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Turkish Writers Say Efforts to Stifle Speech May Backfire

By Ian Fisher

ISTANBUL — Not a week after a court dropped the case against a best-selling Turkish novelist, another well-known writer was charged with the same crime, one of the most ambiguous and contentious here, that of “insulting Turkishness.”

Hrant Dink, the newly accused editor of an Armenian-language newspaper, Agos, takes the charges — those against him and scores of other writers and publishers — as positive news.

“It is something good for Turkey,” said Mr. Dink, though he faces the prospect of three years in jail. “It is good for the dynamism. There is a strong movement from inside, and I can say for the first time we are seeing a real democratic movement.”

This has not been the usual interpretation since the law was passed last year, at a time when riot policemen guarded trials and the European Union issued dire warnings that the law, called Article 301, stood as a major obstacle to Turkey’s long ambitions for membership.

But some of the accused say that the turmoil is forcing a national debate about what it truly means to be a democracy — and that, they say, is pushing democracy forward, even if painfully.

“A lot of people were saying, ‘Wait a minute, this needs to be changed, and we are so embarrassed about what is going on,’ ” said Elif Shafak, a novelist who went on trial in September for portraying a character who referred to a “genocide” against Armenians in her new novel, “The Bastard of Istanbul.” In her case the charges were quickly dropped.

[A fuller court ruling issued on Thursday defended her broadly and called for changes in the law, Reuters reported. A judge wrote, “It is unthinkable to talk about crimes committed by fictional characters” and added, “it is necessary to define the boundaries of the ‘Turkishness’ concept and place it on firm ground.”]

But it is not certain that the government will try to undo the law, which in theory was meant as a progressive substitute for older and entrenched restrictions on some free speech here — especially as it related to criticism of the government and discussion of delicate topics, like the Kurdish rebellion or using the word genocide to describe the mass killing and relocation of Armenians in World War I.

[Another writer, Ipek Calister, went on trial on Thursday on charges of insulting Mustafa Kemal Ataturk, modern Turkey’s founder, in a biography of Ataturk’s wife.]

The intent in passing the new measure was to make Turkey's laws conform with its goal to join the European Union.

But nationalist groups opposed to joining the European Union have taken advantage of the law's language to bring court cases against some 60 writers and publishers, including well-known novelists like Orhan Pamuk and Ms. Shafak. The Turkish publisher of Noam Chomsky, the American scholar, has also faced prosecution. The government itself has not initiated such cases.

At a time when skepticism to Turkey's membership is high both in Europe and in Turkey, the cases seemed to question the nation's commitment to democratic ideals — and as each case is dismissed, the nationalist group, the Turkish Union of Lawyers, files another, in what critics say is an effort to derail European Union membership. European officials have repeatedly warned Turkey about the law.

But people like Mr. Dink and Ms. Shafak argue that the legal challenges may be backfiring, under the glare not only of Europe but also among Turks themselves, so that in their view, a law used to stifle debate may be encouraging it.

Judges have not hesitated to throw out cases they deem without merit. While there have been convictions under Article 301, no one has actually gone to jail. And the very government that drafted the law now says it needs to be changed, though it is not clear exactly how or when.

During Ms. Shafak's case, she received phone calls from two of the most powerful people in Turkey: Prime Minister Recep Tayyip Erdogan, who himself had been jailed briefly years ago under the old version of the law, and his foreign minister, Abdullah Gul.

Her interpretation is that nationalist groups are filing a growing number of cases under Article 301 “not because nothing has been changing here in Turkey but because things are changing.”

“And things are changing in a positive direction.”

“We are learning in a way — how shall I say it? — to live in more harmony with difference, be it ethnic difference, religious difference, sexual difference,” she added.

“At the beginning of the republic, the main idea was that we were all Turks, period, that we were a mass of undifferentiated humans,” she said. “That kind of argument does not hold water any more.”

The nationalist lawyers group that has brought the cases says it will continue to do so, to uphold what they say were Ataturk's principles, which put the strength of a fragile state before the claims of individuals and groups.

“Freedom of expression is different from insult and denigration, and has limits in the world,” said Kemal Kerincsiz, a leader of the lawyers group. “Our system has to protect itself at the verge of insults against the state and the Turkish identity.”

Some critics question the actual commitment of Prime Minister Erdogan to changing Article 301, saying that he is not eager to hurt himself politically by shutting out the nationalists. In fact, they add, he himself has filed suits claiming he was defamed.

But his top adviser on foreign policy, Egemen Bagis, said the march toward free speech, and a likely change of the law, would not be stopped.

“The dark days of Turkey were when they collected and destroyed the books of Kafka and Dostoyevsky,” he said. “I’m not saying everything is perfect now. We’re on the track to that perfection.”

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