



ISLAM, HUMAN RIGHTS, AND AKP (*ADALET VE KALKINMA PARTISI*) IN TURKEY

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Abstrak: Artikel ini menjelaskan pengaruh menguatnya politik partai Islamis Turki AKP (*Adalet ve Kalkınma Partisi, Justice and Development Party*) terhadap legislasi HAM pada perundang-undangan nasional Turki. Penelitian ini dilakukan di Turki pada 2019 dengan pendekatan kualitatif. Teknik pengumpulan data adalah wawancara mendalam, studi literatur, dan Focussed Groups Discussion (FGD). Temuan penelitian ini menyimpulkan bahwa meski legislasi HAM Turki secara formal tidak dipengaruhi oleh norma-norma Islam, tapi menguatnya partai Islamis di Turki “berpengaruh” terhadap proses legislasi HAM di Turki. Sebagai contoh adalah kandasnya rancangan undang-undang yang bertujuan melindungi kelompok LGBT yang diusulkan oleh partai sekular-Kemalis, CHP (*Cumhuriyet Halk Partisi, Republican People’s Party*). Rancangan itu ditolak oleh mayoritas kursi parlemen Turki yang dikuasai oleh AKP. Akibatnya, hingga saat ini, keanggotaan Turki di Uni Eropa belum diterima karena beberapa protokol HAM Uni Eropa belum diratifikasi dalam legislasi HAM Turki. Studi ini menunjukkan bahwa penafsiran AKP tentang HAM tidak sesuai dengan gagasan universal HAM.

Kata kunci: Hak Asasi Manusia (HAM); legislasi Turki; AKP

Abstract: The article aims to describe the influence of the political strengthening of the Turkish Islamist party, AKP (*Adalet ve Kalkınma Partisi, Justice and Development Party*) on human rights legislation in Turkey's national legislation. The research was conducted in Turkey in 2019 with a qualitative approach. Data collection techniques are in-depth interviews, literature studies, and focused groups discussion. The findings of the study conclude that although Islamic norms do not formally influence Turkey's human rights legislation, the strengthening of Islamist parties in Turkey “influences” the human rights legislation process in Turkey. An example is the failure of a bill to protect LGBT people proposed by the secular-Kemalist party, CHP (*Cumhuriyet Halk Partisi, Republican People's Party*) caused by the majority of seats in the Turkish parliament controlled by the AKP. As a result, Turkey's membership in the European Union (EU) has not been accepted because several EU human rights protocols have not been ratified in Turkey's human rights legislation. The study shows that the view of AKP on human rights is not compatible with the universal human rights.

Keywords: Human Rights; Turkish legislation; AKP

Introduction

The issue of Human Rights is still one of the essential topics in the history of Muslim civilization in the world. Differences in concepts and views on the universality of modern human rights values have led to Muslim countries being stigmatized as countries that ignore human rights values. In the context of the conception of human rights, Muslim countries accept the concept of modern human rights with certain restrictions, as stated in the Cairo Declaration. Human rights in the Cairo Declaration are seen as *fitrah* given by God with the following formula:

“(Cairo Declaration on Human Rights in Islam”, 19th Islamic Conference of Foreign Minister in Cairo, 1950) Reaffirming the civilizing and historical role of the Islamic Ummah which Allah made as the best community and which gave humanity a universal and well-balanced civilization, in which harmony is established between here under and the hereafter, knowledge is combined with faith, and to fulfill the expectations from this community to guide all humanity which is confused because of different and conflicting beliefs and ideologies and to provide solutions for all chronic problems of this materialistic civilization.”

Thus, according to Islamic teachings, the unity of the value of human rights as a nature-given by God makes human rights an integral thing. The Qur'an and the hadith inunct the importance of protecting human rights. According to Abul A'la Al-Maududi, (Al-Mawdudi, 1995) these rights are binding on all Muslims because they are an integral part of the Islamic faith. All human beings and rulers who claim to be Muslim must accept, acknowledge, and implement it. The integrity of human rights in the teachings of Islam can break down into two parts, namely those relating to the *huquq* of God (the rights of God) and *huquq al-Ibad* (rights between people). *Huquq Allah* is God's rights towards human beings, which are realized by carrying out orders and avoiding prohibitions. Whereas *huquq al-Ibad* or *huquq al-nas* are human rights to other humans that fellow human beings must protect.

According to Allahbukhs K. Brohi, (Nasution & Bahtiar Effendi, 1987) this dichotomy recognises God not only as a lawgiver but also as the creator of all nature. Because thus the external world is also subject to His law and carrying out human rights also carry out their laws. This integration of values is also the basis of the Cairo Declaration on Human Rights in Islam:

“(Cairo Declaration on Human Rights in Islam”, 19th Islamic Conference of Foreign Minister in Cairo, 1950). Believing that fundamental rights and freedoms according to Islam are an integral part of the Islamic religion and that no one shall have the right as a matter of principle to abolish them either in whole or in part or to violate or ignore them in as much as they are binding divine commands, which are contained in the Revealed Books of Allah and which were sent through the last of His Prophets to complete the preceding divine messages and that safeguarding those fundamental rights and freedoms is an act of worship whereas the neglect or violation thereof is an abominable sin, and that the safeguarding of those fundamental rights and freedom is an individual responsibility of every person and a collective responsibility of the entire Ummah.”

After 69 years, the Universal Declaration of Human Rights was declared to have at least 18 human rights instruments. Based on these indicators, ((OCHCR), 2017) Muslim-majority countries generally incorporated in the Organization of the Islamic Conference (OIC) generally ratified 5-9 treaties which are quite a category. Among the OIC countries, Turkey is the largest country by ratifying 15 treaties, Pakistan 9 treaties, Saudi Arabia 8 treaties, and Iran 6 treaties. In comparison, Indonesia is in a moderate position by ratifying ten treaties. On the other hand, Turkey has been noted by the European Union as a country that does not respect human rights. Some EU human rights protocols have not yet been fulfilled by Turkey, making it one of Turkey's stumbling blocks to becoming a member of the European Union. One that is often pointed out is the strengthening political influence of the Islamist party, which still controls the Turkish Parliament. Departing from this background, this research will explain the dialectics of human rights legislation and the strengthening of Islamic values in Turkey's national legislation.

This article analyzes the dialectics of human rights and Islamic values in the process of human rights legislation in Turkey after the authority of the AKP Islamist party in the Turkish government.

History of Human Rights Legislation in Turkey

The legal history in the Republic of Turkey cannot be divided from that of the Ottoman Empire, (Halaçoğlu, 2021; Imber, 2004, 2009) as the development continued through critical times, including Tanzimat

movement and the constitutional reforms in the nineteenth and twentieth centuries. In the time of Ottoman Empire, law enforcement was based on the values of Islamic law (*İslam Hukuku*) or *shari'a* and *qanun* (*örfi*) which had developed quite independently. Unlike the *shari'a*, which was the law of religious community, the *qanun* was the law of an Empire and these two bodies of law were different, which one was sacred and the other was imperial.

Unfortunately, most of the non-ritual areas of the *shari'a* fall into the category of 'claims of men' and assigned a value and legal status of Muslim males on the top position in the hierarchy thus created. As well, they divided humankind into contrasting categories. For example, male/female, Muslim/non-Muslim, free/slave, and a non-Muslim was either a tributary subject of Muslim sovereign (*dhimmī*), a protected temporary resident in Muslim territory (*mustamin*), or an enemy (*harbī*). The non-Muslim *dhimmīs* suffer some legal disabilities because their testimony was not admissible against Muslims, and they were subject to discriminatory taxation.

Turkey (Hussein, n.d.; Kawtharani, 2018) just accepted the concept of human rights actually during the Ottoman Empire through the Tanzimat movement (1839-1876) in the 19th century. This reform movement adopted Western law in Ottoman times; the most valuable legacy of this movement was the idea of equality of every Muslim and non-Muslim citizen throughout the Ottoman Empire, replacing the concept of *dhimmīs* in classical Jurisprudence. Also, this movement was the forerunner to the formation of the Turkish Republic in 1924.

Turkey (Ali, 1994) adheres to a political ideology that has been more inclined towards the West since the collapse of the Ottoman Turkish Islamic Empire, which was replaced with the Republic of Turkey in 1924. Under the command of Mustafa Kemal (1881-1938), who was granted the surname Atatürk (Father of the Turks), Turkey adopted Western ideological values in the joints of its government through a program of political reform that discusses secularization, westernization, and modernization. It officially became a secular state in 1937. However, the process began in 1923. Kemalist reforms created a new secular nation identity for Turkey by separating religious powers from public and political structures.

The 1924 constitution, (Versan, n.d.) which was followed by the proclamation of the Republic, stated that a significant step in acceptance of the principles of sovereignty, human rights, and individual freedom. In this constitution, a strong bond between the state and administration accepts the rule of law principles. The 1924 Constitution provides room for individual rights and freedoms, but the constitution provides an opportunity for the power to reduce these rights in practice.

The fifth part of the 1924 Constitution carries (Versan, n.d.) “Turkish Public Rights” and defines the principles and limits of individual rights and freedoms. According to the principles set out in this section, every Turkish person is born free and lives freely. Freedom means the right to exercise the freedom of each citizen, which is accepted as one that is only determined by law. All Turks are equal before the law, and they are required to obey the law without exception. There are no groups, classes, families, or individuals who have or may have more privileges than others. The fundamental rights of all Turks consist of the inviolability of that person, freedom of conscience, thoughts, speech, writing, travel, contracts, the right to work, obtain property, hold assemblies, and find associations. No one can be detained or arrested in any way contrary to the regulations established by this law. Torture, ill-treatment, confiscation of property, and forced labor are strictly prohibited. No one can be persecuted because of philosophical, religious, or sectarian doctrines. All religious rituals are permitted as long as they do not conflict with applicable moral, security, and legal standards. No one can be brought to trial except a court which is the legal subject. In Turkey, all citizens are known as Turks, without racial or religious discrimination, and this loss of Turkish status can only occur under the provisions of the law. Every Turkish has full civil and political rights, including the right to government work.

Twenty-six years after the Constitution first came into force, changes in social and economic conditions arising from the second world war led to the replacement of the new Constitution in 1961. This Constitution (Balkan et al., 1961) introduced several innovations regarding individual rights and freedoms, such as the formation of the second senate legislative chamber, and social and economic recognition, and individual political rights by forming a Constitutional Court and creating several independent associations and institutions to ensure compatibility of the law with the Constitution.

The 1961 Constitution (Balkan et al., 1961) also differs from its predecessor in adjusting contemporary needs and trends by recognizing a number of rights and obligations of individual citizens in the social and economic fields. Thus, the third part of the constitution is entitled “Social, Economic and Duty Rights”. In that section, the constitution recognizes the right of individuals to own property, states the freedom of all to engage in work and make contracts in the fields they want, and proposes the creation of an environment that is in accordance with economic and social justice, the principle of full work and personal dignity. It also recognizes the right of all workers and employers to form the property of trade unions and federations of trade unions without asking permission in advance. It gives them the right to engage in collective bargaining and industrial action. This constitution also recognizes the individual's right to social security as the basic responsibility of the state.

From this point of view, the main goal of Turkey's responsibility to the people and its territory is to maintain unity and independence, the integrity of the state, republic, and democratic institutions, as well as peace, and people's satisfaction.

According to the republicanism (Versan, n.d.) principle included in the Turkish Constitution, the state depends on the will and direction of the nation. Once again, in accordance with the principle of secularism which forms one of the main principles of the Constitution, the constitutional system and the Turkish state prohibit all religious interference in state affairs and the mobilization of all influences arising from irrational sources on legal matters. He declared religion as an individual matter, but the state did not reject religion at all. According to the Constitution, the Republic of Turkey is a social state based on the principles of work and social justice. The social state ensures that every citizen uses traditional rights and freedoms and bears the responsibility for providing material conditions that are essential for true human existence.

The 1982 constitution was born as a result of military intervention after the 1980 coup (Versan, n.d.). After the military withdrew from its dual function in 1983 due to pressure from the European community and the European Council, several Turkish Constitution articles were amended here and there seventeen times, mainly concerning Human Rights (HAM). According to articles 1 and 2, Turkey is a republic-shaped

country recognizing the separation between state and religion, aka secular state. But the rights and obligations of citizens must be subject to the goals and authority of the state.

Thus, in the Turkish Constitution, it can be seen that the principle of the rule of law and the inalienability of personal rights and freedoms are developed more specifically after the republic's proclamation, and these rights and guarantees are included in a successful constitution and greater force and amount the greater one. All restrictions on these fundamental rights are only carried out by law. In article 13 (Amendment results October 2001) stated:

“(Fundamental rights and freedom may be restricted only by the law and in conformity with the reason mentioned in the relevant article of the Constitution without infringing upon their essence. These restrictions must not conflict with the content and spirit of the Constitution, the requirements of the democratic order of a secular republican society, and the principle of proportionality.” Constitution of Republic of Turkey and Procedure of The Grand National Assembly of Turkey, n.d.).

Even in 1999, (Gates, 2009) where Turkey was officially recognized as a candidate for full membership of the European Union, Turkey has continued to carry out constitutional reforms to adjust to European Union standards, especially related to Human Rights, as a form of Turkey's commitment to meet the European Union Human Rights standards. Amendments to the 1982 Constitution were made 17 times in 2001 and 2004. The most prominent thing in the amendment was the reduction of the military's role in politics, aka civil supremacy, the abolition of the death penalty, freedom of the press, respect for women's rights and the rights of refugees, respect for the Kurdish language, and the ease of restrictions on the use of veils for Muslim women.

The biggest challenge in human rights legislation in Turkey today is the instability of political conditions. Unstable democratic regimes cause the process of democratization to often experiences a nadir. Commitment to human rights in the domestic regulatory process is in fact not easy to implement at the level of implementation. Frequent emergencies cause commitment to the fulfillment of human rights regulations is often a weakening factor in the adoption of international human rights protocols.

Turkey adheres to the principle of universal human rights in the process of national legislation. There are no constitutional restrictions that can reduce the basic rights guaranteed by the Constitution unless they can jeopardize the state's existence and the principle of secularism. Whereas article 14 of the Turkish Constitution, the results of an amendment in October 2001, emphasizes:

None of the rights and freedoms embodied in the Constitution shall be exercised in the form of activities aiming to violate the State's indivisible integrity with its territory and nation and endanger the existence of the democratic and secular order of the Republic based on human rights.

No provision of this Constitution shall be interpreted in a manner that enables the State or individuals to destroy the fundamental rights and freedoms recognized by the Constitution or to stage activity to restrict them more extensively than stated in the Constitution. The sanctions to be applied against those who perpetrate activities contrary to these provisions shall be determined by law.

Even if there is a mismatch between national law and international human rights conventions or protocols that Turkey has ratified, the conventions or protocols will be won more. Article 90 of the amendment on May 7, 2004, states:

In the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail.

As confirmed by officials of the Ministry of Human Rights Ministry of Justice and the Turkish Parliament is a democratic, (OCHCR), 2017) secular, and social state governed by law, respect for human rights, and loyal to Atatürk's nationalism. This is different from the principle of limiting most Muslim countries to adhere to the principle of cultural relativism. Therefore, for Turkey in principle, there are no significant obstacles in adopting international human rights in its national law so that the number of human rights legislation or ratification until 2017 is more (15).

AKP, as a leading party holding majority of seats in the currently Turkish Parliament, favors preserving laicism by the constitution. AKP Spokesperson, Ömer Çelik, made a statement at the Central Executive Board (*Merkez Yürütme Kurulu/MYK*) meeting held at the party

headquarters under the chairmanship of President and AKP Chairman Recep Tayyip Erdoğan on 14th September 2021:

“Laiklik prensibinin Anayasa’da korunması gerektiğini düşünmüyoruz. Hiçbir şekilde Anayasa’dan çıkarılması gibi AK Parti’nin bir teklifi olamaz. Bu teklife AK Parti’nin olumlu bir şekilde bakması da mümkün değildir.”

“We think that the principle of laicism should be protected in the constitution. (Haberleri, 2021) AK Party absolutely cannot make proposals such as removing it (laicism) from the Constitution. It is impossible for the AK Party to achieve this suggestion positively.”

Turkey explicitly claims to be a secular state, although most of the population is Muslim, for Turkey, religion does not affect the legislative process in Parliament. Religious values are not considered in legislation, including things that might be seen as contrary to religion. An example is the observation of researchers, where lotteries are legal in the city of Istanbul or Ankara. The public is given the freedom to sell or buy lottery cards. The practice becomes legal, even though it contradicts the religious values of the majority of Turkish citizens.

In the case of LGBT protection, religion “influences” through the PPA’s dominance in the Turkish Parliament. In Indonesia, it is constitutionally clear that religion “influences” human rights regulations made by the government and Parliament because they adhere to interpretations of freedom restrictions based on religious values, including LGBT issues.

The next factor influences the adoption of human rights in domestic and foreign politics. (Council, 2004) While the process of democratization of Turkey with various kinds of international human rights ratification, especially the Copenhagen protocol, is more driven by Turkish foreign policy who want to join the European Union. Pressure and compliance with the European Union Commission on Human Rights (ECHR) protocol on Turkey have forced Turkey to carry out constitutional reforms since the 2000s. (Hughes, 2010) Amendments to the Constitution are made to fulfill these prerequisites. Although until now, the European Union considers that Turkey has not fulfilled all of these requirements, especially related to minority protection issues.

The situation has stagnated and the status quo since 2012, even more so after the failed coup in 2016. (Alrmizan, 2019) The international community condemned the arbitrary actions taken by the current regime

in the name of an emergency. Even Freedom of expression of opinion in public is very restricted. One of the most widely read newspapers, Zaman, which was known for supporting the Gülen movement, was raided and shut down by the Turkish police in March 2016. The Turkish press went into a critical crisis, in which more than 160 media outlets were suspended, raided or closed. There were more than sixty newspapers, thirty were TV channels, and thirty-two were radio stations, as well as thousands of Turkish people in various sectors, including journalism, the military, government and beyond, were jailed. (Mecellem, 2018) Freedom of the press was curbed. Military strength and approach are more important. Based on the researchers themselves, an emergency that has been going on for three years has caused respect for human rights to weaken. The situation is so abnormal and unstable as a democratic country.

In 2012, (Öztürk, 2012) Turkish democracy ran under the status quo, and the elite was above the Turkish system, like the sword of Damocles. Freedom of expression began to be restricted, decreased respect for ideas and beliefs of others, received criticism from any or any group. The Turks began to believe as they did in Ottoman times, the diversity is not a crime. (Yıldız, 2019) Three things are still very sensitive related to international human rights legislation in Turkey, namely gender equality, the use of ethnic languages, and regional integration. The current state of emergency that has been going on since 2016 has caused human rights conditions to be more alarming. Restrictions and freedoms. The arrest and detention of different voices from the authorities are in the international spotlight.

On the other hand, (Mecellem, 2018) military interference in civil and political life is the biggest challenge to respecting human rights, including minority rights. The constitutional reform undertaken to meet European Union standards is meaningless when the military takes political roles far enough to influence democratic civil governance in an emergency. The beliefs of the military leaders who placed themselves as the guardians of Turkish secularism caused disharmony with the pro-Islamist government.

Not to mention the influence of military power in Turkish politics or civilian life, causing Turkey not to solve minority problems in Turkey as it is with other issues in Turkish democracy. Law alone cannot solve

social problems. For centuries people have discovered, changed, and discarded laws and legal systems, hoping to solve some social issues.

Since 2010-2016, the European Union has discovered democratic problems that have hampered Turkey's access to the European Union. On the other hand, various efforts have been made by Turkey to resolve the issue of democracy so that it is immediately agreed to join the European Union. In 2010-2016 Turkey sought to fulfill these criteria to be immediately accepted in its access to the European Union. According to the publication Turkey Progress Report 2010-2016; In terms of democracy, Turkey seeks to open access to justice to the public through the website, reduce the authority and influence of the Minister of Justice, so that it is expected to be able to guarantee an independent judiciary without much intervention from the Turkish authorities. The government gives individuals the right to petition the Constitutional Court, implements the Anti-Corruption Strategy by supervising the financing of political parties, including the sources of campaign funds, and establishes an ombudsman in charge of receiving corruption complaints.

But the European Union found a variety of human rights issues that hampered Turkey's accession to the European Union. According to the publication Turkey Progress Report 2010-2016, (Vásquez & Tanja Porčnik, n.d.) human rights issues that hamper Turkey's accession to the European Union, namely: discrimination and negative stereotypes against LGBT, continues plus Turkey consistently ranks lowest compared to 28 EU member states and candidate member countries European Union in respect of LGBT human rights in 2010-2016 according to Rainbow Europe publication in 2010-2016.

Although previously it has progressed since 2003, (Adar, 2013; Vásquez & Tanja Porčnik, n.d.) discrimination in religious freedom in the form of denial of licensing the construction of places of worship for minority Alevis religious groups, plus Turkey consistently ranks lowest in terms of religious freedom compared to 28 EU member states and EU candidate countries in 2010 -2016 according to the publication of the Human Freedom Index 2010-2016.

During 2010-2016, (Cook, 2015; Dorroll, 2016) the European Union assessed that Turkey had not guaranteed democracy, human rights, and minority rights fully, so that its access to the European Union faced

obstacles. Moreover, the narrative developed by the AKP in Parliament shows a conservative attitude after the 2013 Gezi incident that seemed to lead to the domestic role of women. Erdogan's statements show the process of weakening democratization.

Strengthening Islamic Values and Human Rights Legislation

The strengthening practice of values in Turkey was very striking after the victory of the Islamist Party, which was originally the Refah Party and then followed by the AKP, which has been in power up to now. (Valk et al., 2017) The most striking thing is wearing a veil for Muslim women in public spaces, schools, offices, and the parliament. This development is certainly never imagined in the past. Under the command of Prime Ministry Recep Tayyip Erdoğan, in 2010, the Turkish Higher Education Council lifted the ban on headscarves at the universities. Moreover, in 2012, the government removed the Official Dress Code in the schools that would permit students to dress as they wished.

Nafi Yalçın, Program Coordinator of Istanbul *İlim ve Kültür Vakfı* (The Istanbul Foundation for Science and Culture), a nonprofit scientific institution that develops Said Nursi's thoughts based in Istanbul. This foundation is a non-profit organization that develops Said Nursi's moderate thoughts in Turkey and internationally in the form of publications, seminars, and others According to him, (Yalçın, 2019) what has happened during the last two decades is encouraging the development of religious freedom in which the teaching of Islam received the government's attention. Teaching the Koran, which in previous periods experienced restrictions in the name of secularism, has been given a vast space. Government assistance to Diyanet, a non-governmental organization that handles Muslim religious affairs, continues to increase. Yelcin told how in the early days of the Turkish Republic, the Koran should not be printed in Arabic and should be printed in Turkish and Latin letters. The teaching of the Koran in Arabic is done by religious leaders, like Said Nursi, conducted in the middle of the night. Azan must be echoed in Turkish on the pretext of nationalism.

The development of respect for human rights in the context of freedom of expression of Islam and pro-Islam in these two decades was also justified by Prof. Osama al-Hamwi, a lecturer at the University of Istanbul, (Al-Hamwi, 2019) that Turkey in the past decade has

experienced rapid progress in respecting human rights, particularly concerning Turkey's willingness to accommodate Syrian refugees in Turkish territory. Also, it appears that the freedom of Muslim women to wear a veil according to their religious beliefs.

The ruling Justice and Development Party (AKP) (Kaplan, 2021) pursued an open border policy, particularly after the conflict in Syria began. In 2021, Turkey becomes a major refugee recipient country, with over 4 million refugees under temporary protection, 3.7 million of them are Syrians. Turkey, for the past two years, has been ranked first in the world in terms of its national income allocated to humanitarian development assistance.

On the other hand, (Kassimeris & Tsoumpanou, 2008) Turkey's constitutional reform and democratization also positively impacted human rights issues after forming relevant government bodies occupied by modification of the legal framework and preservation of civil rights, even though the country has not yet become a signatory of certain fundamental conventions. The main objective of the Turkish government seems to be to only defending itself, causing a peaceful settlement with the Kurdish Workers' Party (*Kürdistan İşçi Partisi/ PKK*) still problematic. Turkey's military intervention and military approach to the Kurds is still a barrier for Turkey to be accepted as a member of the European Union.

Although the practice of Islamic values has strengthened for two decades, the Turkish Government, (Uzun, 2019) through the Human Rights Department of the Turkish Ministry of Law, claims that in general, the Turkish Government's policy recognizes universal human rights and accepts international human rights conventions, both those issued by the United Nations and the European Union. Only a few conventions have not yet been accepted or ratified by Turkey, such as the EU 16 protocol. However, Turkey will also discuss some of these human rights issues and consider the socio-political reality of Turkish society. But as a secular state, Turkey does not make religious law the source of law. Thus, religion does not affect the process of accepting human rights in legislation in Turkey.

The ratification of international human rights conventions or protocols depends on Turkey's foreign policy. The process of accepting Turkish conventions adopts the principle of universal human rights in

national legislation. There are no constitutional restrictions that can reduce the basic rights guaranteed by the Constitution, unless it can jeopardize the state's existence and the principle of secularism. Whereas article 14 of the Turkish Constitution, the results of an amendment in October 2001, emphasizes:

None of the rights and freedoms embodied in the Constitution shall be exercised in the form of activities aiming to violate the State's indivisible integrity with its territory and nation and to endanger the existence of the democratic and secular order of the Republic based on human rights.

No provision of this Constitution shall be interpreted in a manner that enables the State or individuals to destroy the fundamental rights and freedoms recognized by the Constitution or to stage activity to restrict them more extensively than stated in the Constitution.

The sanctions to be applied against those who perpetrate activities contrary to these provisions shall be determined by law.

Even if there is a mismatch between national law and international human rights conventions or protocols that Turkey has ratified, the conventions or protocols will be won more. Article 90 of the amendment on May 7, 2004, states:

In the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail.

In the case of LGBT protection, religion “influences” through the PPA's dominance in the Turkish Parliament. It is constitutionally clear that religion does not influence” human rights regulations made by the government and Parliament, but religious values, including LGBT issues, affect the legislation.

The next factor influences the adoption of human rights in domestic and foreign politics. (Council, 2004; Hughes, 2010) While the process of democratization of Turkey with various kinds of international human rights ratification, especially the Copenhagen protocol, is more driven by Turkish foreign policy who want to join the European Union. Pressure and compliance with the European Union Commission on Human Rights (ECHR) protocol on Turkey have forced Turkey to carry out constitutional reforms since the 2000s. Amendments to the Constitution are made to fulfil these prerequisites.

Although until now, the European Union considers that Turkey has not fulfilled all of these requirements, especially related to minority protection issues.

The situation has even stagnated and the status quo since 2013 even more so after the failed coup in 2016. (Mecellem, 2018) The international community condemned the arbitrary actions taken by the current regime in the name of an emergency. Even freedom of expression of opinion in public is very restricted. Freedom of the press is curbed. Military strength and approach are more important. Based on the researchers themselves found how an emergency that has been going on for three years has caused respect for human rights to weaken. The situation is so abnormal and unstable as a democratic country.

Article 90 states: The ratification of treaties concluded with foreign states and international organizations on behalf of the Republic of Turkey shall be subject to adoption by the Grand National Assembly of Turkey by a law approving the ratification.

Ratification of agreements made with foreign countries and international organizations on behalf of the Republic of Turkey must be adopted by the Grand National Assembly of the Republic of Turkey (Türkiye Büyük Millet Meclisi, TBMM). Then, the laws that approve the ratification of these treaties, conventions or protocols directly have binding legal implications. Regarding this, article 90 stipulates that there is no validity of the material test at the Constitutional Court on the ratifications.

In the event of a conflict between treaties or conventions that have been adopted by Turkish national law related to human rights and freedom, the provisions of international agreements will be won. Article 90 states:

In the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail.

Thus, (Mecellem, 2018) Turkey does not adhere to the principle of restriction due to cultural and religious reasons. Article 14 states:

No provision of this Constitution shall be interpreted in a manner that enables the State or individuals to destroy the fundamental rights and freedoms recognized by the Constitution or to stage activity to restrict them more extensively than stated in the Constitution.

The sanctions to be applied against those who perpetrate activities contrary to these provisions shall be determined by law.

Thus, none of the rights and freedoms contained in the Constitution, including freedom of religion and worship, are restricted unless there are forms of activity aimed at violating the integrity of the state, both territory and nation, and endangering the existence of a democratic and secular order. Republic based on human rights. The rest are all provisions on freedom of religion and worship that can reduce or damage these basic rights, both those done by the state and individuals that restrict these basic rights. Even articles threatening those who violate this principle will be subject to legal sanctions.

However, according to the researcher, (Engin, 2014) the strengthening of the Islamic AKP in parliament in several domestic human rights regulations, the legislative process often “influences” the tensions between political forces in parliament. For example, human rights regulations on the protection of human rights of LGBT groups proposed by the secular CHP party in 2013 were foundered because the majority of the parliament came from the Islamist party AKP, which controlled parliament. This is where the notion of religion “influences” even though it “does not influence” the process of domestic human rights legislation in Turkey.

Related to this, (Yıldız, 2019) Ahmed Yıldız, Head of the Commission on the Expert in Human Rights (chief of Commission of Human Rights Expert) of the Grand National Assembly / *Türkiye Büyük Millet Meclisi* (TBMM), Turkey emphasized that since 1950, 2 years after the birth of the UDHR, Turkey has received the declaration of human rights. In terms of national legislation on several controversial issues such as LGBT, there is strong opposition from most people about it. The position of parliament is certainly in a neutral position. The Diyanet itself, in this case, cannot formally influence the legislative process in parliament; they only state their attitudes through sermons or circulars in mosques. Diyanet cannot interfere in this kind of business because of their position outside the state. However, the dominance of Islamic parties in parliament makes it very difficult for the Turkish parliament to pass a pro-LGBT law as desired by the European Union.

Conclusion

Based on the discussion above, the strengthening of the AKP Islamist party in Turkey influences the process of human rights legislation in Turkey. The non-passing of the pro-LGBT law proposed by the CHP secretary party in 2013 indicates that Islamic values are “influential” in the legislative process, where the Islamist party controls the majority of parliamentary seats. However, Turkey remains consistent with the principles of universal human rights, and religious values do not influence the process of human rights legislation. The political reality of the strengthening practice of Islamic values in society also influences discourse in society that indirectly affects the political law of the country.

Endnote

- 1 The convention discussed above referred to *International Convention on the Elimination of All Forms of Racial Discrimination* (1969), *International Covenant on Civil and Political Rights* (1976), *Optional Protocol to the International Covenant on Civil and Political Rights* (1976), *Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of death penalty* (1991), *International Covenant on Economic, Social and Cultural Rights* (1976), *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights* (2013), *Convention on the Elimination of All Forms of Discrimination against Women* (1981), *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women* (2000), *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1987), *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (2006), *Convention on the Rights of the Child* (1990), *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict* (2002), *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* (2002), *Optional Protocol to the Convention on the Rights of the Child on a communications procedure* (2014), *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (2003), *International Convention for the Protection of all Persons from Enforced Disappearance* (2010), *Convention on the Rights of Persons with Disabilities* (2008), *Optional Protocol to the Convention on the Rights of Persons with Disabilities* (2008).

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Interview

Interview with Yalçın, N., 2019.

Interview with Yıldız, A., 2019.

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