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**THE CRIMINALIZATION OF LÈSE-MAJESTÉ IN TURKEY
AS A LEGAL INSTRUMENT FOR THE
INSTITUTIONALIZATION OF REPRESSION AND
CENTRALIZATION OF POWER: THE PRICE OF
QUESTIONING THE UNQUESTIONABLE**

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“All animals are equal, but some animals are more equal than others.”

G. Orwell

This article examines the normative content and practical application of Article 299 of the Penal Code of the Republic of Turkey, contextualizing them within the framework of authoritarian transformations and the centralization of power. Employing historical-legal and comparative methods, the study demonstrates that the criminalization of insulting the head of state in Turkey has evolved into a legal mechanism for the "sacralization" of the presidential institution and the legitimation of one-man rule. The unprecedented surge in criminal proceedings initiated and convictions handed down during R. T. Erdoğan's presidency demonstrates the systemic abuse of this legal norm. Furthermore, by analyzing the contradictions between the rulings of the Constitutional Court of Turkey, the case law of the European Court of Human Rights (ECtHR), and the standards of the Venice Commission, the article emphasizes that Article 299 has transcended the classical legal boundaries of protecting personal honor and dignity, functioning in practice as an institutional lever for the suppression of political opposition and freedom of speech.

Keywords: Republic of Turkey, insulting the president, lèse-majesté, freedom of speech, centralization of power, R. T. Erdoğan, authoritarianism, Stare Decisis.

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The practice of prosecuting individuals for insulting or defaming the head of state exists in numerous countries. Furthermore, similar norms aimed at protecting the position of the president have also been present across comparative legal systems. In most cases, such acts are interpreted as crimes against the state rather than against the individual and their personal honor, even though the "victim" of these offences is a specific person. The roots of this category of crime trace back to the Roman Empire, specifically to the reign of Emperor Octavian. As *divi filius* (son of a god), he exploited his "divine" status to appropriate the sacrosanctity of the plebeian tribune and transform the Roman Republic into an empire—an autocracy. Thus, the transition from an oligarchy to the rule of the "sacred one" gave rise to the concept of *laesa maiestas*². Consequently, the law establishing liability for acts detrimental to the power, honor, and authority of the Roman Empire (*crimen laesae majestatis*) became known as *lèse-majesté*³. Simultaneously, this law criminalized any criticism of the emperor's life or actions, treating them as offenses committed against the state itself⁴. This implies that the *corpus delicti* of the crime rested on the premise that "the ruler is sacred, and nothing [derogatory] can be spoken against the sacred."⁵ As an early instance of the instrumentalization of religion, this legal construct served the rulers' interests in two fundamental ways: first, it elevated them to the status of the "almighty" and rendered them objects of veneration; second, it afforded them the opportunity to conceal arbitrary rule under the guise of "sanctity." Consequently, although originally designed to safeguard the vital interests of the Roman people, under the authoritarian regime of the Principate, the law devolved into a weapon deployed to oppress society.

Regulations that protect the person and position of the head of state remained a part of the criminal justice systems in Europe until relatively recently, even after the abolition of absolute monarchies. By establishing

² Kurtul (2021).

³ Dülger (2017), 107, 110.

⁴ Sınar (2015), 30.

⁵ Şirin (2021).

liability for insulting the head of state, the legislator strengthened the inviolability of public order stemming from the exercise of state authority. Although different countries adopted varying approaches to this issue, particularly in the second half of the 20th century, such norms were either largely repealed and expunged from legislation, decriminalized, or, conversely, modified to impose stricter penalties than those prescribed for similar offenses against private individuals⁶. In this regard, constitutional law theorist Olivier Beaud, highlighting the "homology between the repression of offenses and the nature of the regime," notes that the more authoritarian a regime is, the harsher the sanctions it imposes⁷. This assertion is entirely applicable to the Turkish context, as "[Turkey] is a country where insulting the President of the Republic is a crime, and you can be arrested; do not be surprised, even children are arrested in this country."⁸

The purpose of this article is to examine the criminalization of insulting the head of state in Turkey across two primary dimensions. First, the legislative dimension: demonstrating how the existence of such a provision reflects the archaic tradition of sacralizing the head of state, thereby serving as a manifestation of "intellectual despotism." Second, the dimension of applied judicial practice: addressing the pernicious systemic reality wherein the judiciary wields Article 299 as a punitive bludgeon, effectively rendering political authority unassailable.

The article synthesizes historical-legal developments, statistical data, and international human rights standards. This multifaceted approach allows for the evaluation of the phenomenon not merely as a statutory norm, but as an institutionalized instrument of repression.

⁶ The sole exception to this is Greece, where the statutory penalty for insulting or defaming the President is limited to a maximum of three months' imprisonment (Article 168 of the Greek Penal Code), whereas the identical offense directed against private individuals is punishable by a term of imprisonment ranging from three to six months (Article 363).

⁷ Çetin (2022).

⁸ Fikret (2014).

The Legal Foundations and Application Procedures for the Criminalization of Insulting the Head of State in Turkey

The tradition of legally safeguarding the "sacred" existence of the sultan—a manifestation of "intellectual despotism"—was also prevalent in the Ottoman Empire. Although prior to the 19th century, the punishment for defaming or insulting the monarch was not explicitly codified in Sharia law, any oppositional act against him was construed as a crime against the empire. Such acts were regulated within the framework of "transgression" (بیخی) established by Sharia, which in legal terminology was defined as "an act of disobedience toward the boundaries set by God and a rebellion against authority."⁹ Consequently, an insult directed at the sultan constituted a violation of "divine boundaries," for which the punishment (ta'zir) was left to the discretion of the judge: the offender was initially issued a warning, and in the event of non-compliance, the penalty was death.

Following the adoption of the 1858 Ottoman Penal Code (Ceza Kanunnamesi), the prescription of punishment for insulting the sultan transitioned into a secular legal norm, formalized under Article 138. This provision established liability for defaming the person of the sultan through the press (such publications were either subjected to monetary fines or shut down, temporarily or permanently), thereby underscoring his exceptional status even within the newly established legal framework¹⁰.

Upon the entry into force of the new penal code in republican Turkey in 1926—modeled after the Italian Penal Code (Codice Zanardelli)—insulting and defaming the head of state was criminalized under Article 158, carrying a maximum penalty of three years of imprisonment. Essentially, this constituted an adapted and relatively mitigated iteration of Article 122 of the Italian code. It reflected the reality that the head of state

⁹ Kurtul (2020), 66.

¹⁰ The exceptional status of the sultan was further enshrined in Article 5 of the Ottoman Constitution (Kanun-i Esâsi) promulgated in 1876, which stipulated that "the Supreme Padishah is sacred and unaccountable." ("Zatı hazireti Padişahinin nefsi hümayunu mukaddes ve gayri mesuldür.") 1876 Kânûn-ı Esâsî.

in Turkey was a politician elected by the parliament, rather than a figure possessing a "sacred" title akin to the King of Italy¹¹. It is noteworthy that during the formative years of the republic, this specific offense was recorded exceedingly rarely, and the statutory provision remained virtually unenforced¹².

The criminal offense of insulting the President of the Republic, notwithstanding all secular declarations regarding the abolition of sacrality, became an active component of law enforcement practice in Turkey in 1961. This occurred under Article 158 of the Turkish Penal Code (Law No. 765), promulgated during the tenure of President Cemal Gürsel, which explicitly stipulated the following: "Any individual who commits acts of insult or defamation against the President of the Republic shall be subject to a term of imprisonment of no less than three years. If the insult or defamation directed at the President of the Republic is committed in absentia, the offender shall be sentenced to imprisonment for a term of one to three years. Even if the name of the President of the Republic is not explicitly mentioned but merely alluded to, provided there is irrefutable evidence demonstrating that the remarks were directed at the latter, the offense shall be deemed to have been committed overtly. Furthermore, if the offense is perpetrated through any means of publication, the prescribed penalty shall be increased by one-third or one-half."¹³ This law was repealed in 2005, and the offense of insulting the President was subsequently regulated under the new Turkish Penal Code (Law No. 5237), promulgated by Ahmet Necdet Sezer. Specifically, it was codified in Article 299, located within Section 3, titled "Offenses Against the Symbols of State Sovereignty and the Reputation of its Organs," under Sub-chapter 4 of Chapter 2, headed "Offenses Against the Nation and the State"¹⁴. This article stipulates that: a) Any person who insults the President of the

¹¹ Kurtul (2020), 68.

¹² In 1949, Mehmet Ali Aybar, famously dubbed the "smiling socialist," was sentenced to two years and eight months of imprisonment on charges of insulting President İsmet İnönü. İnce (2021).

¹³ Erem (1991), 13.

¹⁴ This same section also encompasses Articles 300 (protection of the Turkish flag and anthem) and 301 (protection of the Turkish nation, the Republic of Turkey and state institutions and organs) of the TPC.

Republic shall be sentenced to a penalty of imprisonment for a term of one to four years; b) Where the offense is committed publicly, the penalty shall be increased by one-sixth; c) The prosecution of this offense shall be subject to the permission of the Ministry of Justice¹⁵. In essence, this legislative provision establishes criminal liability for the imputation of acts or facts directed at the President of the Republic that impair or demean his authority, dignity, and honor¹⁶.

An insult directed at the President may be perpetrated through speech, image, sound, gesture, action, or any other medium. It may occur either in the presence of the victim or in absentia. The specific timing of the offense during the incumbent's presidency is of no legal consequence. Furthermore, the motive behind the crime is irrelevant, as the mere presence of intent is sufficient¹⁷. This category of crime implies no distinction regarding the offender; that is, an individual is deemed culpable whether the insult is committed in the presence or absence of the President¹⁸. Conversely, within the regulatory framework of the article, the dissemination of materials containing severe insults against the President, executed via information or communication technologies or other public means, is construed as a more perilous offense, thereby incurring heightened liability. In such instances, the testimony of at least one witness corroborating the insult is required, whereas under Turkish legislation, criminalizing an insult directed at private individuals necessitates a minimum of three witnesses¹⁹.

Fundamentally, Article 299 establishes that, in the person of the President, the protected legal value is the political power structure of the state. This is because, in Turkish political culture, the President is the representative of the state—which is deemed sacred—and, by direct

¹⁵ This does not constitute a preventive safeguard, but rather a procedural rule introduced to “mitigate” the article; consequently, it fails to protect citizens from judicial harassment and the chilling effect induced by the fear of incarceration. Işık (2022), 749.

¹⁶ Türk Ceza Kanunu (2004).

¹⁷ İlkiz (2002), 15.

¹⁸ Sınar (2015), 34.

¹⁹ Şirin (2020).

extension, the nation²⁰. In essence, the law establishes that the “victim” of the offense is the state.

Article 299 establishes a distinct offense for insulting the President, both in their capacity as the head of state and as a private individual. This is predicated on the rationale that the individual occupies a public office and exercises constitutionally mandated duties and competencies; consequently, it is the authority of a vital state power that is being protected. This implies that the insult or defamation is inextricably linked to the individual's status: the person is targeted not as a private subject of legal relations, but rather as a public servant executing their official duties²¹. However, an individual's status cannot serve as grounds for a differential approach or privileged legal protection. International legal frameworks not only prohibit the establishment of privileged protection against defamation and insult for public officials, but they also enshrine the inverse model. They afford private individuals more robust protective measures than public servants, drawing upon the established jurisprudence of the European Court of Human Rights (ECtHR). The Court has consistently ruled that “the limits of acceptable criticism are accordingly wider as regards a politician as such than as regards a private individual. Unlike the latter, the former inevitably and knowingly lays himself open to close scrutiny of his every word and deed by both journalists and the public at large, and he must consequently display a greater degree of tolerance.”²² Using this ECtHR ruling as a foundational premise, a petition was submitted to the Constitutional Court of Turkey in 2016, seeking the annulment of Article 299. Emphasizing that the repeal of this article would not leave the President of the Republic defenseless against insults—given that such protection is already guaranteed under Article 125, which regulates the general offense of insult—the petition was substantiated by the following arguments: the offense of insulting the President is regulated differently from that of insulting other public officials and prescribes a more severe penalty. These

²⁰ Demir (2018), 48.

²¹ Şen (2022).

²² Lingens (1986).

differential regulations violate the principle of equality. Furthermore, pursuant to the amendments introduced to Articles 101 and 102 of the Constitution of the Republic of Turkey, the President of the Republic is a political figure and a public servant. Consequently, the disparity in legal remedies and ensuing liabilities between cases of insult and defamation directed at the President versus individuals not in public service is problematic from the perspective of the principle of equality before the law. Although establishing liability for insulting and defaming individuals holding state offices may be justified from the standpoint of protecting the rights or reputation of others, imposing more severe penalties for such offenses than those prescribed for insulting and defaming ordinary citizens holding no public office cannot be deemed justifiable. Prescribing harsher penalties for the protection of the honor and dignity of high-ranking state officials and public servants intrinsically contradicts the principle of equality before the law²³. Moreover, a contradiction arises regarding the applicability of Article 39 of the Turkish Constitution and Article 129 of the Penal Code. The absolute right to prove the truth of an allegation—regulated by these provisions—is not afforded in cases concerning the specific offense of insulting the President²⁴.

The Constitutional Court ruled to dismiss the petition, underscoring that “equality before the law does not dictate that every individual shall be subject to identical legal norms in all respects; distinct rules may be established for specific categories of individuals. Regarding the regulation of identical criminal acts under different articles, this does not violate the principle of equality: the President is the face of the state and represents the Turkish nation and the Republic of Turkey. Therefore, an insult directed at the President constitutes an offense not merely against the individual, but against the values and functions the President embodies; consequently, the prescribed penalty and the protected legal interest are proportionate.”²⁵ The Court further added that “the law, in the person of the head of state and the

²³ A handbook for legal practitioners (2017), 70.

²⁴ Şen (2022).

²⁵ Anayasa Mahkemesi Kararı (2016)

President representing the state, aims to *prevent* and *punish* attacks directed against the authority of the state.”²⁶ This implies that the primary objective of the regulation is established not so much to penalize, but rather to serve a deterrent function. In practice, however, the primacy of the application of such laws and other legal norms is inevitably mediated by the will of those to whom society has entrusted the maintenance of the legal order. Within the law enforcement process, this will occasionally introduces such substantial alterations that, while the letter of the law remains intact, its essence is fundamentally transformed. In this context, rather than functioning as a means to protect the state's authority, the law degenerates into a tool for the suppression of civic traditions in favor of an authoritarian regime. By virtue of this very characteristic, it becomes historically entrenched as a symbol of totalitarianism and coercion perpetrated under the guise of the law. This is particularly true concerning Article 299, where the ambiguous and indeterminate definition of the offense not only contradicts the principle of proportionality between offenses and penalties, but also creates a potential risk of abuse in illiberal states like Turkey, where there is merely a facade of constitutionalism.

The Specificities of the Enforcement of Article 299 Under Erdoğan's Presidency

In Turkey, there has been a marked increase in the number of criminal proceedings initiated on charges of insulting the President of the Republic. This issue has become a prominent topic on the public agenda, particularly since 28 August 2014, which marks the beginning of the tenure of Recep Tayyip Erdoğan. According to a 2015 media monitoring report, an inquiry submitted to the Ministry of Justice requesting data on litigation concerning insulting the President revealed that during former President Abdullah Gül's seven-year tenure, 848 requests for the initiation of criminal proceedings were filed. Of these, 545 were granted, yet none resulted in custodial sentences. In stark contrast, during the first seven months of

²⁶ Ibid.

Erdoğan's presidency alone, 236 requests for authorization to prosecute were submitted; 105 of these were approved, ultimately leading to the incarceration of 8 individuals²⁷. Furthermore, according to data published by the General Directorate of Criminal Records and Statistics of the Ministry of Justice, the number of criminal cases initiated under the article of insulting the President of the Republic during the tenures of previous presidents is as follows: 340 under Kenan Evren²⁸, 207 under Turgut Özal, 158 under Süleyman Demirel, 163 under Ahmet Necdet Sezer, and 848 under Abdullah Gül. However, under the presidency of Recep Tayyip Erdoğan, in the year 2023 alone, criminal proceedings were instituted against 15,791 citizens, 552 of whom were minors²⁹. In fact, the number of criminal cases initiated for insulting Erdoğan exceeds, by a significant margin, the combined total of all such cases filed against every political and state figure in the entire history of the Republic of Turkey. Moreover, criminal proceedings on these charges have been instituted not only against Turkish citizens but also against foreign nationals. For instance, in 2006, a Turkish court held British artist Michael Dickinson criminally liable for a caricature depicting Erdoğan as US President George W. Bush's dog—a critique of Turkey's policy in Iraq³⁰. Similarly, in 2016, the criminal case brought against German comedian Jan Böhmermann for a satirical poem insulting Erdoğan provoked massive controversy³¹. The German court,

²⁷ Önderoğlu (2015).

²⁸ The earliest available data pertaining to the offense of 'insulting the President' date back to the presidency of Kenan Evren (1980–1989).

²⁹ Cumhurbaşkanına Hakaret Kanunu (2019).

³⁰ Michael Dickinson lodged an application with the ECtHR on the grounds of an unjustified restriction of his freedom of expression, seeking the annulment of the Turkish court's ruling. On February 2, 2021, the ECtHR delivered its judgment, concluding that in Dickinson's case, the Turkish judicial authorities 'failed to strike a fair balance' and maintain proportionality between the right to freedom of expression and the right to respect for private life. Erdoğan portrayed as Bush's dog in a collage at a public exhibition (2021).

³¹ Under Sections 103 and 104 of the German Criminal Code, "insulting organs and representatives of foreign states" was criminalized and subject to penal liability. When Erdoğan, relying on this legal provision—dubbed a "forgotten law" as it had not been invoked for over 50 years—filed a petition to initiate criminal proceedings, the case transcended the realm of mere "satire." It sparked fierce public debate, framing the issue as a fundamental question of 'freedom of thought and expression.' Following widespread allegations characterizing the judicial proceedings as a political concession prompted by the

examining the case through the lens of freedom of expression and personal rights, ruled that while certain lines of the poem “undoubtedly contained abusive language and were defamatory in nature,” thus constituting a violation of rights, Böhmermann's poem was nevertheless “undeniably” a work of satire and art. Consequently, the court emphasized that, given his political standing, Erdoğan must be prepared to endure severe criticism³². In this broader political context, since 2014, Erdoğan has faced criticism primarily on three grounds: the rise of authoritarianism in Turkey, clandestine ties with the Islamic State, and corruption³³. The official rationale for criminalizing such criticism, it is argued that these remarks overstep the bounds of permissibility. They are characterized by the state as “extremely indecent,” constituting slander against the President and his family members— at times containing blatant sexually explicit profanity— and consequently, cannot be construed as falling within the ambit of freedom of expression³⁴.

It is worth noting that Article 299 not only fails to elucidate the substantive meaning of the term “insult,” but it also leaves ambiguous the criteria by which the act of insulting the dignity of the President of the Republic in a “grossly indecent” manner is assessed. Furthermore, scrutinizing these criteria occasionally proves nearly impossible due to the inability to verify the underlying facts. Specifically, social media posts deemed illegal are promptly deleted, certain judicial proceedings remain inconclusive, access to specific verdicts is restricted, and the pronouncement of judgments in several cases has been deferred. Under such circumstances, this legislative framework grants law enforcement authorities broad discretionary powers, which consequently leads to the unjustified restriction of the right to freedom of expression and to discriminatory treatment. As a result, the volume of initiated criminal proceedings is expanding quantitatively while experiencing a qualitative

refugee crisis, the law was ultimately repealed under Angela Merkel's administration, and the court's decision was invalidated. *Die Gaste* (2016), 1.

³² Brady (2016).

³³ Zeit (2016).

³⁴ European Commission for Democracy Through Law (2016), 16.

degradation, primarily driven by the absurdity of the vast majority of these cases. For instance, criminal proceedings on charges of severe insult have been instituted for chanting “Lightbulb Erdoğan” (Ampul Tayyip); for displaying a placard reading “M...r, T...f. You will understand, Mr. Tayyip” (M...r, T...f, Siz anlarsınız, Tayyip Bey); or for posting images featuring Erdoğan with the captions “Parliamentary Bandits” (Parlamentarist Haydutlar) and “God Save the Queer,” for which the “offender” was sentenced to 10 months in prison. In another instance, a journalist who published an article headlined “Even Google knows: The thief, the murderer is AKP and Erdoğan” (Google da biliyor: Hırsız, katil AKP ve Erdoğan) was sentenced to 11 months and 20 days in prison (despite the article merely highlighting that searching for the words “thief” (hırsız) and “murderer” (katil) on Google prompts news algorithms related to the AKP and Erdoğan)³⁵. Similarly, a citizen who gave a street interview criticizing the ban on the social media platform Instagram and the newly adopted law on animals was arrested 18 days after the interview, charged under Article 299, and sentenced to 11 months and 20 days in prison (with the prosecution seeking a custodial sentence ranging from 1 year and 2 months to 4 years and 8 months)³⁶.

It is entirely pertinent to note that the power asymmetry in criminal proceedings concerning insults directed at the President is glaring. The advantages of official status, access to state resources, procedural imbalances, alongside profound social and psychological pressures, collectively compromise the fairness of the trial and its ultimate outcome. Furthermore, while Erdoğan is represented by an extensive legal team (with a dedicated cadre of approximately twenty lawyers exclusively handling cases of “insulting the President”), the defendants frequently lack even basic legal representation. The latter also confront severe financial hardship; irrespective of the proceedings' trajectory or verdict, the financial ruin incurred throughout the legal process effectively becomes a punitive

³⁵ DW (2018)

³⁶ Hürriyet (2024).

measure in its own right³⁷. Additionally, mere implication in an offense of insult carries a distinct social stigma, exacting a heavy toll on certain defendants even in the event of their acquittal. For numerous employers in both the private and public sectors, an employee embroiled in criminal proceedings under this article constitutes a liability, as such involvement may be construed as a manifestation of anti-government sentiment. Consequently, suspension or termination of employment has become an entrenched practice. For instance, kindergarten employee B.K. was dismissed without explanation for allegedly insulting Erdoğan³⁸. Similarly, Dr. Bilgin Çiftçi, who faced criminal charges for comparing Erdoğan to the character Sméagol/Gollum from the film *The Lord of the Rings*, was not only terminated from his position prior to the commencement of judicial hearings but was also banned entirely from public service—a right that was subsequently reinstated upon appeal³⁹. In a similar vein, Professor Zeynep Balıkcıoğlu of Istanbul Bilgi University was dismissed from her position on the grounds of insulting Erdoğan during a lecture⁴⁰. Such instances are numerous, serving as undeniable evidence that power asymmetry subverts justice and infringes upon human rights. Moreover, the trajectory of criminal proceedings and the punitive measures applied curtail public criticism of Erdoğan and suppress dissent. From this perspective, Article 299 has been weaponized into an instrument for repressing civil liberties to such an extent that, as Turkish political scientist Baskın Oran writes: “We once cursed Menderes for restricting liberties and ruining the economy; we used to take to the streets every other day against Demirel, chanting, “*Morison Süleyman*⁴¹, *istifa ne zaman!*” (Morrison Süleyman, when is the resignation?). As it turns out, there is worse than bad. Since the

³⁷ Över (2022), 785.

³⁸ CNNturk (2020).

³⁹ Evrensel (2018).

⁴⁰ Haber7 (2016).

⁴¹ A moniker bestowed upon Süleyman Demirel prior to his entry into politics. It was derived from the American construction firm “Morrison-Knudsen,” which Demirel represented. This nickname was frequently employed by his political adversaries to underscore his ties to American capital.

proclamation of the Republic, this country has never had a government so flawed and so irreconcilably at odds with everyone.”⁴²

Conclusion

While state legislations generally provide legal mechanisms for restricting the right to freedom of expression when it devolves into 'hate speech' or discourse inciting violence, the situation in Turkey is fundamentally different. Regarding the offense of insulting the President of the Republic, the issue is twofold. The first aspect is the very existence of such a statutory provision, functioning as a form of “intellectual despotism” that imposes a mindset sanctifying both the state and the head of state. The second, and arguably more perilous issue, is the deeply flawed judicial practice. Undeniably, freedom of expression is not an absolute right, and every individual is entitled to the protection of their honor and reputation. However, in the event of such a clash of rights, striking a fair balance is primarily the responsibility of the state, and subsequently, the judiciary. Conversely, under Erdoğan's administration, this legal norm has been transformed by the state and judicial apparatus into a pivotal instrument for eradicating dissent, establishing an empire of fear, and condemning the populace to silence.

Although the European Union and the Venice Commission have repeatedly urged Turkish authorities to cease the enforcement of this criminalizing legal norm—highlighting that no EU member state, even those where insult remains a distinct criminal offense, exhibits an application comparable to Article 299—it has nonetheless become a definitive symbol of totalitarianism in Turkey.

⁴² Oran (2024).

**ՊԵՏՈՒԹՅԱՆ ՂԵԿԱՎԱՐԻՆ ՎԻՐԱՎՈՐԵԼՈՒ ՔՐԵԱԿԱՆԱՑՈՒՄԸ
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ԱՆՔՆՆԵԼԻԻ ՔՆՆԱԴԱՏՈՒԹՅԱՆ ԳԻՆԸ**

Անուշիկ Մարտիրոսյան⁴³

Հոդվածում ուսումնասիրվում է Թուրքիայի Հանրապետության Քրեական օրենսգրքի 299-րդ հոդվածի նորմատիվային բովանդակությունն ու իրավակիրառ պրակտիկան՝ դրանք դիտարկելով ավտորիտար տրանսֆորմացիաների ու իշխանության կենտրոնացման շրջանակներում: Պատմաիրավական ու համեմատական մեթոդների կիրառությամբ ցույց է տրվում, որ պետության ղեկավարին ուղղված վիրավորանքի քրեականացումը Թուրքիայում վերածվել է նախագահի ինստիտուտի «սրբազնացման» և անձնիշխանության լեգիտիմացման իրավաբանական մեխանիզմի: Ռ. Թ. Էրդոդանի նախագահության շրջանում հարուցված քրեական գործերի և մեղադրական դատավճիռների աննախադեպ աճը փաստում է իրավական այս նորմի չարաշահման մասին: Բացի այդ՝ անդրադառնալով նաև Թուրքիայի Սահմանադրական դատարանի ընդունած որոշումների ու Մարդու իրավունքների եվրոպական դատարանի նախադեպային իրավունքի և Վենետիկի հանձնաժողովի չափանիշների միջև առկա հակասություններին, ընդգծվում է, որ 299-րդ հոդվածը Թուրքիայում դուրս է եկել անձի հեղինակության ու պատվի պաշտպանության դասական իրավական շրջանակներից ու պրակտիկայում գործում է իբրև քաղաքական ընդդիմության և խոսքի ազատության ճնշման ինստիտուցիոնալ լծակ:

***Բանալի բառեր՝** Թուրքիայի Հանրապետություն, վիրավորանք նախագահին, lèse-majesté, խոսքի ազատություն, իշխանության կենտրոնացում, Ռ. Թ. Էրդոդան, ավտորիտարիզմ, նախադեպի իրավունք:*

⁴³ Անուշիկ Մարտիրոսյանը ԵՊՀ արևելագիտության ֆակուլտետի թյուրքագիտության ամբիոնի դոցենտ է, բ.գ.թ., էլ. փոստ՝ anushik.martirosyan@ysu.am, ORCID <https://orcid.org/0009-0009-7774-5223>

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