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DEMOCRACY, HUMAN RIGHTS AND THE INTERNET

IN TURKEY

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Despite ongoing various discussions about democracy and the variety of definitions of it, the close connection between democracy and human rights cannot be denied. Besides, it is obvious that the Internet has transformed our age with its social, economic and political dimensions. In this respect, reviewing the attempts of governments on regulating the Internet and their attitudes towards fundamental rights and freedoms within this scope, does not constitute an exceptional example. It can be assess as a litmus paper of democracy.

Unfortunately, it is not possible to uphold that governments have succeeded to ensure the fundamental rights and freedoms on the Internet. European countries and the United States of America, deemed as motherland of democracy, are included in this judgment. The regulations approved by these countries after

September 11, have created lots of interventions, especially regarding the concept of right to privacy and data protection on the Internet. Governments enthusiastically use new technologies to watch their citizens and “enemies” ignoring the fact that the Internet has a potential to be an effective “agora” in which a medium is provided for debating of free thoughts and improving democratic practices.

On the other hand, it is much worse for the citizens of Turkey, which do not have comprehensive legal regulations concerning protection of personal data. Technology is indeed followed up closely in Turkey and both citizens, private entities and the government to use technology which gather personal data, process and correlate them. However, no effective legal regulation is in use to protect their possible side effects.

In Turkey, maybe the most significant legal regulation on the intersection of the Internet and human rights, is Law No. 5651 on the Regulation of Publications on the Internet and Suppression of Crimes Committed by means of such publications, which we shortly call as Law n. 5651. There are court decisions about prohibiting the access to many Internet sites in accordance with this law. Widely used Internet sites such as Youtube, geocities are included. It is expressed by some lawyers that decision on the restriction of access to Facebook was prevented at the last minute. Of course, these frequent restrictions are not acceptable. It is like closing down a library because of one unlawful book in it. On the other hand, access restrictions are not met with a serious public reaction. A doubt regarding the approach of the Internet users on freedoms may arise. But the reason of not react is accesibility of these sites while the prohibition is in force, by changing DNS settings and the use of VPN or proxy. The obvious sign of this fact is the declaration of the prime minister of Turkey that he has used Youtube while it was prohibited. Many people in Turkey use blocked sites without knowing they are blocked.

As a matter of fact, in Turkey, restrictive decisions on Internet access, based on regulations that are often legalized for protecting children, increase gradually;

whereas a framework law for personal data protection is not yet to come into effect.

The fact that while the protection of children is used as a reason of restricting freedom of expression on the Internet, the negligence on the right to privacy of children causes a doubt whether the real reason is that or not. Such a doubt should not exist in a country that the state is defined as a “democratic state of law” and ensures the right to privacy and freedom of expression in the Constitution.