Dr Tuna Altınel, Cağlayan, 2019-02-28

(translated from https://bianet.org/1/19/205946-tuna-altinel-in-beyani)

Your Honors¹,

Because I signed the Peace Petition dated 11 January 2016², which is openly critical of the war policies followed by the Republic of Turkey and the way they are implemented, calling for the abandonment of this misguided path and a return to the table for peace negotiations, I am accused of "making propaganda for a terrorist organization." I would like to make a statement of a few words to counter this charge.

In the first part of my statement, I will explain briefly what this signature means to me.

I was born in 1966. I am not many days into my 54th year. In September 1980, I was in the 15th year of my life. In August 1984, the 19th. I did not choose these dates at random³.

During the 50-odd years of my life, Turkey has been ruled by governments that, faced with the issues that engulf and destabilize society, and plunge it into a spiral of violence, responded with violent solutions, triggering further violence.

In the 1990s, a "low intensity" war was launched against the social⁴ and political problems that one had attempted to "stamp out" in the 1980s by reducing them to the word "terror." Even though I spent the '90s outside of Turkey, I felt deeply the violence invading society, and the crimes committed, some of whose perpetrators have come to light under the present political regime.

¹The Academics for Peace trials take place in courts known as Aggravated Felony Courts or Central Criminal Courts (Interpol)—Turkish acronym ACM—dealing with crimes punishable by 5 years or more. Cases in these courts are heard by a panel of three judges. There are 37 such courts in Istanbul, designated by numerals, and others in provincial capitals. The Turkish judicial system does not make use of juries. Dr. Altınel's 2/28 hearing was at the 29th ACM, Çağlayan Palace of Justice (Courthouse), before the panel of judges Mustafa Çakar (presiding), Barıs Öztürk, and Berhan Hamdi Şen. A report by an international observer is found at http://davidbw.sdf.org/BWilliams 190228 hearing report.pdf.

²Text of the petition, in translation: https://barisicinakademisyenler.net/node/63

³September 12, 1980: the third military coup of the Turkish Republic, followed by three years of rule by the Turkish Armed Forces under martial law, with Parliament and the Constitution suspended, political parties and trade unions banned.

August 15, 1984: First organized attacks by the military wing of the PKK leading rapidly to a major insurgency in south-eastern Turkey. The PKK was founded in 1978 and adopted a military strategy in 1982.

⁴The Kurdish question. Until 1991, the Kurds were not recognized as an ethnicity in Turkey, but categorized as *mountain Turks*. The Turkish equivalents of the words "Kurd," "Kurdistan," and "Kurdish" were officially banned. https://en.wikipedia.org/wiki/Kurds_in_Turkey

And we all remained silent! I and the millions of people like me living "west of the Euphrates⁵" observed this "low intensity warfare" as if it were not within the borders of the Republic of Turkey. Then as the 2000s came, it was a bit like the dust was settling.

And in 2008, today's political powers started a process called the "Kurdish Opening⁶." The warring parties seemed to be trying to communicate. I supported this with all my heart. I thought we wouldn't go back to the '90s, the war could end. These expectations were further strengthened by the "Resolution Process" discussions that started in January 2013⁷. Now there would be discussions. The method pursued, despite all its shortcomings, was aimed at spreading the idea of peace throughout society.

I saw this not only West of the Euphrates, but also in Diyarbakır, where I first went on the occasion of a professional congress in September 2013. From now on, our only turning back would be to confront the responsibilities imposed on us by the past.

I was mistaken! Peace did not suit those who ruled the state, and the agreedon principles of 28 February 2015⁸ did not meet their other expectations, so the

⁷From Chabre's chronology, op. cit., rephrased:

- December 28, 2012: The "İmralı Process:" President Erdoğan announces negotiations with the PKK, represented by Öcalan, imprisoned on İmralı island:
- January 3, 2013: Turkish representatives meet with Öcalan.
- January 9, 2013: Three PKK militants are murdered in Paris, one a founder of the party.
 May 14, 2019: case reopened to investigate alleged involvement of the Turkish intelligence agency (MIT): https://bit.ly/2HovBIJ
- March 23, 2013: Unilateral cease-fire declared by the PKK.

⁸February 28, 2015, at Dolmahbahçe Palace, Istanbul, a meeting between Turkish government officials and members of the Kurdish HDP (see note 30 below), ended with a declaration inviting the PKK to "gather in an extraordinary congress to make a strategic and historic decision on ending the armed struggle ...[and] to replace armed struggle with democratic politics." (https://stockholmcf.org/kurdish-political-movement-under-crackdown-in-turkey-the-case-of-the-hdp/, p. 9).

On March 21, 2015, PKK leader Öcalan stated that if the Dolmahbahçe agreement were to materialize, he would call for the PKK to lay down its arms. That same day President Erdoğan disavowed the Dolmahbahçe meeting (ibid., p. 11).

⁵The Euphrates marks a conventional division of modern Turkey into West and East, with the western part more highly developed economically and more modern socially, as well as a traditional ethnic and linguistic divide, with the eastern part overlapping with the intermingled Armenian and Kurdish homelands, and now in part predominantly Kurdish.

⁶A thorough and enlightening chronology compiled by Théotime Chabre, covering the period 2009–2014—from the "Kurdish Opening" to the "Resolution Process"—may be found at https://www.ifea-istanbul.net/images/stories/OVIPOT/memoiresovipot/2014_11 Chronologie Theotime.pdf (in French).

Resolution Process was put into the "deep freeze." Then it burned in the flames of hell.

On 20 July 2015, more than 30 young people were slaughtered in Suruç⁹. Then two police officers were murdered and, contrary to the assertion on page 5 of the indictment here in my hands, the perpetrators of that crime remain unknown to this day. The shot went off on 25 July 2015¹⁰. The war took off at an unprecedented speed.

If at the beginning of this terrible period my reaction was "No, we will no longer go back to the '90s", I came to realize that words were not enough, and I decided to travel to the territories at war and to listen to the people there.

Since September 2015, I have traveled several times to a number of provinces, including some of those mentioned in the Peace Petition that I signed. I saw the preparations for the war, I listened to the sounds of war, I carried bag upon bag of provisions to help the victims of destruction and forced migration, I spoke with those who had lost their homes and relatives. I did all of this on my own initiative, and my principle was as follows: If every Turkish citizen will do what I do, we will come closer to peace.

You can find the traces of my efforts where I sojourned in Sur, Nusaybin, Cizre, Hakkari, and Yüksekova. The Prosecutor¹¹ may use this as evidence against me.

Your Honors, I suppose you do not need any more details. I did not simply sign the Peace Petition. I thought about it, felt it, lived it. I wrote that text. I stand behind every sentence.

In this context, I would also like to say the following. There is an expression that goes: say it sooner rather than later. Since Turkey's political landscape will not change much in the near future, that will likely be the final outlook for me as well. So I will tell you in advance what I will tell you later. I accept my conviction, I reject the HAGB¹², which would be equivalent in my eyes to withdrawing my signature. A call for peace cannot be accused, it cannot be judged.

The PKK ceasefire ended on July 25, 2015.

⁹Suicide bombing by DAESH, near the disputed town of Kobanî.

¹⁰End of the cease-fire. See Note 8.

¹¹ On this occasion, Arif Kaplan: http://davidbw.sdf.org/BWilliams_190228_hearing_report.pdf:

 $^{^{12}\}mathrm{Turkish}$: Hükmün açıklanmasının geri bırakılması (HAGB).

Suspended sentence: Art. 231 of the Turkish penal code, in cases where the sentence does not exceed two years. (Most signatories have received sentences of 15 months.) Requires: no prior convictions; determination by the court that the accused is unlikely to commit further crimes; restitution where appropriate; and formal acceptance by the accused. Fixed probation period of five years; possible additional restrictions. https://hukukingilizcesi.wordpress.com/2018/01/16/turkish-criminal-procedure-code-article-231/. The judge inquires in advance of the verdict whether the defendant would accept the HAGB (which is then moot in the event that the sentence exceeds 24 months). Dr. Altinel's reply anticipates the question.

So far I have explained my attitude, as embodied in my signature of the Peace Petition. And I am currently on trial in your court for this stance. The basis of the accusation against me is an indictment of approximately 17 pages¹³.

Hundreds of declarations have been made, both in your court and in other courts, concerning this document, which my lawyer has frequently referred to as "a flight of legal fancy¹⁴." Each one was a separate call for peace, justice, and democracy. Though minds be blind, hearts deaf, and even the conscience mute, I still wish to say a few words about this indictment.

1 The logic of the indictment is defective

In this respect it is sufficient to refer to three very valuable defense statements in the order of their occurrence. The first is the statement given by Ozan Çağlayan at the 34th ACM on 19 April 2018¹⁵, which I had the opportunity to listen to, and which for some reason was cut off at the end by the presiding justice. The second is Berna Kılınç's defense at the 35th ACM on 18 September 2018¹⁶. The third was the defense made by Ayşe Berkman at the 36th ACM on 10 January 2019¹⁷. I can find only one thing to say about these three very capable analyses: if you have not read these texts, read them immediately.

2 The indictment is full of material errors

The misstatement "arrest warrants" in the section "EVIDENCE" is one of the prime examples of the indictment's shoddy structure, patched together hastily from parts copied over from other indictments, and built like a sandcastle.¹⁸

¹³A translation of this "standardized" indictment is at https://afp.hypotheses.org/documentation/bill-of-indictment. This form has been in use since January 2016. Since spring 2019, a revised standard indictment has been put into use.

¹⁴The original involves a play on the words kamit (evidence) and kanaat (opinion), and substitutes "web of opinion" for "web of evidence." We omitted the wordplay.

¹⁵Found (Turkish only) at https://bianet.org/bianet/ifade-ozgurlugu/196310-ozan-caglayan-in-beyani

¹⁶Found (Turkish only) at https://bianet.org/bianet/ifade-ozgurlugu/200932-berna-kilinc-in-beyani

¹⁷Found in English at https://m.bianet.org/english/freedom-of-expression/204414-statement-of-academic-ayse-berkman

¹⁸As one may see on the first page of the English translation of the "standardized" indictment found at https://afp.hypotheses.org/files/2017/11/BAK-Bill-of-Indictment.pdf, the indictment lists among the points of evidence to be presented the following: press statements by the suspects on March 10, 2016; records of their interrogations; and their arrest warrants, and contains none of these elements (as they do not exist in these cases). These points were noted in the statements by Gevher Gökçe and Tansel Korkmaz, https://www.barisicinakademisyenler.

Again in the same section, the falsity of the information concerning Bese Hozat's "instructions," one of the main points of evidence in the indictment, and the contrast between this instruction and the Peace Petition which allegedly arose as a product of this instruction, were examined in detail in Cem Özatalay's declaration given in his hearing in the 34th ACM on 26 June 2018²⁰, which I also had the good fortune to hear. It is a shame that an analysis by a real scholar working seriously so annoyed your colleague, the presiding justice of that panel.

In a section of the indictment described as "a brief assessment of the period in which [the petition] was published ... to reveal its true aim," which tries to cover up the defective logic, the chronology given is erroneous. In the last paragraph of page 5 of the indictment, among the declarations of autonomy after an extraordinary congress of the Democratic Society Congress²¹ on 27 December 2015, the districts of Sur and Silvan in Diyarbakır Province are included.

However, in these districts those announcements had already been made previously, and the period of conflict had already begun. Moreover the clashes in Silvan ended on 14 November 2015 through the intervention of Tahir Elçi, who was murdered on 28 November 2015²²; despite the provocative behavior of the military and various operational units, these units left the city under the protection of the local people, without incident.²³

Moreover, what is said at the same place in the indictment also contradicts the information given on page 6, concerning the press release of the Turkish Armed Forces No. BA-67/16 relating to Sur, dated 10 March 2016.

net/node/992, https://www.barisicinakademisyenler.net/node/1009.

¹⁹Bese Hozat: code name of Hülya Oran, co-chair of the KCK, an organization including the PKK. On Dec. 22, 2015, she stated "Educated and democratic circles should support autonomy (*Aydın ve demokratik çevreler özyenetimlere sahip çıksın*); source: https://anfturkce.com/guncel/hozat-demokrasi-gucleri-ayaklanarak-oz-yonetimlere-sahip-cikmali-60795." The indictment quotes this, and characterizes it as a "'directive' to the suspects," with no further commentary. It seems the conclusion is derived solely by the juxtaposition of dates.

²⁰Found (Turkish only) at https://bianet.org/1/19/198605-cem-ozatalay-in-beyani

²¹The Democratic Society Congress (Turkish: DTK) was founded in 2007 and remains legal. It is dominated by the HDP and the DBP. In 2011 the DTK formally adopted the goal of democratic autonomy. In December 2015, it released a "Declaration of Political Resolution regarding Self-Rule." This included the statement: "We consider it essential that the Kurdish people and all peoples of Turkey join and support this resistance." F. O'Connor, *The Kurdish Movement in Turkey*, https://www.hsfk.de/fileadmin/HSFK/hsfk_publikationen/prif147.pdf (Peace Research Institute, Frankfurt, 2017)

²²Kurdish lawyer. See https://www.bbc.com/news/world-europe-34952954

²³DİHA video, 5 min (see after 2:14): https://youtu.be/4GT808mHf40 or https://www.youtube.com/watch?v=x9INapBXPWA

3 The lies in the indictment constitute a disinformation campaign

One of these lies is now well-known. Namely, the use of the expression "Kürdistan illeri" ["provinces of Kurdistan"] in the Turkish re-translation which has been presented by the public prosecutor, and which was based on the English translation of the petition²⁴.

It is a shame that the judges do nothing to counter this distortion in the indictment, or when they do, as the presiding justice of the 27th ACM panel did during a hearing I attended, it does not go beyond a caricature.

At the hearing I mentioned, your colleague asked a defendant, whose English he thought was good, about the translation in the indictment: "How is your English? Do you think the translation is correct?"

On page 5 of the indictment, reference is made to the "February 7 initiative²⁵." The event in question occurred in 2012. It is outside the sequence of events that the indictment purports to present. But it seems that the drafter of the indictment felt that it would be more helpful, psychologically, to introduce some sort of a parallel with FETÖ²⁶.

The following lines are contained in the indictment on page 7: "In the Petition, the depiction of the settlement areas in eastern and southeastern Turkey is completely unrealistic and manifestly ill-founded..."

I do not call this sentence false, I call it a lie! Our lawyers have added the reports

The events of February 2012 are a delicate subject. The head of intelligence was summoned for testimony because the agency MIT was in contact with the PKK (Resolution Process). It is unclear how the prosecutor learned of this, or what was the source of multiple high level leaks to the press: infiltration by the Gülen movement FETÖ—operations within MIT—or infiltration of the military by both AKP and Gülenist agents?

²⁴The first paragraph of the English version of the peace petition specifies that the regions concerned lie in the "Kurdish provinces"; the indictment translates this language back into Turkish as "Kürdistan illeri," and subsequently states that this is PKK jargon, without observing that this jargon is absent from all versions of the petition other than the one created by the prosecution. To the extent that the term Kurdistan has an accepted use in modern Turkey, it refers to an area in northern Iraq, and application of this term to areas within Turkey is widely viewed as an attack on Turkish territorial integrity; objections to the expression "Kurdish provinces" have a very different and more partisan character. The original petition lists the regions concerned, without any further geographical specification, which would be superfluous.

²⁵ On that date (in 2012) a special prosecutor summoned Hakan Fidan, head of the Turkish intelligence service MIT—appointed by Erdoğan in 2010—and four others to testify about relations with the Kurdish KCK, in particular the PKK. On his refusal to do so a warrant for his arrest was issued on February 8. Parliament responded with legislation strengthening MIT.

²⁶The Gülen movement, closely allied with Erdoğan's AKP party when it won power, is accused of organizing the attempted coup of July 15, 2016, and is, at least formally, the target of the subsequent purge of state officials.

of international organizations to the files²⁷. Let's suppose that those reports may be wrong, malicious. What about all that I have seen or heard in not a few of these places?

On the 9th page of the indictment, there is a claim that we "stand the truth on its head." Whether we are standing the truth on its head can only be understood by comparing what the truth is with what we do. But the author of the indictment insists on giving no information on this point. In all probability he knows too well that a lie cannot stand against facts.

On the 12th page, there is a claim that "the initiative of the Academics for Peace has a mode of organization which under an appearance of legality is intended to implement decisions taken by the PKK."

Academics for Peace is not an organization. The author of the indictment attempts to create a false image of the target group by presenting as matters of fact points for which there is no evidence.

On the 13th page there is a sentence that reads "For example, an academic cannot accuse the United States of America or any of the European Union countries that are fighting Al-Qaeda or DAESH²⁸ of a 'massacre' against this organization."

This sentence is correct. But the Peace Petition alleges that a massacre has been committed against civilians, not against an armed organization. The author of the indictment distorts the facts by placing a correct proposition in an unrelated context. Again, a little further on the same page, mention is made of "a multifaceted and intricately organized action against the State and Government of the Republic of Turkey which has extensive international connections."

The author of the indictment conducts a campaign to manipulate perceptions via notions of a conspiracy, without offering any concrete facts.

On the same page, two paragraphs further on, the impression is given that Chris Stephenson²⁹ was found guilty in a case in which he was acquitted. Furthermore, it was written that he came to court "with materials for propaganda in support of a terrorist organization." However, the material referred to is a declaration of a legal party, the Peoples' Democratic Party³⁰.

 $^{^{27}}$ See the appendix.

²⁸Often called ISIS in English. https://en.wikipedia.org/wiki/Names_of_the_Islamic_State_of_Iraq_and_the_Levant

²⁹British computer scientist, employed at Bilgi University (Istanbul). See https://www.theguardian.com/world/2016/jun/23/turkey-acquits-british-academic-over-terror-charge-chris-stephenson

³⁰HDP: an opposition political party founded after the notorious events of Gezi Park (https://en.wikipedia.org/wiki/Gezi_Park_protests), sometimes considered pro-Kurdish. One notable member was Faysal Sarıyıldız, Member of Parliament from June 2015, in exile since 2016, and revoked for absenteeism.

Quite interestingly, in his election speeches, the person who of late has occupied the presidency often makes approximations reminiscent of the false allegations of the indictment.

4 The indictment is contradictory and ill-founded

On page 15 of the indictment the examples of Ireland and Spain are given. But for some reason, the fact that a peace settlement in these countries was ultimately negotiated between the two sides of the conflict is ignored. However, on page 5 of the same indictment there is a reminder of the legal framework in Turkey for this path.

The essence of the Peace Petition is to highlight as clearly as possible whatever departs from this framework. Here is perhaps the most flagrant of the contradictions in the indictment.

By attempting to attribute illegality to the Peace Petition, the indictment is asserting that the laws of the "Resolution Process" are illegal. On the other hand, the indictment defends those very laws.

But it seems that these contradictions did not disturb the author of the indictment. How could they?! In the indictment, there is not a single bibliographical entry giving the source of the references to decisions of the ECHR³¹ or to the Supreme Court of the United States of America.

The reason for their absence is clear: there cannot be any such citations in support of these references. The author of the indictment has made up these decisions. It would be absurd to expect a substantial bibliography from a criminal indictment which does not contain evidence or logic.

Conclusion

This indictment is null and void! This proposition is also literally true in my case. Indeed, the indictment which I have been holding in my hands and from whose pages I have quoted was prepared for another signatory. Mine never reached me. But what would have changed if it had reached me?

I am sure the page numbers would not even have changed. You are probably aware of this; even though you accepted this indictment and filed the lawsuit, at least you have merged the files in your own court³². You are not zealous to hastily

³¹European Court of Human Rights

³²On February 28, 2019, the cases of Dr. Altinel and four others were heard together on the basis of entirely identical indictments. This is customary. Since 2016 the system of justice has also

convict those coming before you. If I may say so, you are following the path of reason.

Your Honors! To follow the path of reason is right. But that is not enough at this point. You must defend that path. You must immediately acquit me and all the signatories coming before you; you must let the light of day into the ruins of the Çağlayan Courthouse³³.

I want to stress one point in conclusion. My request for acquittal is not an inconsequential one. In fact, you face a dilemma. Either you will acquit us, or you will sign your final warrant 34 – for law, for justice, for your own careers. It is up to you!

been purged, and has compensated with economies of scale.

³³Also called the Çağlayan Palace of Justice, which translates the Turkish literally; Dr. Altınel replaces the word "Palace" (which is often dropped in this context in Turkish) by "ruins" in a surprising effect: the Çağlayan Ruins of Justice.

³⁴Literally: or you will break your pens. The idiom refers to a traditional Turkish legal practice of breaking one's pen after signing a warrant for execution, signifying the hope or desire that this will be the last time it is needed for such a purpose, and also used in the sense of *burning one's bridges*.

Appendix: a few links to NGO reports

Ayşe Erzan's defense mentions a number of reports by various NGOs on the situation in southeastern Turkey. Here we give only those available in English (plus one video). Turkish speakers will find the full list at http://m.bianet.org/bianet/ifade-ozgurlugu/194523-prof-dr-ayse-erzan-in-beyani.

UN: OHC-HR

https://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17002&LangID=E

CE: CHR.

https://www.coe.int/no/web/commissioner/-/turkey-security-trumping-human-rights-free-expression-under-threat

HRW: 7/2016

https://www.hrw.org/news/2016/07/11/turkey-state-blocks-probes-southeast-killings

EMR, FIDH: 1/2016

https://euromedrights.org/wp-content/uploads/2016/02/Turkey-FINAL-REPORT-EMR-FIDH-February-2016.pdf

HM: Curfews

https://hakikatadalethafiza.org/en/kaynak_tipi/reports-on-curfews/

HM: Curfews

https://hakikatadalethafiza.org/wp-content/uploads/2016/08/2016.08.21_ T%C4%B0HV-16-August-2016-HRFT-Curfews-Fact-Sheet1.pdf

Cumh: HDP Video

http://www.cumhuriyet.com.tr/foto/foto_galeri/551895/8/HDP_den_Cizre_raporu__Dehsetin_belgeleri.html (video, Turkish)

HM: Homeless

https://hakikatadalethafiza.org/wp-content/uploads/2016/06/2016.06.30_GABB-Report-EN.pdf

HM: Culture

https://hakikatadalethafiza.org/wp-content/uploads/2016/03/2016.03.30-DBB_Surici_HasarTespit_EN.pdf

HM: Region

https://hakikatadalethafiza.org/wp-content/uploads/2016/01/2016.01.20_GABB_RegionalDamageAssessmentReport.pdf

HM: Psychosocial

https://hakikatadalethafiza.org/wp-content/uploads/2016/07/2016.07.02_Idil-KadinCocukRaporu-EN.pdf