

Conflating a Journalist's Criticism with Terrorism

By Richard N. Winfield

Prosecutors in Turkey are hard at work putting journalists in jail for publishing articles critical of the regime of President Recep Tayyip Erdogan, citing their criticism as evidence of sympathy and support for organizers of the failed coup attempt of July 2016. Dozens of journalists and independent media outlets now find themselves facing trumped-up criminal terrorism charges for having engaged in the simple exercise of expressing an opinion or publishing articles unflattering to the government.

I recently attended the Istanbul trial of seven journalists, authors, and editors who had been detained for nine months, observing the proceedings along with a dozen other representatives of human rights and free press non-governmental organizations. Prosecutors focused on the Altan brothers, Ahmet, 67, and Mehmet, 64, who are leading Turkish journalists and public intellectuals. Their writings and speeches critical of President Erdogan and the ruling AKP party are widely known and distributed in Turkey.

Emblematic of the government's attempt to tenuously connect protected speech with actual criminal activity, the core of the case against Ahmet Altan appears to be that he had appeared on a television program where he reiterated his criticisms of the government and predicted that President Erdogan and his party would be voted out of office in elections within two years.

The program aired on July 14, 2016. On July 15, 2016, rogue elements of the military staged a violent coup. Out of this circumstantial chronology, an entire theory of prosecution was born and in May 2017, prosecutors issued a 247-page indictment against the Altans and their five

co-defendants under anti-terrorism and criminal statutes. Prosecutors charged that Ahmet Altan's televised speech on July 14, 2016 sent "subliminal messages" announcing and supporting the coup. According to the indictment, these and other public statements attempted to "destroy the constitutional order," "destroy the Turkish Grand National Assembly," and "destroy the government," thus "committing a crime in support of a terrorist organization."

Significantly, the UN Special Rapporteur on human rights cited the case against the Altans as an example where "prosecutors regularly accuse individuals of unprovable – and impossible to defend against allegations." The Altans are now facing up to three consecutive life sentences.

But their spirits have remained high. As his trial commenced on June 19, 2017, Ahmet Altan addressed the courtroom by video link from prison, refusing to recant his criticisms of President Erdogan and stating, "I am not the kind of man will act in cowardice and squander the many decades behind me for the sake of a few years ahead."

After five days of hearings, the trial was postponed to September 2017, at which point the Altans will have spent an entire year in detention.

Unfortunately, it is unlikely that they will be able to prepare their defense adequately even in that time. Pursuant to its declared emergency, the government has enacted broad executive measures to limit access to defense counsel, including restricting attorney-client meetings to one hour a week.

Nor is it at all certain that the Altans will receive a fair trial. Following the state of emergency, the regime launched a purge of significant dimensions, including dismissing and, in many cases, detaining, thousands of judges and prosecutors viewed as insufficiently pro-

Erdogan. All told, the regime sacked about one-fourth of the Turkish judiciary in a matter of weeks. Recently, a judge and a prosecutor were summarily dismissed after dropping a criminal case against 21 journalists.

In addition, with the failed coup attempt behind them, the regime still moved quickly to declare an emergency and officially derogate from its obligations under two international human rights conventions it had signed, the European Convention on Human Rights and the International Covenant on Civil and Political Rights. Both treaties protect fair trial and freedom of expression rights.

At this moment in time, judicial independence and freedom of expression in Turkey have ceased to exist. It is in this context that journalists such as the Altan brothers and others are fighting for their basic rights to fair trials and independent thought. For our part as members of an international community committed to the rule of law and a free and independent press, we can and must continue to send the message to Turkey that it cannot use a legal veneer to cover up authoritarianism and brutal repression. These trials are not fair, these courts are not independent, and no one is fooled by the attempt to pretend otherwise.

Turkey's abandonment of the rule of law deserves even greater exposure in the press and condemnation by civil society. The West, hopefully led by the U.S. Congress, should step up the pressure on Ankara by levying economic sanctions and by exercising more muscular diplomacy.

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