no. 3, 1997, p. 367

<sup>82</sup> A. Calderaro, 'Social media and politics' in W. Outhwaite and S. P. Turner (eds.), *The SAGE Handbook of Political Sociology, Two Volumes Set*, Newbury Park, California, Sage, 2018, p. 783

<sup>83</sup> A. Chadwick and P.N. Howard, (Eds.), *Routledge Handbook of Internet Politics*, London: Routledge, 2008, p. 4

<sup>84</sup> A. Calderaro, 'Social media and politics' in W. Outhwaite and S. P. Turner (eds.), *The SAGE Handbook of Political Sociology, Two Volumes Set*, Newbury Park, California, Sage, 2018, p. 783

<sup>85</sup> *Ibid.*

<sup>86</sup> Y. Benkler, *The Wealth of Networks: How Social Production Transforms Markets and Freedom*, New Haven, CT, Yale University Press, 2006, p. 185

<sup>87</sup> *Ibid.*

use of social media and she calls this “networked public sphere.”<sup>88</sup> Calderaro states that the internet through social media provides a range of means to influence politics.<sup>89</sup>

Many scholars such as Bennett, Segerberg, Fuchs, Jenkins, Sørensen and Papacharissi investigate the idea that the internet<sup>90</sup>, including social media sites, and some argue that theoretically it does meet the conditions of a public sphere.<sup>91</sup> Thus it is important to note the critique towards the concept of Habermas as well. The critique offers a feminist revision which states the public sphere Habermas defines is discriminating women and historically marginalised groups. The Habermasian concept was opposed by Nancy Fraser as “this network of clubs and associations – philanthropic, civic, professional, and cultural – was anything but accessible to everyone.” Then, she adds “on the contrary, it was the arena, the training ground and eventually the power base of a stratum of bourgeois men who were coming to see themselves as a “universal class” and preparing to assert their fitness to govern.”<sup>92</sup> Habermas and others have extensively studied, expanded, and challenged his work on the development and change of the public sphere. However, these criticisms will not be the focus of this study. Albeit I understand the reasoning behind the feminist revision, I choose to focus on the Habermasian extensive definition of “public sphere is that body of private persons assembled to discuss matters of public concern or common interest.”<sup>93</sup> Habermas’ public sphere ideals creates an important framework for civil discourse which contains the freedom of expression to create a good foundation for democracy. I utilize his theory as a lens to examine that the social media can function as an instrument where critical voices in Turkey breathe still.

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<sup>88</sup> Y. Benkler, *The Wealth of Networks: How Social Production Transforms Markets and Freedom*, New Haven, CT, Yale University Press, 2006, p. 10

<sup>89</sup> A. Calderaro, ‘Social media and politics’ in W. Outhwaite and S. P. Turner (eds.), *The SAGE Handbook of Political Sociology, Two Volumes Set*, Newbury Park, California, Sage, 2018, p. 783

<sup>90</sup> C. Fuchs, “The Political Economy of Privacy on Facebook”, *Television and New Media*, Vol. 13, no. 2, 2012, pp. 139–159.;

A. Segerberg and W. L. Bennett, The Logic of Connective Action: Digital Media and the Personalisation of Contentious Politics, *Information, Communication & Society*, Vol. 15, no. 5, 2012, pp. 739- 768.;

H. Jenkins, ‘*Convergence Culture: Where Old and New Media Collide*’, New York, NYU Press, 2006.;

M.P. Sørensen, ‘Political Conversations on Facebook: The Participation of Politicians and Citizens’, *Media, Culture and Society*, vol. 38, no. 5, 2012, pp. 664–685.;

Z. A. Papacharissi, ‘A Private Sphere: Democracy in A Digital Age’, Malden, MA: Polity Press, 2010.

<sup>91</sup> L. M. Kruse, D. R. Norris and J. R. Flinchum ‘Social Media as a Public Sphere?: Politics on Social Media’, *The Sociological Quarterly*, vol. 59, no. 1, 2018, p. 62

<sup>92</sup> N. Fraser, ‘Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy’, *Social Text*, No. 25-26, 1990, p. 60

<sup>93</sup> Ibid.

Clay Shirky observes that the social media modernized the public sphere and gave greater access to information and created more opportunities to engage in public speeches and collective action.<sup>94</sup> Therefore it can be said that social media increases the visibility of social movements and leads people to engage collectively to raise their voices. BD Loader and Dan Mercea support Habermas' claim that the advent of the social media platforms such as Twitter, Facebook, Youtube and the blogosphere does provide new opportunities and perspectives for the public sphere.<sup>95</sup> They also argue the social media as a second wave of digital democracy are integral to the healthy existence of participatory democracy.<sup>96</sup> They highlight the use of social media for disclosing government secrets through Wikileaks, students protests in the UK and the mobilisation of opposition in Egypt, challenging the laws through Twitter, and emphasize the important part it plays in democratic politics.<sup>97</sup> According to BD Loader and Dan Mercea, citizens can challenge the monopoly control of the traditional media as well, which in Turkey's case it supports the high level of usage of social media can be explained by the ownership of traditional media by the pro-government conglomerates.<sup>98</sup> Their highlighted examples of social movements exemplify how these movements can be the agency to place democratic institutions at the centre of a normative debate.<sup>99</sup> Therefore through social movements, social media became an agency for the formation of a well-oiled democracy machine. Additionally, Manuel Castells stresses what does not exist in the media, does not exist in the public mind.<sup>100</sup> He highlights that the public discourse is being formed in the media. Shirky also explains that the internet and especially social media can make a difference in a way that it allows people to discuss and express their thoughts in public regarding events which have a wide public interest publicly and privately, similar to the mass media.<sup>101</sup>

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<sup>94</sup> C. Shirky, 'The Political Power of Social Media Technology, the Public Sphere, and Political Change', *Foreign Affairs*, Vol. 90, no. 1, 2011, p. 29

<sup>95</sup> B.D. Loader and D. Mercea, 'Networking Democracy? Social Media Innovations and Participatory Politics', *Information, Communication and Society*, Vol. 14, no. 6, 2011, p. 758

<sup>96</sup> B.D. Loader and D. Mercea, 2011, p. 759

<sup>97</sup> Ibid.

<sup>98</sup> Ibid.

<sup>99</sup> B.D. Loader and D. Mercea, 2011, p. 763

<sup>100</sup> M. Castells, 'Communication, power and counter-power in the network society', *International Journal of Communication*, vol. 1, 2007, p. 241

<sup>101</sup> C. Shirky, 'The Political Power of Social Media Technology, the Public Sphere, and Political Change', *Foreign Affairs*, Vol. 90, no. 1, 2011, p. 34

Judith Townend says that the chilling effect metaphorically suggests a negative deterrence of communication and she adds that government banning publication of a book as well as subtler controls such as ambiguous legislation can be found under the definition of the chilling effect.<sup>102</sup> Therefore, it can be said that an attack which makes an individual discouraged from voicing their thought is a chilling effect. Sebastian Stier emphasizes that Turkey is an evidence of nominally democratic regime which is not immune to government interference to the media.<sup>103</sup> He also adds that the more information opportunities arise for citizens, governments seem to have ramped up their efforts to control the media<sup>104</sup>, which in this case social media is the most recent information opportunity where people turns to and consequently in Turkey's case; the government ramped up the efforts to control. Additionally, he argues that the growing internet use by the country's citizens increase the authoritarian regime's attack on media freedom<sup>105</sup>, thus freedom of expression.

The targeting of the social media platforms is the next step of the government's attitude towards silencing and punishing the critical voices in Turkey and the pattern is visible, especially after the 2016 coup attempt. From the continues detentions of people who are critical to the government to newspapers being bought by the pro-government conglomerates shows the pattern of squeezing the public sphere. Consequently, this squeeze shows its effect on freedom of expression since the public sphere is about challenging the status-quo. In a regime where it leans more on authoritarian side than democracy, challenging the status-quo is more likely to end up with prosecution. As Lefort states the human rights as the core of democracy, freedom of expression as a human right relies on a public sphere. Therefore, I believe studying this social media law through public sphere is the perfect fit since the pattern already shows the gripping of the public sphere by previous policies and government rhetoric.

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<sup>102</sup> J. Townend, 'Freedom of Expression and the chilling effect', in H. Tumber and S. Waisbord (eds.), *the Routledge Companion to Media and Human Rights*, New York, Routledge, 2017, p. 73

<sup>103</sup> S. Stier, 'Political Determinants of Media Freedom', in H. Tumber and S. Waisbord (eds.), *The Routledge Companion to Media and Human Rights*, New York, Routledge, 2017, p. 149

<sup>104</sup> S. Stier, 'Political Determinants of Media Freedom', in H. Tumber and S. Waisbord (eds.), *The Routledge Companion to Media and Human Rights*, New York, Routledge, 2017, p. 154

<sup>105</sup> Ibid.

The public sphere in Turkey has been already squeezed as a way of punishing the critical voices who express their opinions under the freedom of expression; from jailing journalists to detaining individuals and/or judicial control measures, banning peaceful protests, police attacks to peaceful protests, firing journalists from their respective works for their critical pieces towards the government, closing down many organisations by decree law. Consequently, it is expected the public to shift its platform of expression from protests or newspapers to a more digital platform where police cannot physically attack, or you cannot get fired.

Some scholars prefer to choose civic space as a theory while talking about the strengthening of the democracy through dialogues and social movements.<sup>106</sup> The reason I haven't chosen "civic space" as a concept is because the term civic space mostly concerns civil society organisations and consequently the framework of the social media is wider than civil society organisations. Public sphere grasps civic space in it as well. While civic space can be part of public sphere; public sphere is not a part of civic space. According to Craig Calhoun's study, the values of the public sphere are already ingrained in the civil society and civic space.<sup>107</sup> Therefore I have chosen to conceptualise with a wider framework to reflect the extent of the critical condition which freedom of expression is in.

To overview a brief summary, I use public sphere as my theory, and I believe the social media law concerns the public sphere because if the public cannot express their views freely that means the one of democracy's bedrock would be tilted over. I argue that putting financial and legal barriers for social media companies to exist in Turkey gives the state power monopoly of the regulating these platforms. The regulation of these platforms in the hands of a government where the state already monopolised the institutions and legal system and punishes public actors according to arbitrary prosecutions puts the public sphere at risk. Habermas' idea of public sphere with its critique and praise does give a

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<sup>106</sup> A. Buyse, 'Squeezing civic space: restrictions on civil society organizations and the linkages with human rights', *The International Journal of Human Rights*, Vol 22, no. 8, 2018, 966-988.

<sup>107</sup> C. Calhoun, 'Civil Society and the public sphere', in M. Edwards, (eds.), *The Oxford Handbook of Civil Society*, *Oxford handbooks in politics & international relations*. Oxford University Press, NY, USA 2011, p. 324

framework regarding a place where people can freely express their views and discuss certain issues, critical views. Thus, the shrinking of the human rights in Turkey which the new draconian social media law is an evident to can only be conceptualised through public sphere.

## 3.2 Method: Post-Structural Analysis

### 3.2.1 What is the Problem Represented to Be? (The WPR approach)

A post-structural approach to policy analysis is a useful tool for questioning how governments function. This questioning starts by outlining the broad parameters of a post-structural approach as a form of critical analysis that allows for a refreshing cynicism toward the full spectrum of policy-related issues. What post-structural analysis stresses is that not seeing information as built or “created” will help to remove the orthodoxies and certainties that underpin traditional policy approaches.<sup>108</sup> The “What is the Problem Represented to be?” approach addresses policies as problematisations that generate “problems” as specific types of problems, which is an explicit challenge to the traditional view that policies solve problems.<sup>109</sup> It becomes possible to probe the underlying assumptions that make these representations comprehensible, as well as the consequences for how lives are imagined and lived, by questioning how “problems” are described or constituted in policies.<sup>110</sup> In a nutshell, this approach applies to the way of thought that encourages governments to exert control over societies. WPR approach is an analytical tool that calls into question the widely held belief that governments’ job is to fix issues that exist outside of their jurisdiction and must be “addressed.” It looks at how government activities, in general, generate “issues” as specific types of problems.<sup>111</sup> To summarise, this approach is based on critical judgement and critical interrogation through questioning as a starter.<sup>112</sup> The invitation to examine the problematisations offered in

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<sup>108</sup> C. Bacchi and S. Goodwin, *Poststructural Policy Analysis: A Guide to Practice*, New York, Springer Nature, 2016, p. 5

<sup>109</sup> Bacchi & Goodwin, 2016, p. 6

<sup>110</sup> Ibid.

<sup>111</sup> Bacchi & Goodwin, 2016, p. 14

<sup>112</sup> C. Bacchi, *Analysing Policy: What is the Problem Represented to Be?*, New South Wales, Pearson Australia, 2009, p. 45

present policies reveals a critical aim, a willingness to reassess how we are governed in light of concerns and reservations about the impacts of the government practices.

Carol Bacchi and Susan Goodwin present the post-structural analysis called What is the Problem Represented to be (WPR, from here) to analyse policy which sees government policy as not simply the governing practice through in which government addresses an existing problem, but the government describing or framing an issue as a particular problem, and creates a law or policy around it.<sup>113</sup> The task of the analyst is to analyse the policy to reveal taken-for-granted statements and presuppositions and assumptions made by the policy. It pushes the analyst to see the policy as a result of discursive practices (i.e. mechanisms and procedures behind the way in which specific things operate and are talked about)<sup>114</sup> historical struggles and actions and counteractions, and therefore it needs scrutiny and a contentions approach.<sup>115</sup>

This approach signifies the scepticism such as premises and proposals associated with disciplines that must be questioned rather than enshrined as “truth.”<sup>116</sup> The reason why I use this approach which is influenced by Michel Foucault to analyse a policy is because the Foucauldian concept can be useful to challenge and question the norms that were “taken-for-granted” and it expands the policy analysis to include critical interrogations to the process.<sup>117</sup> The approach of Foucault departs from a broadening of the principles of government and governance.<sup>118</sup> According to Foucault, the term “government” applies to “conduct of conduct”, or any action that “aims to direct, or influence people's conduct.”<sup>119</sup>

The key term in WPR practice is problematisation, which focuses on how governments problematise the area which they are planning a policy on.<sup>120</sup> Governments target something and tries to fix it, is what WPR approach suggests. Therefore, the governments do not actually address a problem which requires a regulation; rather they create the

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<sup>113</sup> Bacchi & Goodwin, 2016, p. 14

<sup>114</sup> Bacchi & Goodwin, 2016, p. 37

<sup>115</sup> Bacchi & Goodwin, 2016, p. 15

<sup>116</sup> Bacchi & Goodwin, 2016, p. 5

<sup>117</sup> Baachi & Goodwin, 2016, p. 11

<sup>118</sup> Baachi & Goodwin, 2016, p. 5

<sup>119</sup> Ibid.

<sup>120</sup> Bacchi & Goodwin, 2016, 16

problem first. This approach argues that a policy proposal is an answer to an issue that is problematised by the government. As Wendy Brown puts it, we exist in “policy-saturated” societies. A plethora of governmental laws and regulations affect what we do and control how we behave from the moment we wake up before we go to bed—and even in bed.<sup>121</sup> She continues how a post-structural viewpoint goes much deeper, emphasizing how these laws and regulations has a major role in how we are regulated and the types of “subjects” we are encouraged to become.<sup>122</sup> In this sense, it is important to be sceptical towards governing processes, because government, in a post-structural view, entails more than conventional legal institutions.<sup>123</sup>

The WPR approach uses the policy documents as “levers”, and these levers open up reflections on the forms of governing, and the associated effects<sup>124</sup>; these reflections create a better framework when they are used with other texts that cover same or related topics or circumstances.<sup>125</sup> Therefore I have chosen to analyse the Preamble of the amendments on *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications* together with the Turkish Penal Code Article 301 (*Denigrating the Turkish Nation, the State of the Turkish Republic, the Institutions and Organs of the State*) & 299 (*Insulting the President of the Republic*), court cases and German Network Enforcement Act (NetzDG). The problem with the social media from the perspective of the government, as the study can identify from the preamble of the law is that the social media is being conceptualised as a space where “malicious users” share “illegal content.” The preamble states that according to these “problems” which were stated by them requires a regulation.

Bacchi and Goodwin offer a set of six questions to guide the researcher in the practical implementation of “identifying, reconstructing, and interrogating problematizations”, i.e. a critical analysis of the policy’s framing of a problem and its required solutions.<sup>126</sup> There

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<sup>121</sup> Bacchi & Goodwin, 2016, p. 5

<sup>122</sup> Ibid.

<sup>123</sup> Ibid.

<sup>124</sup> Bacchi & Goodwin, 2016, p. 18

<sup>125</sup> Ibid.

<sup>126</sup> Bacchi & Goodwin, 2016, p. 20

are four themes to be analysed through six sets of questions: identifying, reconstructing, interrogating and problematisation.<sup>127</sup>

The first step is to identify the problem representation of the policy. It begins with specified “solutions” and investigates their implied problematisation(s). This entails detaching one’s analysis from the issue and the policy’s implied or explicit aim.

The second step asks the presuppositions and assumptions behind the representation of the problem. To begin, the researcher must identify presuppositions and assumptions, as well as taken-for-granted ways of thinking within the policy, that allowed for the existence and adequacy of this particular problem representation. A government report could simply mention the desirability of a situation, implying that its absence is portrayed or constituted as an issue of some kind.<sup>128</sup> From there on, the analysis must investigate how key concepts and binaries are used to create the problem representation. The study also looks for and discuss trends in problematisations that may indicate the function of a specific political or governmental rationality.

The third step asks the researcher to define and examine various problematisations that “signal the activity of a certain political or governmental rationality.”<sup>129</sup> The third step uses a Foucauldian patrimonial approach to trace how a specific problem representation has evolved over time. This means “detailed mapping of practices that produced identified problem representations,” according to Bacchi and Goodwin. Exploring the power relations and struggles for the monopoly of “knowledges” becomes critical in this mapping.<sup>130</sup> It is worth noting that the aim of this issue is to trace a policy's origins or claim that it evolved in a predictable manner.

The fourth step asks the question of “What is left unproblematic in this problem representation? Where are the silences? Can the problem be conceptualised differently?”

<sup>131</sup> This question allows the researcher for critical practice of thinking otherwise while drawing attention to silences or unproblematised elements within a current issue

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<sup>127</sup> Bacchi & Goodwin, 2016, p. 19

<sup>128</sup> Bacchi & Goodwin, 2016, p. 21

<sup>129</sup> Bacchi & Goodwin, 2016, p. 21

<sup>130</sup> Bacchi & Goodwin, 2016, p. 22

<sup>131</sup> Bacchi & Goodwin, 2016, p. 20

representation to destabilize it. This step pushes the researcher to compare problematisations of specific problems across time and through cultures is an especially effective intervention for encouraging the desire to “think otherwise.”<sup>132</sup>

The step five asks researchers to consider the consequences of the problem representations they have found. Effects should be viewed as political ramifications rather than quantifiable outcomes. Bacchi & Goodwin defining discursive effects, subjectification effects, and lived effects as political ramifications (rather than quantifiable outcomes) as follows: Discursive effects apply to how the problem representation’s generated reference structure can restrict how the problem is addressed and thought about; the way the representation of the issue produces various types of descriptions for subjects is known as subjectification effects. The discursive and subjectification effects are analytically linked in lived effects, which demonstrates how they contribute to people's daily lives.<sup>133</sup> It also allows one to consider the diverse range of effects that problematisations have in particular situations, as well as to encourage strategies aimed at reducing negative outcomes for specific classes of individuals.

The last step of the WPR asks “How and where has this representation of the problem produced and defended? How has it been and/or how can it be disrupted or replaced?”<sup>134</sup> The question allows the researcher to destabilize taken-for-granted “truth,” and to stress the presence and possibility of contestation.<sup>135</sup> This motivates the researcher to challenge the problem representation's assumptions and naturalised type.<sup>136</sup> This step also provides an opportunity to consider different types of opposition and “counter-conduct” that contradict (or question) pervasive and authoritative issue representations.<sup>137</sup>

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<sup>132</sup> Bacchi & Goodwin, 2016, p. 22

<sup>133</sup> Bacchi & Goodwin, 2016, p. 23

<sup>134</sup> Bacchi & Goodwin, 2016, p. 20

<sup>135</sup> Bacchi & Goodwin, 2016, p. 23

<sup>136</sup> Bacchi & Goodwin, 2016, p. 24.

<sup>137</sup> Ibid.

### 3.2.2 Primary Material

The study's main primary material is the social media law, together with the Turkish Penal Code Article 301 (*Denigrating the Turkish Nation, the State of the Turkish Republic, the Institutions and Organs of the State*) and 299 (*Insulting the President of the Republic*). The reason behind focusing on these three articles is the conceivable relation between the articles mentioned. The relation comes from the level of prosecutions which resulted from The Turkish Penal Code Article 301 & 299, and individuals being prosecuted from their social media posts, journalists being prosecuted for their articles and/or social media posts. I see a connection between these three laws in the strict political atmosphere considering that the social media law is concerning regulating space where individuals and journalists makes comments about political atmosphere and political actors in Turkey. Even though my main focus in the social media law itself, these two articles from the Penal Code help the research to display a pattern by the Turkish government's criminalisation of the critical voices. The analysis is being carried out with court cases. I analyse these court cases because it is important to see examples of the handling of the Turkish Penal Code Article 301 & 299.

Throughout the analysis, I present data from many reports from a wide variety of sources such as Twitter's Transparency to the Committee to Protect Journalists. To strengthen my analysis, I refer to the Germany's equivalent of social media law the Network Enforcement Act (NetzDG) and the law's use in Germany and the data of Germany's criminal code. However, it is important to note that this is not a comparative study, the reason I am using the NetzDG is because it has been used by the government to justify the need of the law in Turkey. Therefore, I apply the law to showcase the problematisation of the social media in Turkey.

### 3.2.3 Research Design

In order to answer my research question, I will analyse the social media law: *The Amendments on Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications* and its preamble; together with Turkish Penal Code Article 301 (*Denigrating the Turkish Nation, the State of the Turkish Republic, the*

*Institutions and Organs of the State*) & Article 299 (*Insulting the President of the Republic*), court cases referring to these laws and Germany's Network Enforcement Act (NetzDG) and Germany's Criminal Code Section 90 (*Disparagement of the Federal President*).

The amount of attention paid to the different steps of the WPR approach in the study is determined by how well they could be answered with the materials available and how well they fit the function of the paper. As a result, the analysis does not include all of the material. The most important primary material that is the social media law, on the other hand, is read and assessed in its entirety. The step 4 and 5 are answered together because people who were silenced by this law and the law's effect can be answered under the same framework. Additionally, the step 6 requires answering the targeted audience with this law and as a consequence of exploring the people who were affected by law, I thus touch upon the targeted audience during the step 4 and 5.

### 3.2.4 Limitations and critique

Here I will address some of the limitation of my study, and it is also important to disclose any notion of bias.

First of all, it should be recognized that I am doing a study on a policy which was approved by the Turkish government. It is important to be transparent about the fact that I am myself a Turkish citizen, and as such might be inclined to have certain opinions on certain political topics. By being continuously exposed to the AKP government's rhetoric for the last 19 years, I have inevitably developed my own opinion of the Turkish state's responses to certain political issues regarding human rights norms. I specifically highlight human rights norms since my study is about the consequences of a law which I argue relate to human rights. Nonetheless, the fact that I am looking at Turkish government's law on social media as a social media user and critical over the AKP government's handling of human rights related issues from the perspective of an "insider", opens up the possibility that I am embedded in the framework I am attempting to analyse. Therefore, I might ignore or fail to recognize rationalities and strategies to some extent.

However, as a Turkish citizen who is opposing the government, it is critical for me to look at the law at its greatest extent and present as clearly as possible. Therefore, I have chosen to use policy analysis for studying this law because it is the method which keeps me guided throughout the process and keep me distanced from the political climate as someone who is on the left side of the party spectrum and a long advocate against the AKP government. Having an already established six questions through the WPR approach for conducting an analysis is beneficial for the fairness of the study. Additionally, though I am analysing the social media law from human rights and public sphere perspective; the WPR approach's problematisation framework pushes me to create an understanding behind the law from the WPR approach's perspective. However, it is important to note that the WPR approach itself is not impartial nor neutral as one might suspect. The method itself has a critical stance on how those in power construct "problems" and critical to governments' practices in general. Bacchi highlights that the WPR approach assumes that some problem representations help members of some groups while harming members of other groups and this approach also represents people who have been hurt by this problem representation.<sup>138</sup>

As the limitation of my study, even though the law is in effect right now, there is no lived effect (as step five encourages the researcher to study on) on the public since the companies are still deciding on whether they will open representatives in Turkey or not. Therefore, there is no prosecution which has occurred so far. Therefore, exploring the lived effects will not be possible in this regard.

The reason I have not chosen to conduct interviews is because the people I could reach out to would already be individuals who are opposing the government rhetoric. Therefore, it would notably challenge my idea to openly present the law as clear as possible without external factors. In this study, I needed something that was as further as possible from individuals' personal experiences. Additionally, the political climate of the country makes it harder to reach out to social figures such as journalists, politicians etc. Furthermore, I would not want to put anyone at risk with sharing their experiences.

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<sup>138</sup> Bacchi, 2009, p. 44

Additionally, all translations of the laws, preambles and court cases have been done by me. This means that certain nuances or emphasis might have been missed out in my translation, and this must be taken into account, especially since the WPR approach focuses intensively on wordings which was captured in the policy document. Therefore, to avoid this problem of reflecting the meanings of the words wrongly, I will pay extra attention to double meanings when translating core concepts from Turkish to English. While I tried to remain as literal as possible, it is possible that certain translations do not catch the full essence of some words and phrases. My study, like that of other scholars, is influenced by a combination of my previous education, life experience, political beliefs, and cultural knowledge.

Lastly, the ramifications of the social media law are ongoing. While I am writing this thesis, the social media companies are still on the process of deciding whether they will open representatives in Turkey or not. However, the focus of my study is not to study the effects if they do or do not open representatives, but the target is to study the law itself and the government's language and aim by this legislation.

## 4. Findings and Analysis

I will now move to examine the law using the WPR approach (introduced first by Carol Bacchi in 2009<sup>139</sup>), following the measures or questions outlined above. The steps are ample resources for answering the research questions; the exploratory and theoretical goals of the thesis were improved by using the “public sphere” as a theoretical framework.

### 4.1. Step One: Identifying the “problem”

The starting point for an analysis on how the law identifies the problem departs with the first question by identifying the goal of the law from the government’s perspective, classify the problem they presented in the document. According to Bacchi & Goodwin, the relevance of a starting point to one’s work and political priorities the choice of a starting point.<sup>140</sup> For this reason, whoever choose to study any law, according to their political priority or political standpoint may find another problematisation. Therefore, from my standpoint and from what I want to answer with this thesis, the problematisation I found can be different from someone else’s, therefore makes the study disparate from another.

The problem identified by the Turkish government is that there is an increased number of actors in the social media as the consequences of increased interest over social media. Additionally, these actors are getting stronger as a consequence of this interest. The preamble also highlights that these actors are earning millions of dollars from obtaining user data despite of not doing enough for protecting the rights of individuals and resisting to request of states and individuals; while claiming the increase interest over social media consequently increases the violation of individual’s rights which then points out to individual’s requiring the state to protect their rights. According to the preamble, this resistance which comes from the social media actors makes it hard for the government of to fulfil its positive obligations towards their citizens.

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<sup>139</sup> C. Bacchi, *Analysing Policy: What is the Problem Represented to Be?*, New South Wales, Pearson Australia, 2009.

<sup>140</sup> Bacchi & Goodwin, 2016, p. 20

*“Legal regulations regarding the regulation of social networks have been made and are being made in some European countries such as France and the United Kingdom, especially Germany. In these regulations, it is seen that establishing a mutual relationship between individuals and social network providers stands out as the main solution.”<sup>141</sup>*

Here, it can be identified the solution that is brought by the government; creating a bridge between the social media providers and individuals. The bridge that is created by the government is, in fact, the government itself. The Turkish government here, assumes that the individuals and the social network providers requires a bridge in between; because according to the Preamble;

*“It is observed that social network providers do not develop or use effectively the preventive and protective mechanisms needed to protect the rights of individuals; they resist the justified demands of users and governments, despite the billions of dollars they have earned by benefiting from the large-scale user numbers and user data.”<sup>142</sup>*

Here, the social media providers are being seen as the problem. However, the observation that the preamble suggests about how they are not preventative and protective is solely subjective. Looking at Twitter’s Transparency Reports on Removal Requests regarding Turkey shows a high number of requests.<sup>143</sup> According to the report, Turkey already constitute 31% of the legal demands of removal request on Global level. Additionally, there are 99,840 accounts specified to be removed. From Twitter’s side, 2,501 of these accounts have been withheld. Comparing this to Germany, whom the Turkish government is influenced by, the numbers are drastically different. Germany constitutes less than one percent of the global legal demands, additionally only 1,363 accounts were specified to be removed and from those only 39 of the accounts were withheld. Furthermore, while 12,135 tweets from Turkey were withheld by request, only 499 tweets from Germany were withheld. These numbers are generating data from January 2012 to June 2020. It is

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<sup>141</sup>Preamble of *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications 2020* (Law No: 7253), p. 4

<sup>142</sup> Preamble of *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications 2020* (Law No: 7253), p. 4

<sup>143</sup> Twitter, Twitter Transparency Reports: Turkey, <https://transparency.twitter.com/en/reports/countries/tr.html>, (accessed 14 May 2021).

evident on the magnitude of government interference critically depends on the political context in which governments and news media operate, which Sebastian Stier puts critically.<sup>144</sup> The magnitude of the removal request which comes from the government depends on the country's political context, in the scenario of the Twitter. It can be seen here that the Turkish government sees a problem with Twitter's preventive and protective mechanism. However, it is clear that Twitter does respond to the demands from the Turkish government, it seems more of a problem with the compliance rate that the Turkish government is not satisfied with. Therefore, creating a problem from the social media companies' way of working and finding a solution by having more influence on the removal demands is the evidence of attacking individuals' freedom of expression.

The preamble implies that the social media "*falls into the hands of malicious users, hiding their identity and carrying out illegal actions.*" Then suggesting that "*the internet has become a place that needs to be regulated.*" Additionally, using the phrase "deemed necessary" implies that the regulation has seen as the solution to the problem.<sup>145</sup>

The preamble reads as follows:

*"It is observed that measures have been taken to ensure safe use of the internet in order to protect the society and especially children, young people and families against the risks and dangers in social media and to ensure the dignity and reputation of individuals and privacy in their private life."*<sup>146</sup>

Therefore, identification of the key words is critical regarding the progress of the analysis. Key wordings as "*illegal content*", "*illegal actions*", "*lack of state control*", "*violation of individual rights*" in the preamble of the social media law<sup>147</sup> suggests that the state is problematising the lack of state control in social media as a problem through illegal contents and it is (the State) conceptualising this deficiency as justifying the so-called

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<sup>144</sup> S. Stier, 'Political Determinants of Media Freedom', in H. Tumber and S. Waisbord (eds.), *The Routledge Companion to Media and Human Rights*, New York, Routledge, 2017, p. 150

<sup>145</sup> Preamble of *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications 2020* (Law No: 7253), p. 3

<sup>146</sup> Preamble of *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications 2020* (Law No: 7253), p. 4

<sup>147</sup> Preamble of *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications 2020* (Law No: 7253), p.3

“needed” state control by showing that the individual’s rights are being violated. Here it can be identified that the lack of state control and how the Turkish government self-portrait themselves as the protector of the children, young people and families. The portrayal of “protector” presents almost as a father figure to protect these individuals against the demonised social media platforms by portraying these platforms as an arena where “malicious users” performing “illegal actions.”

## 4.2. Step Two: Identifying ideological ‘assumptions’

The second step of the WPR approach is identifying the assumptions which were done by the legislators. These assumptions mirror the ideologies that are at play in the law on the grounds that the governments make these assumptions to problematise certain points that they regard to change and/or regulate. Therefore, it incorporates definitions, types, and binaries in which the implications are never explored. According to the study of what ideas underpin this dilemma representation and how this representation came about results in a sense that these words are imbued that can never be challenged.

Identifying that there are some users as “malicious” and “carrying out illegal activities” allows the courts to categorise who falls into the category of “malicious” and whose activity falls into “illegal activity.”<sup>148</sup> This creates an ambiguity in the Turkish case with the many arbitrary prosecutions that have already been going on with the Turkish Penal Code Article 301 & 299. It is therefore crucial to illustrate the ambiguity through some prosecution examples below.

*“It is understood that the defendant shared publicly “bribery” articles about the President on his social networking site called Facebook, and the defendant's action constitutes the crime of insulting the President in accordance with Article 299 / 1-2 of the TCK.” (Supreme Court 16th Criminal Chamber - Decision: 2017/953).<sup>149</sup>*

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<sup>148</sup> Preamble of *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications 2020* (Law No: 7253), p.3

<sup>149</sup> B. Doğan, ‘Cumhurbaşkanına Hakaret Suçu Nedir?’, <https://barandogan.av.tr/blog/ceza-hukuku/cumhurbaskanina-hakaret-sucu-cezasi-nedir.html>, (accessed 14 April 2021).

The above-mentioned decision showcases that calling the President “bribed” has constituted as an insult to the President.

*“In the concrete incident, the defendant wrote in his article ‘‘Liar Tayyip’ Dictator Tayyip!’’ Since the words in the form of criticism and the nature of criticism are not in a dimension that offends the honour, and dignity of the participant, the establishment of a written verdict without considering that the elements of the offense of insult are not formed is the reason for the reversal’’ (YARGITAY 18th Penal Office-Decision: 2017/9587).<sup>150</sup>*

The above-mentioned decision showcase that calling the President a “liar” and “dictator” has not constituted as an insult to the President.

According to the data contained in the P24 report “Freedom of Expression and Turkey: The Implementation of ECtHR Judgments”, a total of 3,134 people were prosecuted for “insulting the president” between 1993 and 2015; while 1,953 of these, corresponding to 62 percent of these trials were launched during the Erdogan’s presidential period which corresponds to 2002-2015.<sup>151</sup>

It is suggested by the WPR approach to incorporate additional texts to the law’s analysis to get a better framework on the problematisations which were never challenged. Therefore, a closer attention given to the “insult to the President” cases are important, just as the justification proposed for the reasoning the insult as well. Hence the preamble of the *Turkish Penal Code, Article 299* as follows:

*“Considering the President’s representation of the State and the duties and powers specified in the Constitution, this article has been drafted on the basis of the idea that*

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<sup>150</sup> B. Doğan, ‘Cumhurbaşkanına Hakaret Suçu Nedir?’, <https://barandogan.av.tr/blog/ceza-hukuku/cumhurbaskanina-hakaret-sucu-cezasi-nedir.html>, (accessed 14 April 2021).

<sup>151</sup> B. Molu, ‘İfade Özgürlüğü ve Türkiye: AIHM Kararlarının Uygulanması’, Istanbul, *Expression Interrupted and P24*, 2020, p. 21, <https://expressioninterrupted.com/tr/uploader/uploader/rapor-aihm-kararlarinin-uygulanmasi-pdf>, (accessed 6 April 2021).

*the act directed against his personality should be considered as a crime against the State forces, and insulting the President has been turned into a separate crime.*'<sup>152</sup>

Here, the analysis makes it clear that the “protector” portrayal of the government expands to the personality of the president. The power dynamic between the holistic portrayal of the State and the individual is broadened and strengthened with the addition of the President’s personality. It is implied that the insulting to President’s personality is being problematised. However, the problem here is not because the insult is problematic, it is because an insult to the President is perceived as an insult to a bigger idea behind it. So, the assumption that the legislator stated here is, if someone insults the President that person insults to something bigger than a human being. While there is already an offense of defamation, the crime of insulting the president creates a violation of the principles of “equality before the law.” The fact that there is already an offense of defamation, the offense to *Denigrating the Turkish Nation, the State of the Turkish Republic, the Institutions and Organs of the State* as it is stated in the Penal Code Article 301; the addition of Article 299 *Insulting the President of the Republic* indicates that the area where people can criticise state officials being decreased article by article. This however is an indication of critical voices being silenced. Expression of thoughts without any pressure can be declared as a core human right as the freedom of expression. It is stated in both international conventions and constitutions that expression should be freely acquired, and people cannot be condemned for their opinions, individuals will not have to explain them.<sup>153</sup> Therefore, the duty of the law is to fulfil the requirements of the libertarian environment that will ensure the free formation and acquisition of ideas. It should not be to create an environment in which removing or blocking content where people express their views, is possible.

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<sup>152</sup> H. Karabağlı, ‘CHP’li Emir: TCK’nın 299. maddesi, partili cumhurbaşkanları için de uygulanamaz, değiştirilmelidir’, *T24*, 12 March 2019, <https://t24.com.tr/haber/chp-li-emir-tck-nin-299-maddesi-partili-cumhurbaskanlari-icin-de-uygulanamaz-degistirilmelidir,811900>, (accessed 6 May 2021).

<sup>153</sup> A. Turhan, ‘Düşünce ve İfade Özgürlüğü Kapsamında Türk Ceza Kanunu’nun 301. Maddesinin Değişimi’, *Türkiye Adalet Akademisi Dergisi*, vol. 1, no. 5, 2011, p. 288

### 4.3 Step Three: The problem's representation over time

According to Bacchi, this step has two aims that are intertwined. One is to consider the precise events and decisions (non-discursive practices) that lead to the building of issue representations; and the second is to acknowledge that rival issue representations exist in both time and space, and that things may have turned out quite differently.<sup>154</sup> Bacchi expands this in a way that when it can be traced the “history” of a current problem representation, it should be followed the twists and turns rather than assuming, as is often the case in traditional historical accounts, that contemporary practices and institutions, as well as the ways in which “problems” are perceived, are the inevitable result of “natural” evolution throughout time.<sup>155</sup> Therefore, it may be seen that the problem representation under investigation is contingent and hence prone to change by identifying precise points in time when critical decisions were taken, taking an issue in a particular path. Highlighted by Bacchi, the goal of step 3 in a WPR method is to draw attention to the conditions that allow a certain issue representation to emerge and gain dominance.<sup>156</sup>

The social media law is a part of the wider rhetoric that the Turkish government pursued over the course of nineteen years. The authoritarian tendency of the AKP government, as Stefanie Pukallus discloses Turkey's move to the authoritarian side of Agamben's definition of authoritarianism.<sup>157</sup> Regarding laws related to human rights approaches, there has been practices and processes which focuses on representing the problem within the freedom of expression and as a result of these laws such as the Turkish Penal Code Article 301 & 299 many journalists and individuals were prosecuted. Turkish Penal Code Article 301 & 299 together with the Anti-Terror Law have been used to silence the critical voices in Turkey as a result of the AKP Government's authoritarian tendency. Both the Turkish Penal Code Article 301& 299 have problematised the insulting and denigration in a way that criticising the government and the President has become a criminal activity.

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<sup>154</sup> Bacchi, 2009, p. 10

<sup>155</sup> Bacchi, 2009, p. 10

<sup>156</sup> Bacchi, 2009, P. 11

<sup>157</sup> Pukallus et al., 2020, p. 1454

It is also worth noting the difference between the governments in different countries in regard to showing the pattern of criminalising critical voices against their government. The social media law's preamble claims:

*'Legal regulations regarding the regulation of social networks have been made and are being made in some European countries such as France and the United Kingdom, especially Germany.'*<sup>158</sup>

A very similar law in a country where the judiciary and the governmental institutions are relatively more independent, even though the law's name and sanctions as consequences are the same, the way the prosecution works are not the same. W. Lance Bennett exemplifies this with the press freedom and how media operate depends on the political context<sup>159</sup> Independent media thrives and asks the question of what happens when governance institutions are tainted by corruption, inefficiency, political intimidation, dishonesty, or deal-making, and the spectrum of official spin becomes a poor or inaccurate depiction of news events and issues. In those situations, how would the governing institutions respond to the criticism and whether if they are still in favour of the freedom of the press are important to pay attention to.<sup>160</sup> Therefore, the example of Germany is worth to look at. Even though there is a law under the Criminal Code: Section 90 Disparagement of the Federal President (*Strafgesetzbuch (StGB) § 90 Verunglimpfung des Bundespräsidenten*<sup>161</sup>) according to the Federal President's Office 41 lawsuits were filed between 1990 and 2004, and fines were issued twice.<sup>162</sup> In comparison, in Turkey, according to the parliamentary investigation proposal which the Turkey's main opposition party called Republican People's Party (Cumhuriyet Halk Partisi, CHP) member Ali Mahrir Başarır presented, there have been 63,41 lawsuits were filed against

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<sup>158</sup> Preamble of *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications 2020* (Law No: 7253), p. 4

<sup>159</sup> S. Stier, 'Political Determinants of Media Freedom', in H. Tumber and S. Waisbord (eds.), *The Routledge Companion to Media and Human Rights*, New York, Routledge, 2017, p. 150 S. Stier, 'Political Determinants of Media Freedom', in H. Tumber and S. Waisbord (eds.), *The Routledge Companion to Media and Human Rights*, New York, Routledge, 2017, p. 150

<sup>160</sup> W.L. Bennett, 'The Press, Power and Public Accountability' in S. Allan (eds.), *The Routledge Companion to News and Journalism Studies*, Routledge, 2011, p. 107

<sup>161</sup> *Strafgesetzbuch (StGB) § 90 Verunglimpfung des Bundespräsidenten*

<sup>162</sup> A. Groteneier, 'Das Comeback der Majestätsbeleidigung', *Legal Tribune Online*, 11 January 2012, <https://www.lto.de/recht/hintergruende/h/verunglimpfung-des-bundespraesidenten-das-comeback-der-majestaetsbeleidigung/> (accessed 14 May 2021).

individuals for insulting the President from 2014, when President Recep Tayyip Erdogan took office, until the end of 2019, and of these cases, 9,554 people were convicted.<sup>163</sup> According to the data published by the Ministry of Justice General Directorate of Criminal Records and Statistics, 163 people were faced a lawsuit for insulting the President during the 10<sup>th</sup> President Ahmet Necdet Sezer's term, while 848 people were sued during the 11<sup>th</sup> President Abdullah Gül's term.<sup>164</sup> It is important to note that both Turkish Penal Code Article 301 & 299 amended during the presidency under the 12<sup>th</sup> President Recep Tayyip Erdoğan, but the increase on the number of the prosecutions show that the law problematised in a way that increased the criminalising the criticising a the President or the state.

According to Committee to Protect Journalists' report *Turkey's Press Freedom Crisis The Dark Days of Jailing Journalists and Criminalizing Dissent* there are three types of journalists that the government have been targeted throughout its presidency: investigative and critical reporters: victims of the anti-state prosecutions; Kurdish journalists; collateral damages of the general assault on the press.<sup>165</sup>

Bacchi references Walters in his book called '*Governing Unemployment: Transforming "the Social"?*', in *Rethinking Law, Society and Governance: Foucault's Bequest* that this problematisation needs to be thought historically.<sup>166</sup> Therefore I have mentioned in the previous paragraphs about how all these data led to the identification of this specific problem representation. Therefore the problematisation of the social media which effects the public sphere needs to be explored within the context of these developments. The WPR approach guides us to acknowledge the hidden practices and programs which are embedded in the government's approach while presenting the law and putting the law in power.<sup>167</sup> While the numbers of the cases under The Turkish Penal Code Article 299 increases, the area where the public sphere can thrive decreases. The problematisation of

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<sup>163</sup> Cumhuriyet Halk Partisi Grup Başkanlığı, 'Türkiye Büyük Millet Meclisi Başkanlığına', 16 Kasım 2020, <https://www2.tbmm.gov.tr/d27/10/10-742164gen.pdf> (accessed 14 May 2021).

<sup>164</sup> Cumhuriyet Halk Partisi Grup Başkanlığı, 'Türkiye Büyük Millet Meclisi Başkanlığına', 16 Kasım 2020, <https://www2.tbmm.gov.tr/d27/10/10-742164gen.pdf> (accessed 14 May 2021).

<sup>165</sup> Committee to Protect Journalists, 'Turkey's Press Freedom Crisis: The Dark Days of Jailing Journalists and Criminalising Dissent', United Book Press, NY, 2012, p. 9

<sup>166</sup> Bacchi, 2009, p. 61

<sup>167</sup> Bacchi, 2009, p. 65

the social media companies by demonising them as a safe haven where ‘malicious users’ and ‘illegal activity’ takes place, mirrors a pattern that is familiar when many journalists and critical voices were called ‘terrorists.’<sup>168</sup>

#### 4.4. Step Four & Five: Silences and effects of the problem representation

According to Bacchi, there are specific approaches are bound by how the government depict the ‘problem.’ As a result, the goal of the fourth step is to bring out topics and viewpoints that are often overlooked in problem depictions.<sup>169</sup> Binaries, as previously said, simplify complicated experiences; nonetheless, it is possible to identify where this simplicity distorts or misrepresents specific concerns. Bacchi guides us in the way that cross-cultural comparisons can also help us see how particular ways of thinking about ‘problems’ reflect certain institutional and cultural settings, and how issue representations are therefore situational.<sup>170</sup> The step four thus asks the question regarding where the silences are and what is missing from this law and what is left unproblematic.<sup>171</sup> To start with an example from the Preamble:

*“Internet has become a necessary area for regulation in cases where it is used to create and share illegal content with fake names and accounts, to swear, slander or insult people with different political views, a former spouse, a rival in any field, different religions or nations.”<sup>172</sup>*

The above-mentioned quote from the preamble of the social media law does claim that the law is there to “save” the citizens from people who share illegal content. The part of the preamble where the legislators compared the social media law with Germany’s

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<sup>168</sup> ‘Erdoğan: Bunlar gazeteci değil terrorist, bankamatik soyguncusu’, *Cumhuriyet*, 14 May 2018, <https://www.cumhuriyet.com.tr/haber/erdogan-bunlar-gazeteci-degil-terrorist-bankamatik-soyguncusu-975457> (accessed 14 May 2021).

<sup>169</sup> Bacchi, 2009, p. 1

<sup>170</sup> Bacchi, 2009, p. 14

<sup>171</sup> Bacchi, 2009, p. 66

<sup>172</sup> Preamble of *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications 2020* (Law No: 7253), p.3

Network Enforcement Act (NetzDG) is claimed to be put in power to eliminate hate speech.<sup>173</sup> However, even though the Turkish preamble does give a framework claiming the aim of the law is to protect against hate speech, the law itself does not mention either hate speech nor freedom of expression. Nonetheless, the law does mention the sanctions that will be brought against the social media companies in a scenario where they do not have representatives in Turkey and if they do not remove the content, the government ask them to.<sup>174</sup>

Following Bacchi & Goodwin's strategy of looking for the unproblematized or "silences," there is another issue that is not well-represented in the legislative history: the exclusion of minorities who suffered from the hate speech the most. According to the Hrant Dink Association's, Turkey's main fighting against hate speech organisation, report on hate speech documented in 2019, 4364 columns and news texts targeted national, ethnic and religious groups.<sup>175</sup> Additionally, in these texts, 5515 content of hate speech about 80 different ethnic, national and religious groups were identified.<sup>176</sup> The main minorities who experience hate speech are Syrians and Armenians, according to the report.<sup>177</sup> These minorities were the silences in this law. Because if the problematisation of the social media was in fact the hate speech, then the focus would be on the implications of the hate speech regarding the minorities. But rather the problematisation is focused on the demonising the social media, the only public sphere left for the critical voices of Turkey to thrive. However, from the preamble to the law itself, there is a shift on the sanctions and effects of the law. While the preamble focuses on protecting the citizens against the social media, the law focuses on 'personal rights.'<sup>178</sup>

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<sup>173</sup> J. Delcker, 'Germany's balancing act: Fighting online hate while protecting free speech', *Politico*, 1 October 2020, <https://www.politico.eu/article/germany-hate-speech-internet-netzdg-controversial-legislation/> (accessed 14 May 2021).

<sup>174</sup> Preamble of *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications 2020* (Law No: 7253), p.7

<sup>175</sup> Hrant Dink Vakfı, *Medyada Nefret Söylemi ve Ayrımcı Söylem: 2019 Raporu*, İstanbul, *Hrant Dink Yayınları*, 2020, p. 15

<sup>176</sup> *Ibid.*

<sup>177</sup> Hrant Dink Vakfı, *Medyada Nefret Söylemi ve Ayrımcı Söylem: 2019 Raporu*, İstanbul, *Hrant Dink Yayınları*, 2020, p. 18

<sup>178</sup> Preamble of *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications 2020* (Law No: 7253), p.6

*“In order to make the freedom of expression and information more secure in terms of non-criminal content on the same website, it has been made possible to take the decision to remove the content. With the article, the decision to block access in case of violation of personal rights allows the decision to remove the content from the internet.”<sup>179</sup>*

This creates another problematic area where the public sphere is more restricted. This new social media law allows to remove the content in cases of violation of personal rights, to decide to remove the content instead of blocking access. Additionally, the social media companies having representatives in Turkey makes the process of removing data faster. This situation creates the question of who benefits from this law: the silenced or the ones who are already in power. Besides, since the law was passed, only news related to corruption close to the government officials being removed from the internet were identified and were claimed by the actors that it was against their personal rights. The data that I collected from the International Press Institute’s records reveals that within one month after the law was passed in the Parliament, 11 cases were documented which were all about political figures’ in corruption news.<sup>180</sup> The previous studies illustrates that the public sphere allows citizens to share their opinions and thoughts especially regarding politics since it is the core ideas behind democracy; however the social media law paves the way for corruption or when critical news related to the governing of the country can be “removed” from the internet, the possibility of people being informed by the governing practices decreases as well and therefore the public sphere keeps shrinking.

Step five asks analysts to explore the consequences of the problem representations they have uncovered in which the effects should be viewed as political implications rather than quantifiable “outcomes.”<sup>181</sup> A WPR method assumes that some issue representations cause more problems (damage) for members of certain social groups than for members of other groups. However, there is little evidence that these challenges follow a consistent

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<sup>179</sup> Preamble of *Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications 2020* (Law No: 7253), p.6

<sup>180</sup> S. Ugurlu and S. Çağrı, ‘Prof. Dr. Akdeniz: Erişim engelleri konusunda bilgi vermemizden hoşlanılmıyor’, *Evrensel*, 16 Nisan 2021, <https://www.evrensel.net/haber/430741/prof-dr-akdeniz-erisim-engelleri-konusunda-bilgi-vermemizden-hoslanilmiyor>, (accessed 15 May 2021.)

<sup>181</sup> Bacchi & Goodwin, 2016, p. 23

and predictable pattern. This is precisely why it is crucial to examine the problematisations on offer, including our own (by examining the problem representations they include), to discover where and how they benefit some while harming others, and what can be done about it.

*“Persons who claim that the privacy of their private life has been violated due to the content of the broadcast on the Internet may apply directly to the social media network and request the implementation of the measure to prevent access to the content.”<sup>182</sup>*

The way a “problem” is represented can shut off certain options for social action, which can have catastrophic consequences for other individuals. Therefore, portraying this law as a protecting of privacy of life and the fact that people can directly apply to the social media network closes off the consideration whether citizens can question why a certain content related to a state official was removed from the internet. The law paves the way for required political content to be deleted from the internet history forever and this can be done silently because people will be able to directly apply to Twitter and Facebook to remove what is written about them on social media without applying to the criminal judge of peace. Critical content will be removed without a judicial decision and without anyone hearing. When the judiciary takes a decision, at least it is possible to ensure transparency and to make appeals and applications to the Constitutional Court.

*“Social network provider from abroad with a daily reach of more than one million in Turkey shall designate at least one authorized person as a representative in Turkey in order to fulfil the requirements of notifications, declarations or requests sent by the institution, judicial or administrative authorities, to respond to the applications made by individuals under this Law and to fulfil other obligations under this Law. This person places the contact information on the website in a way that can be easily seen and directly accessible. The social network provider is obliged to inform the Institution*

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<sup>182</sup>The Law on the Arrangement of Publications Made in The Internet Environment and the Fight Against Crimes Committed Through These Publications (Law No: 5651), 2007, Article 9/A(1)

*regarding the identity and contact information of the person asked by the Institution. If the representative is a real person, he / she must be a Turkish citizen.*<sup>183</sup>

In an interview that Information Technologies Expert Yaman Akdeniz gave to Euronews, he said that “Social media companies that decide to have offices in Turkey will be obliged to implement their access blocking decisions. Social media networks such as Twitter, Facebook and Instagram have to share personal data about their users with Turkish authorities.”<sup>184</sup> This quote from Akdeniz shows that the problem’s representation is already different than what it intends. Portraying this law as a way to keep social media companies’ accountable closes off the consideration that the government’s presence in the online public sphere leads to more criminal investigations for a critical comment the companies have published, since in the law there is no article or sentence that this cannot be used against political and critical conversations on the social media platforms. Additionally, there is no further explanation of what the authorised institution would do with the person’s identity and contact information.

## 4.5 Step Six: Targeted Audience

It is necessary at this point in the study to consider the methods from which specific challenge presentations meet their target audience and gain credibility. According to Bacchi, the media’s position in disseminating and promoting specific issue representations should be considered.<sup>185</sup> The targeted audience was presented as the whole of society in the preamble of the law to protect it from the bad sides of the social media where malicious users and illegal activity take place. But looking at the framework from the public sphere and conceptualising from the previous criminal laws in Turkey while taking into consideration of the reports that I have presented so far, it is visible that the targeted audience is actually the critical voices and making the prosecution easy by accessing the data faster.

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<sup>183</sup>*The Law on the Arrangement of Publications Made in The Internet Environment and the Fight Against Crimes Committed Through These Publications* (Law No: 5651), 2007, Additional Article 4 (1)

<sup>184</sup> D. Gül, ‘Bilişim Hukuk Uzmanı Prof. Dr. Yaman Akdeniz, sosyal medya düzenlenmesini euronews’e değerlendirdi’, *euronews*, 30 July 2020, <https://tr.euronews.com/2020/07/30/bilisim-hukuk-uzman-prof-dr-yaman-akdeniz-sosyal-medya-duzenlemesini-euronews-e-degerlendi> (accessed 18 May 2021).

<sup>185</sup> Bacchi, 2009, p. 19

The media's role in this problem representation is as divided as the country's politics. The people who are critical to the government and the opposition journalists and academics sharing their views state that the people who have critical opinions are the target here, and their voices are going to be pushed back in the public sphere. Because the only place they could share their opinions and be heard is threatened as well. This needs to be reflected from Karlsson's reflection on Lefort, the experience of injustice and oppression makes people claim rights and that is how human rights politics work. The critical voices' constant search to move from one sphere to another is evident to the experience of injustice and oppression by the government. When the government problematise an issue, the critical voices whose freedom of expression is in danger finds another sphere to thrive. Therefore, the relation between the human rights and the politics works as such in Turkey.

## 5. Discussion and Conclusion

In this section I will discuss the results of my analysis in relation to previous research and possible new research trajectories for the future. I have the opportunity here to take a step back, look at my study and reflect my role. I will start with reminding my purpose, research question, theoretical perspective and method.

Firstly, I highlight the future research which can be done in the light of my results. I have supported my analysis from parts from the equivalent social media law from Germany. A study solely focus on a comparative study between Turkey's social media law and Germany's social media law can be examined. Even though I have briefly touched upon the effects of similar laws in different political climates, a study exclusively studies the emphasises on the language and/or the prosecution processes would be very constructive.

A study that very well prepared ethically to not to put the interviewees in danger can be considered. It can either focus on semi-structural or structural interviews to get a more in-depth perspective on the effects of the law. The social media law's daily ramifications over the individuals and whether it creates a self-censorship over the journalists. However, a larger study can be thoroughly performed on a large scale of individuals to see if the government possess their user data cause them to think twice before they post critical comments on social media. A study which concentrates on self-censorship would be worthwhile to have a look at.

Another future research which I have realised and took my attention is future ramifications of the social media law and its relation to corruption news. There are non-governmental organisations already gather data on the removed and/or blocked political content from the newspapers. A study which focuses on the corruption and press freedom would be interesting for the continuation of the studies that focuses on the shrinking public sphere in Turkey.

To conclude my thesis, I am moving to the section where I remind my purpose and reflect on my findings. I have started this study to find answer on how has the government

conceptualised the social media law through problematising the law and what is the impact of the social media law on the public sphere in Turkey? The studies that I have mentioned in the Previous Research have already contributed greatly on the AKP government's stance on the press freedom and shutting down critical voices from Kurdish minorities to Armenian journalists and many more that contradicts with the current government's position on policies and ideologies. I believe the social media law is mirroring the government's position on attacking freedom of expression and the public sphere, which is a pillar of a working democracy. Consequently, I have chosen to use the public sphere as a theoretical framework to build my study on the grounds that the attacks that the AKP government forcing on are directly affecting the public sphere; from police attacks to protests bans and the media companies' being bought by the pro-government conglomerates. Therefore, I argue that the social media law is reflect a similar theme as well. As social media networks such as Facebook, Twitter and Youtube became an arena where people express their views freely, it created an environment where it became necessary for Turkish government to regulate. Considering the usage of social media on important socio-political events such as Wikileaks, student protests around the World, the mobilisation of opposition in Egypt and challenging policies and laws, and similar examples from Turkey; the Turkish government continues the pattern of emergence of opposition political communities. The previous governing practices of the Turkish government which the previous researches presented profoundly such as banning protests, jailing journalists; the problematisation of social media is evident of the Turkish government's aim to shrink collective action which according to Clay Shirky the social media modernized the public sphere and created more opportunities to engage in public speeches and collective action.<sup>186</sup>

Secondly, I will now delve into my method and my reasoning behind why I have chosen the post-structural analysis method called 'What is the Problem Represented to be?' I believe this part together with the theoretical framework in mind will also conclude my analysis as well. Throughout the analysis there is a theme that I keep on surface: problem representation. The problem represented by the AKP government is that the social media

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<sup>186</sup> C. Shirky, 'The Political Power of Social Media Technology, the Public Sphere, and Political Change', *Foreign Affairs*, Vol. 90, no. 1, 2011, p. 29

is a problematic place that needs to be regulated. I identify the problem representation with the words such as ‘‘illegal content’’, ‘‘malicious users’’, that it has been used in the Preamble of the social media law. This problem representation creates an issue out of a social phenomenon like the social media, and create a problem that needs to be regulated. I then establish the problem representation’s progress over time, who it excludes, and this representation’s effects with the help of the Penal Code Article 301 & 299, court cases which claimed that there is an insult to the Turkish state and/or the President which quite frequently critical voices are being prosecuted for. There is a pattern that I have identified that they detect an issue and present it as a ‘‘problem’’ and they issue a legislation or use a current legislation to prosecute individuals claiming they insult ‘‘Turkishness’’ or the President. However, this claim is squeezing the public sphere where people discuss matters freely. Through reports that I have presented; the 19 years of the AKP government there is a common trend by the government to block the spaces where people express their views from the columns of the newspapers to the streets where people can protest for their rights. Therefore, through this analysis I argue that the social media law is the final nail on the public sphere in Turkey. For this reasoning, it can be understood with the contribution of my thesis is that the AKP government has been aiming to shrink the public sphere one step at a time. The problematisation of the social issues such as protesting and social media has become a way of legitimising the law which they present. Stier’s statement on the correlation between the growing internet use by the country’s citizens and the increase of the authoritarian regime’s attack on media freedom is an important reflection on the governing practices of the AKP government over the nineteen years which toughened especially after the 2016 coup attempt. The government’s ramping up the control over the each and every public sphere throughout the years is a way of the AKP government’s problematising issues to increase their control over.

## 6. Bibliography

- *Act to Improve Enforcement of the Law in Social Networks 2017 (Network Enforcement Act)*  
[https://www.bmjv.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/NetzDG\\_engl.pdf?\\_\\_blob=publicationFile&v=2](https://www.bmjv.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/NetzDG_engl.pdf?__blob=publicationFile&v=2)
- Akser M. and Baybars-Hawks B., ‘Media and Democracy in Turkey: Toward a Model of Neoliberal Media Autocracy’, *Middle East Journal of Culture and Communication*, Volume 5, no. 3, 2012, pp. 302-321.
- Algan B., ‘The Band New Version of Article 301 of Turkish Penal Code and the Future of Freedom of Expression Cases in Turkey’, *German Law Journal*, Volume 9 , Issue 12 , 2008 , pp. 2237- 2252.
- Amnesty International, ‘Turkey: Article 301: How the law on “denigrating Turkishness” is an insult to free expression’, *Amnesty International*, 2006, p. 1, <https://www.refworld.org/pdfid/44c611504.pdf> , (accessed 6 March 2021).
- Association for Monitoring Equal Rights, Freedom of Peaceful Gathering and Assembly Report 2016, *Association for Monitoring Equal Rights*, Istanbul, 2016, <https://www.esithaklar.org/wp-content/uploads/2017/03/Toplant%C4%B1-G%C3%B6steri-Hakk%C4%B1-Raporu.pdf> (accessed 10 May 2021.)
- Association for Monitoring Equal Rights, Freedom of Peaceful Gathering and Assembly Report 2017, *Association for Monitoring Equal Rights*, Istanbul, 2017 [https://www.esithaklar.org/wp-content/uploads/2019/06/Toplant%C4%B1\\_Gosteri\\_Hakki\\_2017.pdf](https://www.esithaklar.org/wp-content/uploads/2019/06/Toplant%C4%B1_Gosteri_Hakki_2017.pdf) (accessed by 10 May 2021.)
- Bacchi C. and Goodwin S., *Poststructural Policy Analysis: A Guide to Practice*, New York, Springer Nature, 2016.
- Bacchi C., *Analysing Policy: What is the Problem Represented to Be?*, 1<sup>st</sup> Edition, New South Wales, Pearson Australia, 2009.
- Benkler Y., *The Wealth of Networks: How Social Production Transforms Markets and Freedom*, New Haven, CT, Yale University Press, 2006.

- Bennett W.L., ‘The Press, Power and Public Accountability’ in S. Allan (eds.), *The Routledge Companion to News and Journalism Studies*, Routledge, 2011, pp. 105-115.
- Boeder P., ‘Habermas' heritage: The future of the public sphere in the network society’, *First Monday*, 2005, <https://firstmonday.org/ojs/index.php/fm/article/view/1280/1200> , (accessed 23 April 2021).
- Calderaro, A. ‘Social media and politics’ in W. Outhwaite and S. P. Turner (Eds.), *The SAGE Handbook of Political Sociology, Two Volumes Set*, Newbury Park, California: Sage, 2018, pp. 781-796.
- Calhoun C., ‘Civil Society and the public sphere’, in M. Edwards, (eds.), *The Oxford Handbook of Civil Society: Oxford handbooks in politics & international relations*, Oxford University Press, NY, USA 2011.
- Çarkoğlu A. and Andı S., ‘Support for Censorship of Online and Offline Media: The Partisan Divide in Turkey’, *The International Journal of Press/Politics*, August 2020.
- Castells M., ‘Communication, power and counter-power in the network society’, *International Journal of Communication*, vol. 1, 2007, pp. 238-266.
- Castells M., ‘The New Public Sphere: Global Civil Society, Communication Networks and Global Governance’, *The Annals of the American Academy of Political and Social Science*, Vol. 616, 2008, pp. 78-93.
- Ceren Satıl, ‘Cumhurbaşkanına Hakaret Suçundan Kaç Kişi Yargılandı?’, *Doğruluk Payı*, 18 November 2020, <https://www.dogrulukpayi.com/iddia-kontrolu/ali-mahir-basarir/1994-yilindan-2014-yilina-kadar-cumhurbaskanina-hakarettten-dolayi-1280-saniktan-386-vatandasimiz-mahkum-olurken-tayyip-erdogan-in-goreve-geldigi-2014-yilindan-gunumuze-kadar-63-bin-41-saniktan-9-bin-5> , (accessed 7 April 2021).
- Chadwick A. and Howard P.N (eds.), *Routledge Handbook of Internet Politics*, London: Routledge, 2008.
- Committee to Protect Journalists, *Turkey's Press Freedom Crisis: The Dark Days of Jailing Journalists and Criminalising Dissent*, United Book Press, NY, 2012.

- Council of Europe, ‘European Commission for Democracy Through Law (Venice Commission), Opinion (No: 831/2015) on Articles 216, 299, 301 and 314 of the Penal Code of Turkey’, *Venice Commission*, Strasbourg, 2016, pp. 1-31, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)002-e) , (accessed 10 March 2021).
- Corke S., Finkel A. (eds.), ‘Democracy in Crisis: Corruption, Media, and Power in Turkey’, Freedom House, 4 February 2014, <https://freedomhouse.org/report/special-report/2014/corruption-media-and-power-turkey> (accessed 6 May 2021.)
- Cumhuriyet Halk Partisi Grup Başkanlığı, ‘Türkiye Büyük Millet Meclisi Başkanlığına’, 16 Kasım 2020, <https://www2.tbmm.gov.tr/d27/10/10-742164gen.pdf> (accessed 14 May 2021).
- Daniel Heinrich, ‘User safety or censorship? Turkey targets social media platforms’, *Deutsche Welle*, Europe, Deutsche Welle, 2020, <https://p.dw.com/p/3jP9p> , (accessed 8 March 2021).
- Delcker J., ‘Germany’s balancing act: Fighting online hate while protecting free speech’, *Politico*, 1 October 2020, <https://www.politico.eu/article/germany-hate-speech-internet-netzdg-controversial-legislation/> (accessed 14 May 2021).
- Demir F., Bastug M.F. and Douai A., ‘Keeping it peaceful: Twitter and the Gezi Park Movement’, *Communication and the Public*, Vol. 5, no: 3-4, 2020, p. 149-163.
- ‘Erdoğan: Bunlar gazeteci değil terrorist, bankamatik soyguncusu’, *Cumhuriyet*, 14 May 2018, <https://www.cumhuriyet.com.tr/haber/erdogan-bunlar-gazeteci-degil-terrorist-bankamatik-soyguncusu-975457> (accessed 14 May 2021).
- Eren Topuz, ‘Increasing number of Erdoğan ‘insult’ cases quantifies crackdown on dissent’, *Duvar English*, 15 January 2021, <https://www.duvarenglish.com/increasing-number-of-erdogan-insult-cases-quantifies-crackdown-on-dissent-news-55873> , (accessed 25 February 2021).
- Filibeli T. E., and İnceoğlu Y. G., ‘From political economy of the media to press freedom: obstacles to the implementation of peace journalism in Turkey’, *Conflict & Communication Online*, Vol. 17, no. 1, 2018, pp. 1-11.

- Fraser N., ‘Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy’, *Social Text*, No. 25-26, 1990, pp. 56-80.
- Freedom House, ‘Freedom in the World 2019: Turkey’, <https://freedomhouse.org/country/turkey/freedom-world/2019> (accessed 21 May 2021).
- Fuchs C., “The Political Economy of Privacy on Facebook”, *Television and New Media*, Vol. 13, no. 2, pp. 139–59.
- Grote Meier A., Das Comeback der Majestätsbeleidigung, *Legal Tribune Online*, 11 January 2012, <https://www.lto.de/recht/hintergruende/h/verunglimpfung-des-bundespraesidenten-das-comeback-der-majestaetsbeleidigung/> (accessed 14 May 2021).
- Gül D., ‘Bilişim Hukuk Uzmanı Prof. Dr. Yaman Akdeniz, sosyal medya düzenlenmesini euronews’e değerlendirdi’, *euronews*, 30 July 2020, <https://tr.euronews.com/2020/07/30/bilism-hukuk-uzman-prof-dr-yaman-akdeniz-sosyal-medya-duzenlemesini-euronews-e-degerlendi> (accessed 18 May 2021).
- Habermas J., *Between facts and norms: Contributions to a discourse theory of law and democracy*, Cambridge, MA: MIT Press, 1996.
- Habermas J., *The Structural Transformation of the Public Sphere: An Inquiry into a category of Bourgeois Society*, Cambridge, MA: MIT Press, 1991.
- Hamdi Firat Buyuk, ‘Turkey Fines Social Media Giants Second Time For Defying Law’, *Balkan Insight*, Sarajevo, Balkan Insight, 2020, <https://balkaninsight.com/2020/12/11/turkey-fines-social-media-giants-second-time-for-defying-law/> , (accessed 8 February 2021).
- Hrant Dink Vakfı, *Medyada Nefret Söylemi ve Ayrımcı Söylem: 2019 Raporu*, İstanbul, Hrant Dink Yayınları, 2020.
- Human Rights Watch, ‘Turkey: End Prosecutions For ‘Insulting President’’, *Human Rights Watch*, Berlin, Human Rights Watch, 2018, <https://www.hrw.org/news/2018/10/17/turkey-end-prosecutions-insulting-president> , (accessed 8 March 2021).
- International Press Institute, ‘Fears of draconian social media law in Turkey’, *International Press Institute*, 14 July 2020,

- <https://freeturkeyjournalists.ipi.media/fears-of-draconian-social-media-law-in-turkey/> , (accessed 8 March 2021).
- International Press Institute, ‘IPI renews its call on Turkey to withdraw the new social media law and penalties on big tech companies’, *International Press Institute*, 21 January 2021, <https://freeturkeyjournalists.ipi.media/ipi-renews-its-call-on-turkey-to-withdraw-the-new-social-media-law-and-penalties-on-big-tech-companies/> , (accessed 21 January 2021)
  - Jenkins H., ‘*Convergence Culture: Where Old and New Media Collide*’, New York, NYU Press, 2006.
  - Karabağlı H., ‘CHP’li Emir: TCK’nın 299. maddesi, partili cumhurbaşkanları için de uygulanamaz, değiştirilmelidir’, *T24*, 12 March 2019, <https://t24.com.tr/haber/chp-li-emir-tck-nin-299-maddesi-partili-cumhurbaskanlari-icin-de-uygulanamaz-degistirilmelidir,811900> , (accessed 6 May 2021).
  - Karlsson A., *Liberal Intellectuals and Human Rights in the Turkish Public Sphere: Contestation and Pragmatism from the 1990s to the AKP-era*, Lund University, 2017.
  - Kruse L.M., Norris D.R. and Flinchum J.R. ‘Social Media as a Public Sphere?: Politics on Social Media’, *The Sociological Quarterly*, vol. 59, no. 1, 2018, p. 62-84.
  - Loader B.D. and Mercea D., ‘Networking Democracy? Social Media Innovations and Participatory Politics’, *Information, Communication and Society*, Vol. 14, no. 6, 2011, pp. 757-769.
  - Molu B., ‘İfade Özgürlüğü ve Türkiye: AIHM Kararlarının Uygulanması’, Istanbul, *Expression Interrupted and P24*, 2020, p. 21, <https://expressioninterrupted.com/tr/uploader/uploader/rapor-aihm-kararlarinin-uygulanmasi-pdf>, (accessed 6 April 2021).
  - N. Newman, R. Fletcher, A. Kalogeropoulos, D. A. L. Levy and R. K. Nielsen, ‘Reuters Institute Digital News Report 2018’, *Reuters Institute for Study of Journalism*, 2018, <http://media.digitalnewsreport.org/wp-content/uploads/2018/06/digital-news-report-2018.pdf> , (accessed 8 March 2021).

- N. Newman, R. Fletcher, A. Schulz, S. Andi and R. K. Nielsen. ‘Reuters Institute Digital News Report 2020’, *Reuters Institute for Study of Journalism*, 2020, [https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2020-06/DNR\\_2020\\_FINAL.pdf](https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2020-06/DNR_2020_FINAL.pdf) , (accessed 8 March 2021).
- Nurcan Gökdemir, ‘Bir yıl içerisinde 36 bin soruşturma’, *Birgün*, 13 September 2020, <https://www.birgun.net/haber/bir-yil-icerisinde-36-bin-sorusturma-315383> , (accessed 25 February 2021).
- Orhan Kemal Cengiz, ‘Turkey resurrects deadly Article 301 against dissent’, *Al-Monitor*, 2019, <https://www.al-monitor.com/originals/2019/10/turkey-nationalism-killer-penal-code-article-has-come-back.html> (accessed 8 March 2021.)
- Papacharissi Z.A., *A Private Sphere: Democracy in A Digital Age*, Malden, MA, Polity Press, 2010.
- Pukallus S. et al., ‘From Repression to Oppression: News Journalism in Turkey 2013-2018’, *Media, Culture & Society*, Vol. 42, No. 7-8, 2020, pp. 1443- 1460.
- relations. Oxford University Press, NY, USA, pp. 311-323.
- Reuters Staff, ‘Erdogan sues Turkey’s main opposition leader over dictator remarks’, *Reuters*, 18 January 2016, <https://www.reuters.com/article/us-turkey-president-idUSKCN0UW1FR> (accessed 8 March 2021).
- Rutherford, P., *Endless Propaganda: The Advertising of Public Goods*, Toronto: University of Toronto Press, 2000.
- Segerberg A. and Bennett W.L., The Logic of Connective Action: Digital Media and the Personalisation of Contentious Politics, *Information, Communication & Society*, Vol. 15, no. 5, 2012, pp. 739- 768.
- Shirky C., ‘The Political Power of Social Media Technology, the Public Sphere, and Political Change’, *Foreign Affairs*, Vol. 90, no. 1, 2011, pp. 28-41.
- Sørensen M.P., ‘Political Conversations on Facebook: The Participation of Politicians and Citizens’, *Media, Culture and Society*, vol. 38, no. 5, 2012, pp. 664–685.
- Stier S., ‘Political Determinants of Media Freedom’, in H. Tumber and S. Waisbord (eds), *The Routledge Companion to Media and Human Rights*, London/New York, Routledge, 2017, pp. 149-157.

- Stier S., ‘Political Determinants of Media Freedom’, in H. Tumber and S. Waisbord (eds.), *The Routledge Companion to Media and Human Rights*, New York, Routledge, 2017, pp. 149- 157.
- *The German Criminal Code Section 90 Disparagement of the Federal President (Strafgesetzbuch (StGB) § 90 Verunglimpfung des Bundespräsidenten)*
- *The Amendments of Law on Police Duties and Powers Arrangements on Organisation, Duties and Powers of the Gendarmerie (Polis Vazife ve Salâhiyet Kanunu, Jandarma Teşkilat, Görev ve Yetkileri Kanunu ile Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun) 2015, Law no: 6638.*
- *The Preamble of the Amendments of Law on the Arrangement of Internet Publication and Combating Crimes Committed Through These Publications (İnternet Ortamında Yapılan Yayınların Düzenlenmesi ve bu Yayınlar Yoluyla İşlenen Suçlarla Mücadele Edilmesi Hakkında Kanunda Değişiklik Yapılmasına Dair Kanun Gerekçesi) 2020 (Law No: 7253)*
- *The Law on the Arrangement of Publications Made in The Internet Environment and the Fight Against Crimes Committed Through These Publications (İnternet Ortamında Yapılan Yayınların Düzenlenmesi ve bu Yayınlar Yoluyla İşlenen Suçlarla Mücadele Edilmesi Hakkında Kanun) 2007 (Law No: 5651)*
- *The Law on Peaceful Assembly and Demonstrations (Toplantı ve Gösteri Yürüyüşleri Kanunu) 1983 (Law No: 2911)*
- The Passport Index, <https://www.passportindex.org/byRank.php> , (accessed 6 May 2021).
- *The Turkish Penal Code 2004 (Türk Ceza Kanunu /TCK) Law No: 5237, Article 301*
- *The Turkish Penal Code 2004 (Türk Ceza Kanunu /TCK) Law No: 5237, Article 299*
- Townend J., ‘Freedom of Expression and the chilling effect’, in H. Tumber and S. Waisbord (eds.), *The Routledge Companion to Media and Human Rights*, New York, Routledge, 2017, pp. 73- 82.
- Turhan A., ‘Düşünce ve İfade Özgürlüğü Kapsamında Türk Ceza Kanunu’nun 301. Maddesinin Değişimi’, *Türkiye Adalet Akademisi Dergisi*, vol. 1, no. 5, 2011, pp. 285-308.

- 'Türk pasaportunu aşağıladıkları' gerekçesiyle gözaltına alınan gençlere yurtdışına çıkış yasağı', *Sputnik Türkiye*, 28 April 2021, <https://tr.sputniknews.com/turkiye/202104281044377370-turk-pasaportunu-asagiladiklari-gerekcesiyle-gozaltina-alinan-genclere-yurtdisina-cikis-yasagi/> (accessed 28 April 2021).
- Twitter, *Twitter Transparency Reports: Turkey*, <https://transparency.twitter.com/en/reports/countries/tr.html>, (accessed 14 May 2021).
- Ward I., 'How Democratic Can We Get?: The Internet, the public sphere, and public discourse', *JAC*, Vol. 17, no. 3, 1997, pp. 365- 379.
- Ugurlu S. and Çağrı S., 'Prof. Dr. Akdeniz: Erişim engelleri konusunda bilgi vermemizden hoşlanılmıyor', *Evrensel*, 16 Nisan 2021, <https://www.evrensel.net/haber/430741/prof-dr-akdeniz-erisim-engelleri-konusunda-bilgi-vermemizden-hoslanilmiyor> , (accessed 15 May 2021.)
- Yeşil B., 'Press Censorship in Turkey: Networks of State Power, Commercial Pressures, and Self-Censorship', *Communication, Culture & Critique*, Vol. 7, no. 2, 2014, pp. 154-173.
- Yeşil B., *Media in New Turkey: The Origins of an Authoritarian Neoliberal State*, Chicago, University of Illinois Press, 2016.
- Yeşil B., Sözeri E.K. and Khazraee E., 'Turkey's Internet Policy After the Coup Attempt: The emergence of a distributed network of online suppression and surveillance', *UPenn Center for Global Communication Studies (CGCS)*, 2017, pp. 1-27.