



2015 - 2016 JUDICIAL YEAR OPENING SPEECH

PRESIDENT OF THE UNION OF TURKISH BAR ASSOCIATIONS

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Distinguished guests,

Honorable colleagues,

We are going through hard times. Every day, terrorism is wreaking havoc in our country; confidence in the judiciary is diminishing and citizens are sinking into pessimism. Yet, our nation has fought and won numerous similar predicaments and we will definitely win this one. For this, we just need to be one and in solidarity. We need our 77 million citizens to come together for and around the precious common denominator of justice.

Today, at the opening of 2015-2016 Judicial Year, we are a single voice that cries **“NO to Terrorism, YES for the rule of law and democracy!”**

Of course, one may die for one’s country if it is necessary. However, what is essential is to live for it. Our citizens do not want to die so that some people could gain material and political power in the country. We all want to live, free as the trees and in fraternity as the forests...

Here, it is my duty to commemorate and pay my respects to all our martyrs who have bravely given their lives for their country. God bless their souls. Likewise, I respectfully commemorate late prosecutor Mehmet Selim Kiraz, martyr of the judiciary, who was murdered by terrorists, and Lawyer İsmail Akkaya, who was killed in his office. We condemn violence against members of the judiciary. It is our expectation from judges and prosecutors to condemn acts of violence against lawyers as they do when these acts target judges and prosecutors.

Distinguished guests,

As you know, arbitrariness is the main problem facing the law, state and societal order in Turkey. Where arbitrariness prevails, the law of the rulers and not the rule of law will thrive. In such settings where the law of the rulers applies, those who hold power will step on the weak and amass even more financial and political power. In essence, this is called a colonial order.

No citizen will have legal security in an order where the rule of law is not honored. This is also true for persons who want to do business and invest in such a setting. The merit system which requires hiring government employees based on their ability to perform a given job will collapse. Instead, an arbitrary nepotism will gain hold and merit will be disregarded.

This would inevitably drag a country into uncharted and precarious waters in foreign policy and plant seeds of hostility among different groups of the society for the sake of temporary election victories. Because rulers who impose their own law are in need of constant internal and external enemies in order to maintain an order which brings them endless financial and political power. As a consequence, the society will fail to come to a consensus even upon the most fundamental issues and citizens will start dubbing each other traitors.

Likewise, investments shrink in a country which lacks legal security, resulting in diminished societal welfare, unjust accumulation of wealth among individuals close to power and insurmountable income inequalities among large segments of the society.

Distinguished guests,

It is this type of arbitrariness against which our society has struggled and gained major outcomes. Democracy, and fundamental rights and freedoms as the key building blocks of democracy safeguard the society only when they are sincerely adopted by citizens. In the light of the suffering and sad experiences on the journey of democracy, our people have come to consider freedom and justice such vital needs as air and water and started to assume ownership of these values in keeping with the founding philosophy of the Turkish Republic rather than delegating the task of protecting and safeguarding them to others.

As lawyers, bars and the Union of Turkish Bar Associations, we have passed this hard test of struggle, taking strength from the civil society and professional organizations with whom we walk together. When we took office, it was our commitment to become the Pole Star. We have fulfilled that commitment.

Distinguished guests,

For us lawyers, achieving and maintaining the rule of law has become matter of livelihood and future. Because lawyers cannot possibly make a difference with their legal knowledge and effort if the current order feeds on arbitrariness. Instead, orders of arbitrariness are the playground of business peddlers who claim to have the ears of the rulers. Therefore, the lawyer's labor will not have a worth.

Distinguished guests,

A clear and present danger for our profession as lawyers and for the future the state of the law is the rampant increase in the number of lawyers and the resulting and inevitable decline in quality.

In addition, the excessive number of law faculties which lack necessary infrastructure and lecturers constantly

lowers the quality of law education. We have been unable to break the meaningless resistance of the government against introducing an examination for candidate lawyers.

The Union of Turkish Bar Associations has worked very hard to that end over the past two years. In this regard, we published a regulation providing for central assessment regarding internship and admission to examination. However, the legislator amended the relevant law and decided that the Union of Turkish Bar Associations may not regulate this area. Then, we set up a working committee to develop minimum quality standards for law faculties. This committee is about to complete its work. We will share the results with the faculties and the public. We will reveal faculties below the minimum quality standards and will not admit their graduates to internship.

Problems are just too many to list... For instance:

- The composition and decision-making processes of the High Council of Judges and Prosecutors are not independent from the political government,
- There are frequent judicial crackdowns on media organizations targeted by individuals holding political power,
- Political and sectarian tendencies and clientelism precede scientific criteria and merit in the promotions and transfers of judges and prosecutors and election of members to high courts,

- Starting from preschool age, education must be considered a supra-governmental area and it must be guided by reason and science. Currently, however, education has been distorted into a field for the government to raise obedient generations. A counterrevolution is under way against the Republic which is based on secular, rational, science-oriented and peaceful foundations. A premeditated plan is executed to move the Turkish Republic from the goal of EU membership into a Middle Eastern State. And education, media and the judiciary are used as an instrument of social engineering to that end,
- Lawyers' credentials are not accepted as official documents by banks and this is a breach of the law,
- The green passport problem,
- Discrimination against lawyers as opposed to judges and prosecutors when entering courthouses,
- The problem of additional income at retirement,
- Remuneration problems of mandatory defense lawyers,
- Legal aid funds are insufficient to meet the needs,
- Young lawyers and interns suffer from serious financial problems because of the economic slowdown, high number of lawyers and diminishing confidence in the judiciary,

- Lawyers are often ignored during proceedings and members of the judiciary consider themselves superior to lawyers,
- Judges do not know procedural rules well and often feel free to establish their own rules of procedure,
- Experts have become de facto decision makers of the files,
- Confidence in the judiciary is further declining as the number of chambers of high courts have been increased unnecessarily and judgments are given as a result of inadequate and unqualified examination,
- Prisons are inadequate in providing minimal requirements of humane living conditions,
- The human tragedy suffered by millions of refugees; the grave damage suffered by the public order and numerous other issues, scandals and tragedies facing the law, our profession and humanity...

We need to stand together and remain together and strive together to resolve these issues. We need to properly explain the public that violation of lawyers' rights in fact means the restriction of the rights and freedoms of citizens.

As lawyers, we will continue to pursue our professional issues on the one hand and continue to follow up on every problem facing our society and citizens and protect their rights and freedoms on the other. Otherwise, we would betray our oath and no lawyer would do that.

In this sense, we are aware that the views, recommendations, calls and statements of the Union of Turkish Bar Associations regarding the current issues of the Turkish legal setting unsettle some people who dream about a “**garden of roses without thorns**”. But we will continue to voice these issues as a matter of priority.

Distinguished guests,

There is power or governments in every administrative order. However, effective opposition is possible only in a democracy.

There is press in every country. However, there is freedom of press and expression only in a democracy.

There are judges and prosecutors in every legal order. But effective and independent defense exists only in a democracy. From this perspective, it is lawyers who make judges and prosecutors the judges and prosecutors of the state of the law.

As you know, the authorities who cannot tolerate even the most respectful statements of the truth, adopted a law to abolish the judicial year opening ceremony which was a tradition of 72 years. The aim was to silence independent defense which represents the nation. This rooted tradition

was a democratic opportunity to cry out “We will not be subservient”. However, the Council of State and then the Court of Cassation abstained from inviting the Union of Turkish Bar Associations as a speaker to their opening ceremonies. The attitude of these two high courts vis-a-vis the power will not be noted favorably in the history of the judiciary. The world history is full of examples where ordinary individuals have done monumental deeds in times of oppression and rulers with countless ranks on their shoulders have disappeared in the page of the history.

On this important day, we are honored by the presence of distinguished colleagues from abroad and chairmen, managers and members of bars, delegates and lawyers from all parts of Turkey in a most meaningful display of solidarity not only for the sake of our profession but also for universal values.

For this, I extend my deepest gratitude to respectable colleagues from other countries and chairmen of our bars who defend the rule of law and stand for a democratic, secular and social state of the law and light against darkness, representatives of civil society organizations, a major driver for change in the society, dear lawyers who are the keystones of defense, judges, prosecutors and all participants. Also a big thank you goes to courthouse workers who always run to our help.

Distinguished guests,

The judicial informatics system in Turkey has advanced considerably parallel to the developments in the state IT systems. Turkey has significantly progressed in telecommunications and transportation networks. However, what secures administrators a reputable standing in history is not the roads they build or buildings they erect but their respect to justice. Because justice is the foundation of the estate, that is, the state. If the justice system collapses, all of us including the inhabitants of the grandiose palaces and buildings will be crushed under its rubble.

From the day it was founded, the principle of the Turkish Republic has been “Peace at home and peace in the world” and a secular and democratic order. The “generations with an open mind and free conscience that the Republic needs to survive” are individuals free from prejudices who explore, question, doubt and defend the truth they achieve at the end. That means citizens furnished with rights and responsibilities.

Therefore, it is our duty to truly understand the founding philosophy of the Turkish Republic and put it into life by mingling it with the requisites of the 21st century. For this, we need to learn from our present and past achievements and mistakes. Only then we can build a bright future together.

At a time when Turkey is ravaged by terrorism and, the government tries to turn the country into a state of fear by oppressing everyone it deems adversary and the judiciary is used as an instrument of political retaliation, we are aware that the antidote of fear and oppression is standing together and speaking as one voice. Therefore, we will continue to work hard on reinstating the principle of the separation of powers and ridding the judiciary of all sorts of pressure.

Once again, we declare that a secular, pluralistic democratic regime based on the rule of law and the principle of the social state where all democratic rules and principles are in place is an indispensable prerequisite of living together in solidarity in our country. This struggle for democracy and the rule of law is the sole method to bring together 77 million citizens on the same ground. The purpose of this struggle is to make sure that all citizens are proud of being part of the Republic of Turkey and confident in their country and that we build the future together.

Distinguished guests,

One of the main provisions in our Constitution is “No person or agency shall exercise any state authority which does not emanate from the Constitution.” Recently, however, Mr. President said “Like it or not, the administrative system in Turkey has changed. Now, the

country has a president with effective power and not a symbolic one. What needs to be done now is to put the de facto situation into a new constitution". This statement means coercing the country into a change of regime and it is a violation of the Constitution. It seems that arbitrariness in our societal order has expanded from top to bottom.

Democracy is not a train one takes and leaves as one wishes. Democracy is not a shirt that one takes off as they wish.

The way out of these recent problems is clear: the legislative, executive and the judiciary should know and remain within their limits.

Distinguished guests,

We will certainly get over these hard times. Common sense will prevail. All 77 million citizens will live as one big WE in our beautiful country free of all forms of tyranny and our denominator will be equal citizenship based on human rights and participatory-pluralistic democracy.

The common language we need for this historic unity is the rule of law and universal principles of democracy.

I am hopeful because we stand together. We are hopeful because we are determined. We will definitely win this struggle for the rule of law and democracy.

Freedom will win sooner or later in this world where children are consumed by wars and little bodies are devoured by the sea and washed ashore.

*Wish I could put all **fight**s on the leaf of a tree,
so it would wither when autumn comes...*

*Wish I could put **anger** on top of a cloud,
so the cloud would vanish when it rains...*

*Wish I could put **hatred** on the snow,
so the snow would melt when the sun rose...*

*And I wish I could put **love and friendship** in the heart of
the babies,
so they would grow together and wrap around the
world...*

Thank you very much indeed.

Professor Metin Feyziođlu, Esq.
**President of the Union of Turkish
Bar Associations**

* It is a poem written in 1985 by Banu Cingöz , a first-year student in secondary school.

