Turkey
The importance of Turkishness and its affects on the
Freedom of Expression

Bachelor thesis in Political Science
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Abstract
This study will investigate the Freedom of Expression and the influence of the nationalism feeling in Turkey. The historical development from Ottoman Empire to the Republic of Turkey implied a transition in the domestic structure of the state and society. Turkey intended to become a Democratic nation-state. Implying that there should be one nation, Turks, inside the new state of Turkey. This created a nationalism feeling of being a citizen of this former Empire, Turkishness.

Currently the state has significantly progress in improving democracy and the fundamental right Freedom of Expression in their way towards EU membership. However, even if Turkey adopted the EU’s Article 10 of the European Convention on Human Rights in 2000, there is still domestic restriction on Freedom of Speech. The major and most debated limitation is caused by the Turkish Penal Code 301, which imply that it is forbidden to insult Turkishness. This thesis will describe what Turkishness is in order to understand its importance and why such law exists.

This study will describe the meaning of article 301 of the Turkish Penal Code and in what way EU claim that it infringes with the fundamental Democratic principles of the Human Right such as Freedom of Expression. It will also include the case of Nobel Prize winner Orhan Pamuk, and the killing of Mr Hrant Dink in January 2007. They are two of the most internationally known persons to get convicted under this law for their ‘insulting’ expressions in media. Claiming and acknowledging Armenian genocide of the Ottomans’ during WWI, is an example of insulting Turkishness. This has both put focus and critics on the article 301 of the Turkish Penal Code.
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Appendix
Abbreviation and important Concepts

TPC 301 = Turkish Penal Code 301, a Turkish law that makes it illegal to insult Turkey, the Turkish ethnicity, or Turkish government institutions by forbidding insult against Turkishness.

It took effect on June 1, 2005, and was introduced as part of a package of penal-law reform in the process preceding the opening of negotiations for Turkish membership of EU, in order to convey Turkey up to the Union standards.¹

Turkishness= (Turkish: Türküm) is a commitment to an 'imagined' nationhood of people living within the National Pact (Turkish) boarders. "Turkishness" (citizenship of Turkey) is the cornerstone of the Republic of Turkey and it is not a description of the Turkish ethnicity (Finkel, 2006, 549–550).

Genocide= is the deliberate and systematic destruction, in whole or in part, of an ethnic, racial, religious, or national group. The word Genocide means systematic killing of a racial/ethnic group, and it is used in Europe and the US when refereeing to the Ottoman massacre against the Armenians during WWI. However, there are no real proofs to claim this and the author neither accepts nor rejects that genocide has occurred.

EU= European Union

ECHR= European Convention of Human Rights

Article 10 ECHR= EU’s Freedom of expression law

NSC= The National Security Council in Turkey

UN= United Nation

WWI= First World War

WWII= Second World War

1 Freedom of Expression in Turkey

Turkey has tried to become an EU member state for a longer time than any other state. Hence, the EU claims that Turkey needs to satisfy all the democratic requirements such as Freedom of Expression. Currently, EU member states attempt to make Turkey acknowledge that a Genocide of Armenians actually occurred. The discussion about Armenian Genocide is a sensitive subject to discuss in media, since it is seen as insult against the Turkishness if you claim that the Armenian genocide occurred. Orhan Pamuk, a World know Turkish author, was one of the first to state that 1 million Armenians were killed by the Ottomans in 1915 published year 2006. Pamuk became convicted for his statement under TPC 301, for insulting Turkishness. Therefore, EU started to put more pressure on Turkey claiming that it was against the Human Rights and Freedom of Expression to convict people for one’s opinion, and that Turkey should abolish the TPC 301.

The purpose is to investigate in what way statements such as Pamuk made is taboo or forbidden in Turkey. He is just one of several people that were convicted under TPC 301 for his opinions. The World is criticizing Turkey because of TPC 301 and for the Turkish denial of the genocide. Since this is a current and relevant problem of Turkey it is important to understand the underlying factors to why such a law as TPC 301 exists even though it limits the Freedom of Expression.

The purpose of this study is to investigate the concept of Freedom of Expression in Turkey and understand the importance of "Turkishness", considering the existence of TPC 301, and if it actually affects the Freedom of Expression and why.
1.1 Research Questions

What is Freedom of Expression, and how is it defined in Turkey?

What importance does the Freedom of Expression have in order for Turkey to become a member state?

In what way does the Turkishness and the article 301 TPC, infringe the Freedom of Expression?

What is Turkey’s reaction to the international criticism of their lack of acknowledgment of the Armenian Genocide?

Why is it sensitive to discuss and debate the Armenian issue?

1.2 Method/Material

There have been previous researches about the Turkish Freedom of Expression, the TPC 301 and the claimed Armenian genocide. The author method was to understand the relationship between the previous researches about the mentioned areas by connecting them tighter with a line of arguments. A new type of research that combines the Freedom of Expression with Turkishness, since Turkishness is the foundation stone to the existence of the TPC 301 which limits the Freedom of Expression.

The method used for this thesis is a qualitative method, because it is a qualitative research study. The design of the thesis is ensuring a close fit between the primary data from the interviews and the secondary data collected from documents (Svenning, 1999:60). The author has been considering the validity of the data. Therefore, sources with different perspectives of the subject were used. In order the test whether the theory matches the empirics, the data from the documents were compared to the data collected from the interviews, this is called Face Validity (Svenning, 1999: 62-3). The qualitative method simplifies the aim of reaching validity in the research.
According to Esaisson, it is of great importance to consider authenticity, independence, concurrency and tendency when choosing secondary data for such a research (Esaiasson, 2002: 304). It is significant to use sources that are dependable, which is quite difficult in the case of making political research. Since most of the sources are almost always subjective the distance between the narrator and the narrative is important. In order to make an objective survey, it is useful to find sources that have this distance. Hence, the author has been using sources from Turkey as well as international sources in order to give both sides on the subject. Considering the fact that it might be difficult to find objective data with validity, the author choose to use data with different perspectives in order to give the reader a better understanding and a wider view of the problem. These secondary data are believed to be useful in order to formulate the purpose of this study. The author searched to find an area of study which has not yet been investigated, the underlying reasons to why the problematic of the Freedom of Expression in Turkey and to be able to compare the result of this current study with previous studies. Such data is reliable since many were published quite recently and some of the older are still applicable (Esaisson, 2001).

**Primary Data Selection** In addition to verify the collected data's validity, primary data from interviews have also been used. This provides the reader with firsthand sources as well. It gives a centrality to the qualitative research (Esaiasson, 2002: 309). The author has used practical data collection and analysis methods by designing and evaluating survey questions about Turkishness, Freedom of Expression and the Armenian issue. The focus group for this research has been five Turkish people from different areas of Turkey, with different experiences and ages, due to the importance of gaining information from a wider range of people, and in order to compare the outcome from the survey to make sure that the received data could be trusted and not bias (Bickman, Rog, 1998: 339-334, 505-506). The survey questions were systematic, which means that the survey question and the interview were similar for everyone.

However, the registration of the answerers in the interviews was semi standardized. This imply that the interviewer gave them the possibility to answer them in their own way, by sharing their experiences and opinions, which made the interviews more informal and the interviewed people more relaxed when they were asked sensitive questions (Svenning, 1999:106).

The author conducts the primary data collection by using qualitative approach as interviews. The interviewers were individuals with Turkish ethnicity in order to receive a subjective Turk-
ish view about the problem, with the aim to understand the Turkish perspectives in order to understand the underlying reasons to why Turkishness is important in Turkey and why they reacted the way they do against the international claims against Turkishness and the acknowledgment of genocide. The questions about genocide are considered to be sensitive, in order to gain honest personal perspectives, the individuals was anonymous. The author will name them with the letters A, B, C, D and E. The first person A is an exchange student in Jönköping (Sweden) from Turkey. He is 20 years old and has lived in Turkey most of his time, except one year abroad. He is originally from Gaziantep, a city that is located in the south of Turkey. B is a woman in her 30s, she moved to Sweden about 6 years ago to continue her studies in Jönköping. She is originally from the largest city Istanbul in Turkey. A and B are both current students at Jönköping International Business School. C is a Turkish woman from Bulgarian, living in Sweden. She is 44 years old and moved to Sweden (Jönköping) when she was 23 years old. D is a 51 years old male, who moved to Sweden 1973. He moves from the town Kastamonu, a city located in the Black Sea region as a teenager (15 years old). Currently he lives 6 months in Turkey and 6 months in Sweden. E is also a man, he is 49 years old, and he lived in Turkey for 26 years, before moving to Gävle in Sweden. He stays at least for 2 months each year in his home town Samsun, which is located in the Black Sea region as well, north of Turkey. These people where chosen in order to make sure the primary data was trustable and not bias. Before deciding who to interview, the author sent the questioner to a group of 50 engineer students in their 30s to answer the questions, the reactions against the questionnaire were negative and the author received lots of complains against the asked questions since the students thought that the author aim was to accuse the Turkish people for a genocide and that this thesis was written to insult the Freedom of Expression in Turkey. However, this was definitely not the real case since the aim of the interviews’ was to understand their perspectives about Turkishness, Freedom of Expression and the Armenian issue. Therefore, the author chooses to focus on a small group of five different people with a semi-standardized method.

Since the author have aimed towards an unbiased perspective towards the research questions and the interviewees, and therefore, the semi-standardized interview provided the most adequate method. The researchers have carried out in-depth qualitative interviews through face-to-face encounters between the researcher and the interviewee in order to grasp the perspective of each person’s experience and knowledge as expressed in their own words (Svenning 1999).
The person were not selected based on their knowledge about the subject, instead it was based on people from different areas with different experiences. In order to receive a Turkish perspective, since this study is about the Turkishness affects upon freedom of expression. After the interviews, the answers have been summarized, compared, analyzed and discussed to provide a subjective perspective on the thesis. The interviews were made in Swedish and Turkish, and translated to English with help from dictionaries and themselves.

1.3 Criticism of the Sources

In order to collect concurrent and relevant data, the author use both primary and secondary data. The secondary data has been chosen from different sources such as the internet, literature, newspapers, EU documents and the primary data is from the interviews. This will emphasize the trustworthiness of the research and provide a wider perspective of the thesis. Due to the distance between present time and history of the subject, the qualitative research method was the most useful option for the aim of the thesis (Esaiasson, 2002: 304, 310). It is a virtue to use several kinds of sources in a historical research about Turkey, in order to crystallize and answer the purpose in this study, as truly as possible.

By criticizing the sources and using a strategic segmentation of the material, through a selection technique, the data is carefully selected. The tendency was to select objective secondary data, then compare the secondary data with the primary subjective data in the analysis (Esaiasson, 2002: 315).

The information about such subject as this thesis is multifaceted and the Turkish perspective is important to include trying to address the mistakes and confusion which endue. As such data from the documents has been asked in the survey with five Turkish people to see if the theory corresponds to Turkish people's opinions about the subject, since the thesis' aim is to understand the international perspective of the freedom of expression in Turkey as well as the Turkish point-of-view.

The issues with a qualitative analysis and doing interviews are that the answers from the interviews can be long and unsorted. The author can make select errors and maybe affect the person that is interviewed. This implies a misinterpretation of the material. However, in this study the author has been careful when selecting the people. In fact, the target group included five people
with different backgrounds. Few people were included in this survey, in order to make the material and survey more qualitative. The author gave the people an option to remain anonymous, to have an informal interview, and to objectively answer the questions without interfering in order to gain as much information as possible. Some of the survey questions might be sensitive to answer. Therefore, it was useful to really consider the environment for the conversation and make them relaxed as to really share their opinions about the topics (Svenning, 1999:154-155). The interview questions can be found in the Appendix.

1.4 Disposition

The first empirical part, chapter 2, of the study will give a general summary of the history of Turkey. The next part, chapter 3, will explain the concepts of Freedom of Expression and the Turkish Freedom of Expression. Moving on, chapter 4, the reader will be provided with a deeper understanding about the Turkishness, Turkish identity, and the importance of it when evaluating the Freedom of Speech, and why some subjects such as Armenian Genocide are sensitive. Chapter 5 determines two of the most known victims of the TPC 301. The last empirical chapter 6 is about the Turkish people’s point of view, based on primary data from the interviews. The study finishes with the author's analysis and a conclusion of the study.
2 Brief History of Turkey

This chapter will provide the reader with a brief summary of the history of Turkey, from the Ottoman Empire to the Republic of Turkey as well as the political development of a modern democratic state. It will also evaluate the importance of Turkish nationalism feeling and the efforts to protect the strong nationalism sensitivity.

Mustafa Kemal ‘Ataturk’ (1881-1938), is the founder of the Turkish Republic and the first President. He is known for his famous citation ‘Ne Mutlu Turkum diyene’, which means ‘happy are the ones that says they are Turks’. Ever since Mustafa Kemal ‘Ataturk’ developed the foundation of modern day Turkey in 1923, the state of Turkey was a predominantly Muslim Country with an Islamic state. Currently the state is considered as a secular democracy processing towards becoming very much similar to the Western democracy. Turkey is constantly developing the rule of law, human rights and respect for and the protection of minorities. The process in EU concerning Turkish membership is moving extraordinarily slowly.

The transformation from a crushed Ottoman empire to a Republic has amplified the importance for a national identity. Nationalism has been, in great magnitude, the aim to integrate the population inside the new boarders of the Republic of Turkey and create a ‘we’ feeling; a belonging inclusiveness’. Hence, in order to understand the current Republic of Turkey and the issues it is facing, we need to assess the time of the Ottoman Empire. Taner Akcam discusses the Turkish ’transition’, from the legacy of its Ottoman past, towards becoming a normal democratic nation-state, by Western social and political standards. One of the main reasons for political and economic structural reforms is the clear and compulsory demand by the EU. The Political reforms focus on establishing a democratic and parliamentary system, emphasizing several types of freedom. Such freedoms include Freedom of Thought, Freedom of Expression, and Freedom of Dissent (Akcam,2007).

It is important to recognize that the Turkish state remains under the influence and control of civil-military bureaucratic elite, which has been institutionalized since the founding of the state.

2 http://www.turkcebilgi.com/ataturk/kisaca-ataturk.asp
4 http://www.euractiv.com/en/enlargement/eu-turkey-relations/article-129678
The Republic of Turkey was established in early 1920s by the Ottoman military-bureaucratic elite. After WWII, the elite decided to share their power with the democratic elected political parties, in order to westernize Turkey, however, there is an ongoing conflict between the elected body and the body in power (military). The main conflict is between the society and the state, while the state is controlled by the elite. Since 1960s, the civil society has increased its demand for organizational liberalization and the military elite have relinquished some power. The reason behind having elite over the Parliament is to make sure that the state remains secular (Akcam, 2007).

Thomas Hobbes, one of the most important political philosophers, believes that the Man is a selfish hedonist and not naturally good. He further states that human motives in the natural state are guided by ignorant self-interests. Therefore, if the people are to be left uncontrolled, they would ‘crash’ against each other. Hobbes states that a society would be like in a "state of nature" - before any civil state or rule of law. As in the case of Turkey, it was important to have a strong authority, a ‘leviathan’, after the crash of the empire, in order to keep the society in peace and not war. Hobbes states that The Leviathan is the authorized representative of the society, with the aim to maintain the commonwealth. In order to sort the chaotic situation, there need to be a strong central government. Turkey therefore, had a state that exercises absolute power in order to maintain peace and avoid conflict within the society. Their strategy was to develop a well-built nation, and making the people inside to feel integrated by avoiding ethnic conflicts (Hobbes, 1996).

After the clash of the Ottoman Empire there were several of minorities inside the republic of Turkey, which made it more difficult to integrate the society into one nation. Ataturk’s aim was to create a country for one nation; Turkey for Turkish people. He also tried to integrate Turkey with the Western world and Europe, and took distance from the Islamic republics in Middle East. Overall, Ataturk changed the political and social structure inside the country.

To date, Turkey still has an authority that interact and effort to control the society. Since the military coups in the 1980s, The National Security Council (NSC) has increased their power

5 http://homepage.newschool.edu/het//profiles/hobbes.htm
and influence as a consultative and executive body. The NSC has the right to supervise inspect and coordinate the activities of the ministries. Also, they appoint the board members of major state institutions, including those concerning the media and education as well. Akcam claims that it is the NSC which causes the largest controversy in Turkey, regarding its control of the state and civil society, its relationship with the EU, and the overall role of the NSC (Akcam, 2007).

Although the Turkish state has taken formal steps towards Democracy, the process of reconstructing the political regime in Turkey has authoritarian characteristics. The most dangerous threats against human rights are in the process of paramilitary organizations, methods and activities which have become much more frequent. The connection between the state and the paramilitary process was apparent in the ‘Susurluk accident’ of November 1996. This demonstrated the links between the police forces, parliament, and the paramilitary organizations. It was a car accident, where a police chief, a member of the Parliament, and leader of a paramilitary organization, wanted by Interpol, were in the same car and two of them died in the accident. Debate about the regime increased and the public started to criticize the legitimacy of the state. The Turkish Army (military elite) had to intervene in order to provide a new framework for the regime in the political process. The NSC dictated a new program, implying a more oppressive regime, and a re-organization of the state in a more anti-democratic form (Blackburn, 2001: 913-914).

With the support of EU, Turkey has nonetheless improved its political system and institutions, including Freedom of Speech and Freedom of Press. Currently, Turkey signed an agreement with Armenia, aiming to deal with the contentious issues going back to the Ottoman massacres of Armenians, with backing of the US and Russia as well as the EU.6 During WWI the Armenian claim that they experienced genocide7, want to have international recognition for their suffering. Turkey states that there is no real evidence (historical research) that evidence any kind of genocide.

6 http://www.guardian.co.uk/commentisfree/2009/dec/04/turkey-accession-eu-membership

7 The word Genocide means systematic killing of a racial/ethnic group, and it is used in Europe and the US when refereeing to the Ottoman massacres against the Armenians during WWI. However, there are no real proofs to claim this and the author neither accepts nor rejects that genocide has occurred.
In order for Turkey to develop from an authoritarian bureaucratic state, into a standard Western Democracy, it must come to terms with history and take a critical approach towards the problems surrounding its national identity. In order to reach such point Turkey must take an active role in opening a debate on the Armenian genocide, according to Akcam (Akcam, 2007).

The emergence of Turkish national identity was one of the main reasons for the occurrence of the Armenian genocide. It also works as a barrier towards the integration with Europe and the EU; particularly due to their lack of ability to have open debates about the subject. There is still a strong parallel between past and present in Turkey. It is important to understand the sensitivity in discussing the Armenian Genocide, it gives a negative image of the meaning of ‘Turkishness’ (the Turkish identity) and state (Akcam, 2007: chapter 2). Turkey greatly rejects that any kind of genocide has occurred during the time of the Ottoman Empire; however, there are great consequences to those who reject the article 301 of the Turkish Penal Code (TPC), by insulting Turkishness. This article stipulates prisions for “public denigration of Turkishness, the Republic or the Grand National Assembly of Turkey, or the Government of the Republic of Turkey, the judicial institutions of the State, the military or security structures.”

Claiming Armenian Genocide by the Ottomans is seen as insulting Turkishness, there are many who have been convicted under the TPC 301. As a nation, Turkey needs to let the society interact more with the state. One step towards this integration is to have a complete Democracy with the Right of Expression and Freedom of Speech. Turkey has already managed to make huge reforms and increased the rights of the civil society. There are still however these sensitive subjects that create tension between the state and the public. The Turkish identity plays a significant role in regarding the issue of recognizing the ‘genocide’, which Turkey strictly refuses to. The ongoing debate and the EU attempt to force Turkey to accept the massacred has become a widely discussed topic among several European states (Akcam.2007). Freedom of Expression implies that individuals should have right to have open debate about this subject as well as other. The state is simply limiting the public’s right to Freedom of Expression by foraying topics that are opposed to Turkishness. In the past, academics were even charged under the

8 “Turkey: Article 301 is a threat to freedom of expression and must be repealed now!” Amnesty International, December1, 2005. AI:Index EUR 44/035/2005
TPC, Orhan Pamuk (is the most famous writer to be prosecuted under Article 301), and Hrant Dink (Armenian-Turkish journalist).

However, Turkey has made improvements in regards to the public Freedom of Expression, and Turkey fulfills the requirements. While there are still existing aspects that limits these rights, such as the TPC 301, becoming more lenient than it use to be. Pierini, the EU commission chief in Ankara, states in an EU progress report (2009) that he is pleased to see that a vivid debate is currently taking place on problems related to the Turks Freedom of Expression and the Freedom of Press. He also emphasized that the subject of freedom of expression is one of the core issues of the ongoing accession negotiations. Pierini states that he was impressed by the “evolution of minds” in Turkey over the last three years sue the progress in the Kurdish issue and the Armenian-Turkish relationship, by insightful changes in the approach of the Turkish government and more generally of the Turkish citizens. Finally he also praised these developments as a sign of the further development of democratic mechanisms.⁹

Turkey is constantly developing its Political structure, with the goal of meeting the EU requirements for and to ultimately receive EU membership. Currently, promoting Freedom of Expression is one of the greatest concerns of Turkey. Turkey’s chief negotiator for EU accession Egemen Bağış said that the government has promoted freedom of speech by opening TV and radio stations in both Kurdish and Armenian. Bağış further said that this is ‘as well as kicking off a judicial reform processes’ ¹⁰

This chapter has explained the historical development of the Republic of Turkey, the transformation from the Ottoman Empire into the current Turkey. It has done so by explaining how the state emphasizes the integration of its nation by protecting Turkishness and also its efforts to become a Western democratic state. The Freedom of Expression has been improved in the country; however, it still has its limitations. The TPC 301 is an example of how the state has limited such freedoms. The next Chapter will provide the reader a definition of the concept Freedom of Expression and how it is implied in the state of Turkey. It will also define the Turkish Penal Code 301, and in what way it affects the Freedom of Expression.

3 Freedom of Expression

This chapter will explain the concept of Freedom of Expression both in general and its definition within Turkey. The EU justifies the concept according to Article 10 of the European Court of Human Rights (ECHR). Moreover, discussing the Freedom of Expression in Turkey in combination with the improvements implemented by the state increase their chances of becoming an EU member state. However the TPC 301 affects the Freedom of Expression by punishing people for insulting Turkishness; this will be discussed further on in this chapter.

Freedom of Expression is the fundamental right of an individual in a democratic state, which respects human dignity. The UN General assembly adopted resolution 59(I), 1946 stating freedom of information is a fundamental human right and the criterion of all the freedoms to which the United Nations is consecrated. Freedom of Expression enables democracy to work since it is essential to public participation in decision making. Without free access to information and ideas, the citizens cannot express their views freely. Freedom of expression is important for individual dignity, participation, accountability and democracy. It also means the freedom for people to express dissatisfaction and the desire to change it. 11

3.1 Article 10 of the European Convention on Human Rights (ECHR)

Article 10 ECHR provides the right to Freedom of Expression, subject to certain restrictions that are "in accordance with law" and "necessary in a democratic society". This right includes the freedom to hold opinions, and to receive and impart information and ideas.

1. Everyone has the right to Freedom of Expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by

law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or the rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

The substantial body of the European “Court” and ECHR claims that any restrictions on Freedom of Expression must be prescribed by law. Hence, the Court states that the expression need to be of "good behavior", which means that the person’s should not behave wrong rather than right in the judgment of the majority of contemporary fellow citizens’. This makes it complicated to draw a line where it should be limited; different nations have different point of views. Such as Turkey, that has stricter rules when it comes to expressing anti-nationalistic statements’ (Council of Europe, 2007)

However, any restrictions on Freedom of Expression according to the Court must be necessary in a democratic society; under the case-law it is stated that this necessary implies a pressing social need. The EU member states have some discretion (margin of appreciation) in assessing the existence of such a need. The extent of this margin varies depending on the case.

Moreover the European Court has stated that if there is interference in the exercise of the rights and freedom guaranteed in paragraph 1 of Article 10, the supervision must be strict, because of the importance of the rights has been stressed by the Court many times. Therefore, any kinds of necessarily restriction must be convincingly established (Council of Europe, 2007: 9).

The Court has decided number of cases which the Turkish authorities has taken various measures and convictions against the applicants (journalist, editors etc.), under the Turkish Penal Code, that followed the publication of articles on state policies and actions/issues in Turkey. The ECHR believes that these convicted applicants just fulfilled their duties by informing the public information and ideas about political issues. Hence, implying that in the cases of incitement to violence and/or hatred, Turkey enjoyed wider margin perceptiveness in examining the need for interference. In many of the cases, the Court has not agreed that the statements

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were provocation to violence and/or hatred. Therefore, they believe that authority in Turkey interferes with the Freedom of Expression and the aim of the Article 10 of the convention becomes disproportioned (Council of Europe, 2007: 21).

The EU has followed the development of Freedom of Expression and the media in Turkey. In a recent progress report (from October 6, 2009), Ambassador Marc Pireini head of the EU’s Commission Delegation stated following in Turkey concerning the significance of Article 10.

“The implementation of Article 10 of the European Convention on Human Rights concerning certain formalities, restrictions and penalties has been regarded as a necessary, though difficult task to achieve in a democratic society...“A genuine democracy can only flourish with the full implementation of freedom of expression and freedom of the media.”13

He supports a full freedom of expression in Turkey, without the current restrictions. Moreover, he concludes Turkey’s effort to imply the requirements and continue developing the Freedom of Expression in media. The next paragraph will define Freedom of Expression in Turkey and the domestic developments, concerning EU requirements in Article 10.

### 3.2 Turkish Freedom of Expression

The EU has requested Turkey to improve their legal forms in order to improve the Freedom of Expression and of press. The Article 10 of the ECHR was ratified 1954, and various provisions of the International Convention on Civil and Political Rights (rights to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights due process and a fair trial), was signed by Turkey in 2000.

The Freedom of speech is still restricted to some degree in Turkey; although Turkish media are free and frequently include strong criticism of the government and state. There are three topics which remains difficult to approach in public: secularism, minority rights (in particular the Kurdish issue) and the role of military in politics, as well as the Armenians ‘genocide’ issue.14

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The implementation of Article 10 of the European Convention on Human Rights in Turkey implies that the government is considering certain formalities, restrictions and penalties which regards as a necessary. Thus, in practice it is a difficult task to achieve in a democratic society in general. However, the European Court has stated that there is a little ‘scope’ under Article 10§ 2 of the Convention for restriction on Political speech. The limit of acceptable criticism is wider with regard to the government than in relation to private citizens or politicians. The European Court believes that Turkey has too limited acceptance of expressing opinions about the authority of Turkey, or about the issues mentioned earlier. As stated in the article 10§2, Freedom of Speech may be subject to restrictions, but the jurisprudence of the Court of Human Rights has demonstrated a narrow interpretation of article 10.2 ECHR (Council of Europe, 2007: 88).

The EU has discussed the issue of the TPC 301, how it limits the Freedom of Expression. This article is defined under the next paragraph.

3.3 Article 301 Turkish Penal Code (TPC 301)

TPC (Turkish Penal Code) 301 is a law that command against insult of Turkishness, Turkey, the Turkish ethnicity, or Turkish government institutions. It took effect on June 1, 2005, and was introduced as part of a package of penal-law reform in the process preceding the opening of negotiations for Turkish membership of EU, in order to bring Turkey up to the Union standards. TPC 301 replaced Paragraph 159 of the old penal code. The new paragraph was supposedly aimed at ensuring increased freedom of opinion and this reform was adopted by the Turkish state as a condition for the country’s future admission into the EU. However, this was not a remarkable reform for the reason that previous repressive practices were merely being continued under the new statute.16

16 http://www.wsws.org/articles/2006/feb2006/turk-f06.shtml
The article 301 of the Turkish Penal Code:

1. Public denigration of Turkishness, the Republic or the Grand National Assembly of Turkey shall be punishable by imprisonment of between six months and three years.

2. Public denigration of the Government of the Republic of Turkey, the judicial institutions of the State, the military or security structures shall be punishable by imprisonment of between six months and two years.

3. In cases where denigration of Turkishness is committed by a Turkish citizen in another country the punishment shall be increased by one third.

4. Expression of thought intended to criticize shall not constitute a crime.17

It is a crime to publicly insult “Turkishness,” the state or its institutions in Turkey. Turkishness means the Turkish nationality, the Turkish state and the military as well. This paragraph has been criticized by EU, and the current regime has been discussing the abolition of it. 18 EU has stated that the paragraph concerning the media attracts criticism, inside and outside Turkey. The newspapers and press organizations say that the revised law remains unclear to allow for arbitrary court decisions, claiming that this in turn may threaten Freedom of Expression, since the code is too restrictive on the protection of privacy, which may stifle investigative journalism.19

Amnesty International also believes that article TPC 301 opposes to the principle of Freedom of Expression and calls for it to be repealed. They consider it to be at odds with Turkey's international legal obligations, and therefore call on the Turkish authorities to end all prosecutions against individuals under it, and to abolish the article.20

18 http://www.ne.se/turkiet/statsskick-och-politik/islamisering-och-eu-anpassning
Tugrul Eryilmaz, editor for the Istanbul newspaper Radikal, states following:

“We are hoping Article 301 will be abolished, otherwise no one in their right mind can say there is true freedom of expression; true democracy in Turkey...What is Turkishness, anyway?”

The arguments against TPC 301 are many, since it limits the Freedom of Expression. On the other hand, it is stated under paragraph 10§2 ECHR that a state has right to limit the Freedom of Expression with restrictions or penalties as are prescribed by law, for the protection of the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime etc, in a democratic society.

The EU’s progress report on Turkey 2009 (Wednesday, 10 February 2010 – Strasbourg), stated under point 26 that EU is concerned that the Turkish legal framework still fails to provide sufficient guarantees with regard to Freedom of Expression and that certain laws continue to be misused and restrict the freedom. The EU calls on the Turkish Government to propose a complete reform of the legal framework in order to ensure its compatibility with the ECHR. The Article 301 of the Turkish Criminal Code has decline in prosecutions compared with previous years; however it still needs to be repealed. Accordingly the EU believes that Turkey has not yet managed to fulfill the implemented Article 10 ECHR.

Turkish people support the aim to have full Freedom of Expression inside the country. Nevertheless they are not all agreed on the point considering whether TPC 301 should be fully abolished or not. Some people believe that it should be abolished since it limits the Freedom of Speech, on the other hand, some people believes that this law is in need to support the importance of Turkishness for the nations interest (interviews, 2010).

This chapter discusses the concept of Freedom of Expression in general and implementation of the concept in Turkey. Freedom of Expression exists in Turkey, but there is strong argumenta-

tion against TPC 301, which is limiting the Freedom of Expression, by forbidding public insulting of Turkishness. However, states of EU have the right to limit its Freedom of Expression when accordingly to the Article 10§2. But, EU claim that Turkey has too wide interpretation of the freedom of expression.

The state of Turkey has become much more tolerant when it comes to debates about sensitive subjects, which are seen as insulting Turkishness, such as the Ottoman massacres, minorities’ rights etc. There are still some issues with defining what is meant by Turkishness, which is why it is difficult to define when it is considered to be insults against Turkishness. Claiming Armenian genocide goes into this category, insulting the Turkishness. Since the Turkish people believe they are accused of propaganda claiming Ottoman genocide of the Armenians.

In order to understand the existence of TPC 301 and how Armenian genocide is a target for TPC 301. The next chapter will give the reader a deeper understanding of the importance of Turkishness and the issues with the claimed Armenian genocide.
4 Turkish Nationalism ‘Turkishness’

This chapter will explain the development of Turkishness, a Turkish nationalist feeling and the great importance of having a strong nationalist sentiment in a new established state. This part will also discuss the debate surrounding the Armenian genocide and what the Turkish people think about it and why they refuse to recognize the claimed genocide. The aim within this chapter is to understand what Turkishness is, and why claiming Armenian genocide is seen as insults to Turks.

Turkishness is a concept that was developed as an effort to integrate the people inside the new boarders of Turkey, a country with one common nationality; consequently it became an alienation of the minorities. “Turkey for Turkish people”, a slogan expressing a nation, Turkey is for the Turkish people.

There is a major problematic aspect of the Ottoman-Turkish history, throughout the series of social and political ruptures experienced during the 19th century. Akcam states that the consequence of the traumatic events experienced, was a shaken confidence in the Ottomans military security, in their domestic society, and a loss of self-worth. This developed a national identity in Turkey around three components of wounded national pride, of loss of self-worth and sense of insecurity (Akcam, 2007: 39). In 1914, the Turkish identity implied a race, a language, and a tradition, creating the phenomenon Turkishness (Astourian.1999:31).

Norbert Elias believes that one of the most important characteristic of national identity is the emotional connection. Defining it such as the like/love relationship, but the love of nation is never something one experiences when they refer to the nation as ‘them’. Elias claims that this love is something you experience towards a group you refer to as ‘we’, such as self-love. The national identity becomes an integral part of the individual’s identity, there is no ‘we’ identity alone, and instead it is an ‘I/we’ balanced identity. For that reason, one’s nation is at the same time a self-image. The individuals and nation occupies same places, individuals from same nation identify with one another, which makes it difficult to separate oneself and the crimes committed by the nation, especially those against other nations (Akcam, 2007:41).
This is one of the main factors why the Turks’ deny the Armenian genocide. Turkish national identity has made the subject completely unapproachable. Akcam states that one of the reasons that led to the Armenian genocide can be found in the mental conditions and characters of Turkish national identity. The national character determines the creation of the Turkish Republic, after the collapse of the Ottoman Empire. Therefore, the nationalism has played a major role in making the Armenian question a taboo issue inside the Turkish society. The studies of Turkey shows that there has been a restriction in the area of Turkish history and identity, therefore the Armenian genocide is either passed over entirely or is cursorily mentioned (Akcam, 2007: 59).

The causes and effects of making Turkish history taboo, such as the violence against the Greeks, Armenians and Kurds which are under taboo in Turkey. The Turkish history books imply that it was the ‘others’ (Armenians, Greeks etc) that was the bad ones and not the Turks “we/us/I”. Talking about these matters can imply that you are an attacker or a traitor, and the problem in Turkey is the absence of a culture of discussing the issue in a calm way with a distance. However, this distance does not exist, according to Akcam. The people feel too much connection with the past and it is difficult to talk about the subject on distance and talk objectively about it (Akcam, 2007:208-209). The outcome from survey ascertains the fact that Turkish people feel connection with their past Ottoman Empire, and they have difficulties to take distance from it and discuss the negative aspect, due their pride.

The difficulty in comprehending act of genocide can be said to have two different dimensions: the moral dimension, and the direct relationship of the subject to the issue of national identity. The moral dimension does not exist, since Turkish people feel a direct relationship to the act of the Ottomans during the 19th and 20th century (Akcam, 2007:41). The Turkish people feel that they are being accused by the Western countries and NGO’s for a history that they claim did not happened. For example the statements against Turkey about the Armenian genocide, Turkey believes these statements are grounded on misinterpretations and lies (Akcam, 2007:208-209). Next paragraph will describe the claimed Armenian genocide, and why it is a target for TPC 301, continuing with the Turkish denial.
4.1 The Armenian genocide a target for article 301 TPC

Acknowlegment of the Armenian genocide is a target for Article 301, because stating genocide is seen as insulting, the Turks and the Turkish pride, Turkishness. This part will describe what is claimed to be genocide and the international attention of this subject.

Historians estimate that up to 1.5 million Armenians were killed by Ottomans around the time of WWI. Turkey denies that the deaths constituted genocide, claiming that those killed were victims of civil. They refuse to acknowledge that the genocide has occurred. The silence of the Armenian Genocide has started to concern governments around the world. The Turkish violent reputation of plural society resulted in a single society. The consequences from this policy affected the non-Turkish Muslims such as the Greeks and Armenian. The goal was about bringing Turkish people together and assimilation, in order to unite the nation. This method was adopted in order to transform a plural Ottoman society into a homogeneous Turkish society. According to the United Nations Genocide Convention, the act against the Armenians was genocide (Hovannisian, 1999: 13-14).

The Swedish parliament narrowly approved a resolution (Thursday 11 March-2010), recognizing the 1915 mass killing of Armenians in Turkey as “genocide,” prompting the Turkish government to recall its ambassador in protest. The measure passed with a one-vote margin, by a 131-130 vote. This surprising decision came a week after the US congressional committee approved a similar resolution.23 This passed resolution in the Swedish parliament, follows similar resolutions in France, Russia, Greece, Germany, Belgium and Canada. But the votes in the U.S. and Sweden came at a time when Turkey and Armenia are making efforts to normalize their ties.24 The two countries have had no diplomatic ties since Armenia became independent from the Soviet Union in 1991. Their common border has been closed since the war between Armenia and Turkey's ally, Azerbaijan in the 1990s over the disputed territory of Nagorno-Karabakh. Gül was the first Turkish leader to visit Armenia with the intention of rebuilding the relationship, in September 2008. This started a major debate in Turkey.25


25 http://news.bbc.co.uk/2/hi/europe/7602066.stm
Turkish President Abdullah Gül said that the resolution approved by the Swedish parliament did not have any credibility, reported Anatolia news agency. Claiming that those who made this decision and who voted in favour of the resolution were not historians. However, several international bodies and many Western historians have recognised the civilian killings as genocide. Turkey admits that many Armenians were killed but it denies any genocide, saying the deaths were a part of the world war.

Hence, the issue of acknowledgement and witnessing statement about genocide is a very sensitive subject to discuss. Orhan Pamuk is one of the victims of the TPC 301, when he discussed about Armenian genocide in an interview and states that it was true. The charge was later erased, while made an effort to establish friendship with Armenia and EU.

The use of the term ‘genocide’, regarding the Armenian Genocide is construed by the prosecutor’s offence as the criminal offense of "insulting Turkishness" under Article 301, of Turkey's penal code. Turkey says up to 300,000 Armenians and at least as many Turks died during civil strife in eastern Turkey during WWI, but reject the term "genocide". The Turkish act of turning certain historical events and discussion of them into taboo subjects, and the emotional reaction displayed can be explained as a defence mechanism. The purpose of this defence mechanism is to prevent Turkish society from recalling events that are described as mascara, genocide and expulsion, according to Akcam. With the purpose to avoid negative psychological, emotional or moral consequences produced by such memories. ‘We Turks did not murder Armenians; Armenians murdered us’ (Akcam, 2007:211).

4.2 The Turkish Denial of the Armenian Genocide

This paragraph will give the Turkish perspective about the claimed genocide, and reason behind the denial of its occurrence. It was not until the 1965, when media started to pay attention to the Holocaust (Jewish Genocide), the Armenians’ began re-ignite the question and remem-

27 http://www.guardian.co.uk/commentisfree/2010/jan/06/turkey-european-union-membership
28 http://news.bbc.co.uk/2/hi/4205708.stm
brance of their experienced genocide. The Turkish strategy was to continue avoidance and deny the case of Armenian genocide. Hence, the Turkish government started an active campaign of denial in the 1970s, which became even more professional through the 1980s. By 1990 the denial literatures had become sophisticated and well written with the help from American and European writers, who translated the scripts into English (Hovannisian, 1999:16).

Dr. Yusuf Halacoglu is a world famous Turkish professor of history and former president of the Turkish Historical Society. He is an expert on the Armenian Genocide allegations and Turkish-Ottoman history. As director of the Turkish Historical Society, Halacoglu researches on the 1915 events between Ottomans and Armenians. He has made explore the open archives from the Ottoman time (by early 1990) that was related to the treatment of Armenians. However there are still archival documents that need to be opened. It has always been common knowledge in Turkey that the Armenians were relocated after numerous rebellions to aid the allies in WWI.

Halacoglu has uncovered thousands of documents that questioned long-held beliefs that the Turks were cruel to the Armenian people. He wrote in his books that there was no evidence to support a genocide conclusion. In contrast, his research, "The Story of 1915: What Happened to the Ottoman Armenians?" Halacoglu explains that the government spent money on the Armenian relocations for providing the Armenian people with food, water, protection, and shelter and that they also spent significant time writing laws, regulations, and telegrams to ensure that the Armenians reached their destinations and were able to resettle in their designated relocation areas. Moreover, claimed that the Ottomans helped them financially and they did never collect any dept from the Armenian. 29

In addition, he states that there are significant proofs that many Armenians during the same government were given permission to return to their homes and their property was returned to them. Halacoglu explains Armenian migrations through Allied ships which had helped Armenian populations of the Ottoman Empire migrate to Russia, America, and France, where there are significant populations of Armenians today. 30 The next part will provide the reader

29 http://www.armeniangenocidedebate.com/yusuf-halacoglu
30 http://www.armeniangenocidedebate.com/yusuf-halacoglu
with the discussion from the primary data concerning this chapter in order to give the reader a more personal perspective from the participants on the documented issue.

There are two different views about the actions against the Armenians during the WWI, the Turkish history and the Armenians history. Turkish people and scientists in Turkey claim that it was a two sided war or a re-location of the minority group, and that there is nothing that states that there was Armenian genocide. On the other side, the Armenians minorities abroad claim it was genocide. The international voting procedure in European and America, aim for a Turkish acknowledgement of genocide, which Turkey still strictly rejected.

The main reason is because they believe that it is just Armenian propaganda and the Ottomans did never intend to commit any kind of mass-murdering such as genocide, instead it was the Armenians that started this ‘conflict’ between them when they allied with the Turkish enemies. This subject is sensitive to discuss, due the fact that Turkey believes the World and the Armenians use this propaganda to destroy Turkey and the Turkishness; by letting them pay and give compensation for something they never did.

Turkishness was developed in history to integrate the people. Turkey believes it is of great importance to have a strong nationalism feeling, and therefore in order to protect it, they introduced law, currently called TPC 301. Turkishness has several of explanations; one of the most important parts in Turkishness is the history of the great Ottomans. Claiming genocide is similar to claim that the Ottomans were mass murders, which is taboo in the Turkish perspective. In the common sense that it insults the history and Turkishness. This is why it also becomes a target for the TPC 301, which exists to protect the Turkishness.

There are several reasons to why Turkishness is so important and why the TPC 301 exists, which have been discussed in this chapter. The reason to why the genocide is sensitive and why the Turkish people deny the claim of any kind of genocide is due the fact they believe it is propaganda. Stating that the Armenians experienced genocide during the time of Ottomans, is taboo since it is seen as an express against the Turkish people and Turkishness.

Even though claiming Armenian genocide is seen as insulting towards Turkishness, there are still people that are brave enough to make such as statements. Two of these courageous people are Orhan Pamuk and Hrank Dink. Their cases are described in the next chapter 5.
5 Victims of the TPC 301

The previous chapter demonstrated the development of Turkishness and the importance of it inside the country of Turkey. Hence, in order to understand the sensitivity in insulting Turkishness and the consequences of making statements in Turkey about such things as Armenian genocide is strictly taboo. This chapter will concentrate on the two cases where they have been convicted for their statements that insulted Turkishness under the TPC 301. First case is Hrant Dink, an Armenian-Turkish journalist and the other described case is Orhan Pamuk a world known author.

5.1 The case of Hrant Dink

Hrant Dink is mostly known for advocating Turkish-Armenian resolutions and human minority rights in Turkey. Dink was often criticized for his critical views about Turkey’s denial of the Armenian genocide and its international recognition. He was prosecuted three times for denigrating Turkishness, and received numerous of death threats. Dink was murdered on 19 January 2007, in 2005 he was sentence to six months in prison for insulting Turkishness, and this shows the controversial genocide are still in Turkey.31

Hrant Dink was born September 15, 1954, in Malatya (Turkey). At the age of 5, he moved to Istanbul with his family. After the separation of his parents, he and his two brothers went to live at the Gedikpasa Armenian Protestant Church Nursery School. Later on, Dink studied zoology and philosophy at Istanbul University’s Faculty of Science. He abandoned his dreams of a ‘biological philosophy department’ at the university at the expense of his active engagement in the developing politics of the left. In order to prevent that his political engagement could being linked to his Armenian identity and harm the Armenian community living in Turkey, he changed his name to the Turkish name ‘Firat’.

Hrant Dink and his wife Rakel took over the administration of the Tuzla Children’s Camp (where they themselves once grew up), where they looked after countless Armenian children. The camp experienced some difficult times under the charge of ‘breeding Armenian mili-

31 http://www.levandehistoria.se/node/217
tants’ and in 1983 it became confiscated by the State. Due the closure of the camp, Dink was taken into custody and arrested three times due to his political views.\textsuperscript{32}

During 1990s Hrant Dink owned a bookstore with his brothers in Istanbul. He also started writing for the Armenian daily newspaper, “Marmara”. He especially wrote reviews of books about Armenian history printed in Turkey under the pseudonym ‘Cutak’ which means, ‘violin’ in Armenian. In the 1990’s, Hrant started writing reviews of books about Armenian history, also in an Armenian news paper (Marmara). On April 5th 1996, Hrant Dink took part in the foundation of “Agos”. Agos means ‘the place where the plough opens a hole in the soil to give the seed in as a source of fertility’, and it is the first weekly newspaper to be published in Istanbul in both Turkish and Armenian. The main purpose of the paper was to create solidarity with the section of Turkish Armenian community, due their inability to speak their mother tongue; to give voice to the problems of Turkish Armenians at the state level and gain the support of the wider public; and to share the Armenian culture and history with Turkish society.

Hrant Dink attracted public attention as the editor in chief of Agos, with his left-wing opposition identity and his rhetoric that opened new debates. He brought up new topics such as establishing neighbourly relations between Turkey and Armenia, opening of the border between the two countries, supporting the democratization process of Turkey, speaking about the events of 1915 in a new emphatic style. This style focused on the survived and converted Turkish Armenians to recognize the honour of both sides, rather then having a hurtful approach viewing the massacres. Moreover, he also raised the need to develop alternative publications on those events in Turkey, in order to the sources that supported the official, state thesis.\textsuperscript{33}

After attending many conferences world wide, Hrant Dink encouraged a debate, concerning the process on Armenian identity and Turkish -Armenian relations, both in the Armenian world and also in a range of western countries and their historical role in Turkish-Armenian relations.

Hrant Dink was sued in 2002, after a speech he made at a conference in Urfa about identity and citizenship. By the time of 2006, he was acquitted. However, on February 6, 2004 the real ex-

\textsuperscript{32} http://www.hrantdink.biz/en/?page_id=2

\textsuperscript{33} http://www.hrantdink.biz/en/?page_id=2
treme period of court cases began after he published an article in Agos, claiming that Sabiha Gökcen, (the step-daughter of Ataturk which is the founder of the Turkish Republic), might be of Armenian origin and had relatives in Armenia. In the story, entitled ‘Secret of Sabiha Hatun,’ Hripsime Sebilciyan, an Armenian from Gaziantep, the Southeast of Turkey, who later took Armenian citizenship, claimed that she was Gökcen’s niece and Sabiha Gökcen was an Armenian orphan adopted from an orphanage.34

Two weeks later on February 21st, Hurriyet (the biggest daily paper of Turkey), carried the story to its headline: ‘Is she Sabiha Gökcen or Hatun Sebilciyan?’ 35

“The next day Turkish military Chief of Staff’s office issued a strongly worded statement, which said ‘She (Sabiha Gökcen), who is a Turk and the first war pilot of the Turkish Armed Forces, is an honorary member of the Turkish air force. Sabiha Gökcen is also a valuable and a strong symbol of Turkish women, and she represents Atatürk’s vision of the ideal place of Turkish women in modern Turkish society.’”36

This debate is very sensitive and it is unacceptable in Turkey to qualify such a claim, since it is seen as an abusive discourse against national sentiments and values. Hurriyet (news paper) claimed that the story was against the national integrity, solidarity and nation. Dink was called to the Istanbul Governor’s Office and at the same time the extreme right wing of Turkish media started a campaign against him. Hrant Dink had insulted the Turkish identity, which developed a new court case. The newspaper article bore no element of any crime at all; Hrant Dink was convicted on charges of “publicly insulting and degrading Turkishness” and sentenced to 6 months in jail by Sisli Criminal Court in Istanbul on October 7, 2005.

Hence, another story in Agos entitled ‘1 vote against 301’ published on July 21st, 2006 opened another court case against Hrant Dink, his son and acting editor of Agos, Arat Dink, and one of the main editors Sarkis Seropyan. The story quoted a statement that Hrant Dink had previously made to Reuters news agency. Referring to 1915 he had said:

34 http://www.hrantdink.biz/en/?page_id=2
36 http://www.hrantdink.biz/en/?page_id=2
"Of course this is genocide because the result reveals and names the act itself. You see that a nation that was living on this land for four thousand years vanished after what happened."  

This statement he made to Reuters was later published in many Turkish newspapers as well as Agos. But it was only the editors of Agos who were prosecuted under Article 301 for insulting Turkishness.

Hrant Dink was shot in front of his Office in Agos on January 19, 2007. However, this court process continued afterwards but previous charges against him were dropped. The funeral was a big demonstration where two hundred thousand mourners marched in protest of the assassination, screaming "We are all Armenians" and "We are all Hrant Dink". Criticism of Article 301 became increasingly vocal after his death, leading to parliamentary proposals for repeal.
5.2 The case of Orhan Pamuk

Orhan Pamuk is one of the most known people to become convicted under article 301, for his stamens implying that Turkey killed 30,000 Kurds and a million Armenians. After his statement, he received a Nobel Prize in Literature, and there are speculations that the reason might be to support Turkish freedom of expression by celebrate his braveness to state this.

Orhan Pamuk was born in Istanbul in 1952 and grew up with his large family in the wealthy westernized district of Nisantasi. From his childhood until the age of 22 he dedicated himself to painting and dreamed of becoming an artist. After graduating from the secular American Robert College in Istanbul, he studied architecture at Istanbul Technical University for three years. Pamuk abandoned the course and gave up his ambition to become an architect and artist, and started a journalist education. At the age of 23 Pamuk decided to become a novelist and is currently one of Turkey's best-known novelists.

Apart from three years in New York, Orhan Pamuk has spent all his life in the same streets and district of Istanbul, and he now lives in the building where he was raised. Pamuk has been writing novels for 30 years and received the Nobel Price in Literature, 2006 for his book 'Snow'. It was the first Nobel Prize to be awarded a Turkish citizen.40

Earlier in 2006, Pamuk spoke out on two of Turkey's most sensitive issues, such as claiming that Ottoman Turks committed genocide against the Armenians nine decades ago, and the engage of ethnic Kurds in modern-day Turkey. These comments lead to death threats and criminal charges. He had insulted Turkishness, which started a wave of pressure from EU, implying that Turkey have limited free speech (freedom of expression).41

Orhan Pamuk became charged with insulting Turkey's national character (TPC 301), and where facing three years in jail for making comments abut the Armenian genocide and Kurds. According to BBC, he was quoted in a Swiss paper as saying that only he had dared to say that Turkey killed 30,000 Kurds and a million Armenians. It is important to recognize that Turkey accepts thousands of Armenians were killed by Ottoman Empire forces in 1915-17, but strongly denies genocide. The "30,000 Kurds" referred to by Pamuk are those who have died

40 http://www.orhanpamuk.net/
41 http://news.bbc.co.uk/2/hi/entertainment/6049874.stm
since 1984 in the conflict between Turkey and Kurdish separatists. He had to fly from the country due the anti-campaigns against him for his comments.\textsuperscript{42}

On 22 January 2006, the Justice Ministry refused to issue an approval of the prosecution, saying that they had no authority to open a case against Pamuk under the new penal code and the case could not continue without Justice Ministry approval. Interesting point is that the announcement occurred in a week when the EU was scheduled to begin a review of the Turkish justice system.\textsuperscript{43}

The main reason why these two men are evaluated in this study about Turkish Freedom of Expression is to show the reader a more concrete perspective by showing two cases of people that became convicted due their opinions stated in the press. These two cases show that it was not fully accepted to make statements such as claiming the genocide. Hence, Orhan Pamuk’s case was dropped, which implies that the Turkish state is more tolerant and the Freedom of Expression has become improved. Hrant Dink’s case was much more difficult since he became killed for his statements, by extremist. However, the issue of insulting Turkishness in Turkey is not something that is taboo due to the laws; it is also a great taboo in the society. The majority of the Turkish citizens’ believe that it should be forbidden to insult Turkishness and make statements such as Dink and Pamuk did. They support Freedom of Expression, but they dislike the idea of accepting public insulting of Turkishness in media. The reason as to why it is so sensitive is because of the I/We feeling with the Turkishness. Insulting Turkishness is similar to insulting a Turkish individual.

\textsuperscript{42} http://news.bbc.co.uk/2/hi/4205708.stm

\textsuperscript{43} http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=28943
6 Data from the Interviews

This chapter is analysis the received primary data from the five interviews. The table below is a short description of the focus group that participated.

Figure 1: Table of the Participants

<table>
<thead>
<tr>
<th>Participant</th>
<th>Age / Gender</th>
<th>Current city</th>
<th>Birth Place</th>
<th>Time in Turkey</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>20 Male</td>
<td>Jönköping (S)</td>
<td>Gaziantep (T)</td>
<td>19 years</td>
</tr>
<tr>
<td>B</td>
<td>31 Female</td>
<td>Jönköping (S)</td>
<td>Istanbul (T)</td>
<td>25 years</td>
</tr>
<tr>
<td>C</td>
<td>44 Female</td>
<td>Jönköping</td>
<td>Bulgaria</td>
<td>Every third year</td>
</tr>
<tr>
<td>D</td>
<td>51 Male</td>
<td>Gävle</td>
<td>Kastamonu</td>
<td>15, 6month/year</td>
</tr>
<tr>
<td>E</td>
<td>49 Male</td>
<td>Gävle</td>
<td>Samsun</td>
<td>26,2monts/year</td>
</tr>
</tbody>
</table>

Source: Developed by the author for this study

6.1 Turkishness

Turkishness has a significant meaning for all the interviewed. They described the importance due to the history, culture and the meaning of having a Turkish identity. They are all very proud of being Turkish and you understand the role their nationality in their lives. Nobody said anything negative about Turkishness; instead the responses were really similar to each other. These are some of the comment from the interviews:

A: “Everyone that feels Turkish is Turkish. I am very proud of being a Turk. “To be Turkish is important because of the culture and its values”. Generally I believe everyone is nationalistic in certain extent, positive and negative. I am personally not extreme in my opinions… The reason why Turkism is so important is due the geographical position, our history and our religion. We will always have an enemy, that is how we feel, and we will react when we feel dangerous against our country and nation. This is what makes Turkism more important, whether we like it or not. For example, Sweden is not under the same pressure therefore they do not have similar reasons to emphasize the nationalism feeling. “
**B:** “History is important for Turkish people, due the successful Ottoman Empire. I am proud to be Turk. Due the history and the old wars, the state of Turkey was created together ‘independence war’, everyone worked together and supported the nation. The people of Turkey supported the Turkishness, boundaries. The Ottomans and the Turks are the same people…The Nationalism ‘Turkishness’ is very strong. Nationalism is important in the sense that it integrated people. The people of Turkey are really integrated, and they co-operate against event they find is not appropriate. Such as the event when one police men, one politician and one Mafia were found to be in the same car, people protested together against this (Susurluk accident, mentioned in the brief history part).”

**C:** “Turkishness according to me means culture, my ethnicity, my identity and my nation, and this is very important for me. My nationality is very important... I am a real Ataturk fan and a great patriot. In 1985 Bulgaria they forced us to change names to Christian names, and we lived under great pressure. They tried to take my Turkish identity away from me and my family, our language, culture, names and our associations. This might be the reason why it became even more important for me ...Who is more Turkish, the one’s living inside the country or the ones that are longing for their country abroad? I am nationalist and Turkish enough to give my life for my country and nation.”

**D+E:** “Turkishness according to me means culture, my ethnicity, my identity and my nation, and this is very important for me. My nationality is very important”.

### 6.2 Turkish peoples’ opinions about the accusation of Armenian Genocide

The Turkish people were asked about what they believe is Turkishness and their opinions about the claimed genocide. The interviewed people state that they feel that they are blamed for genocide and racism that never has occurred. They imply that the ‘Armenian genocide’ is something that is the result of a political lobbying by the Armenians in Europe and the US. Claiming that this is just Armenian propaganda that is used in order to receive compensations (money and land), by the Turkish state. They were all agreed on the point that the history the Armenian claim was genocide is just propaganda to gain international support against Turkey. Turkish people that was interviewed claims that there was no genocide, it was a relocation of
the Armenians in a two sided war/conflict where as many Turks as Armenians died. Moreover, claiming that it actually was the Armenians fault that this conflict between the ethnic groups started when Armenian people started to ally with the enemies of the Ottomans, such as the Russian. During the time the Turks where out in battle, the Armenians started a battle in Turkey, in order to gain more land territories form the Turks by burning down villages and killing the people living there. The Turkish people fully reject that any kind of genocide occurred during the time of WWI.

They state that the international claims against the Turks need to be based on real fact and historical research. Currently it is just word against word. Turkey is ready to open the archives and make real historical research about what really happened during this time, but the Armenian state refuses to cooperate. Turks state that they refuse this, since they know it is just propaganda, and if the archives are open the world will see that this never happened.

All the interviewed people believe this Armenian genocide issue is just propaganda used as a political weapon against Turkey. It has no proof and Turkey will not recognize that this happened without any real historical proofs. Some comment on the subject taken from the interviews:

A: “Currently the Economic situation of Armenia is bad; The Turkish economy on the other side is flourishing. Armenia intends to take down the Turkish economy. The Armenians want money and land from Turkey, which is the reason why this subject has become so debated. This is an honor issue of Turkishness… We have been accused for a crime we never done for years and we are now tired of the Europeans and Americans who does not understand us, this subject has maid us very sensitive and the voting procedure about acknowledgment of genocide in the EU and the US is just political.”

B: “I believe there are no relationship between the modern Turkey and the Armenian issue. The conflict between the two nations is just a political conflict and debate, and not between the ethnic groups… The Armenian issue has always been a debated subject. When Barak Obama stated that he was going to solve this issue, this became a political game. It is the Armenian minority in the US that started this debate about making Turkey confess genocide. In order to make Turkey less powerful from the inside destroy the strong the nationalism feeling... Inter-
esting that the start to vote about this, no idea why they do it, maybe to insult the Turkish state.”

The result form the interviews indicated that the Armenian issue should be a historical issue, based on historical proofs and not a Political issue. The conflict is not between the ethnic groups, it is just a matter of international relations and politics. D and E believes that the main reasons to why states has started to vote about a Turkish acknowledgment is due the Armenian lobbying from Armenian people outside Armenia, mostly American Armenian lobbying.

D: “The Armenians outside Armenia try to influence and affect the state in order to fight for more land area, greater country. They want to have compensation from the Turkish state, and accuse them for ‘genocide’ against their nation in WWI. ‘Armenians experienced deportation during 1914-16, not genocide. They might have died on the way to new location due the bad conditions and civil war etc. Why doesn’t a person discuss the action of the Armenians, the killing of villages and the burning of the Mosques?”

Moreover he continues explaining that Turkey wants to open the archives in order to make historical research, but the state of Armenia refuses. They refuse because they know its just propaganda and they want to continue this propaganda and therefore they use all kind off lies. Turkey wants to open the archives from the Ottoman Empire and answer the historical question about what actually happened. All the answers are written in the archives about what happened during the time they claim Turkey did genocide. He wonders how the Turks/Ottomans can have killed 2 million Armenians when it just lived 13millions inside the country boarders of the current Turkey.

E says that if you want Turkey to be sincerely in this study, it has to be based on historical research. Turkey will accept this if it is based on the modern Turkish historical research. It has to be a conclusion done by real historians and based on real research if you want this acknowledgment and acceptance from the Turkish state. Turkey would not reject it if it was based on real fact, as it should be. He disagree that it was genocide and states that no country would limits it by foreign powers which are willing to destroy their state.
6.3 Turkish people opinions about the TPC 301 and the victims under this law

Four of the five asked persons knew about this law. They were all agreed that Freedom of Expression is important; however Turkishness is as important as this right. This is the reasons why it was difficult to define whether they law should be abolished or not. D believes the TPC 301 has become much more tolerant. E does states that he believes the TPC 301 should be abolished, since everyone should have the right to express their own thoughts and opinions more freely. B implies that Turkey will take away the TPC 301, since it limits the Freedom of Expression.

The author also asked them whether they believe people such as Orhan Pamuk and Hrant Dink should be convicted under this law. A states that Orhan Pamuk made his statement about genocide to gain international celebrity status. B claim that Hrant Dink was to brave for his time and his own best. He also thinks it is right to some degree to have this TPC, to keep an order and protect the honor of being Turk. It is both good and bad. It is important to have Freedom of Expression, but you should not insult Turkishness, which Hrant Dink did.

Orhan Pamuk maid his statement about ‘genocide’ in order to win the Nobel prize. Nobody tolerates negative opinions about Ataturk for example. Person D believes Hrant Dink was killed by extremist, not ‘normal’ Turks. The Turks should not be accused for what happened to him. D moreover continues his discussion stating that Orhan Pamuk insulted Turkishness and that he is against Turkey and Turks. In order to make statement as he did, he needs to have proof, which he does not. He just talks without any research or sources. Make historical research and proof this (genocide). He just wants to become popular in Europe for making these statements.

This part summarized the important data from the participants in the interview, their opinions’ and views’ about Turkishness and the claimed Armenian genocide. Next part will analyse this primary data and the secondary data from the documents, articles and literature used in this study.
7 Analysis

The purpose of this study was to investigate the concept of Freedom of Expression in Turkey, the importance of Turkishness and why Turkish Penal Code infringes the Freedom of Expression. This analyse is based on the secondary and primary data from the study, it is an investigation about how the Turkishness infringes the Freedom of Expression.

The author presented the reader a brief history about Turkey, and then continued by describing the concept Freedom of Expression in general and how it is adopted in Turkey. The purpose was to look into Turkishness and the existence of the TPC 301, in order to evaluate the impact of it in the domestic Freedom of Expression. This analyse provide the reason a greater understanding of the relationship between Turkishness, Ottoman history, Armenian issue, and the TPC 301 impact on the Turkish Freedom of Expression.

7.1 Importance of Turkishness

To conclude from the empirical data this study has proved the great role Turkishness has in Turkey and for the Turkish people. The Turkish government aim to protect the national interest of the state and society, which is the main reason why Turkishness is protected under a law TPC 301. Turkishness has a significant meaning according to the secondary data, as well as the primary data from the interviews. The collected data in this study described the importance of Turkishness due history, culture and the meaning of having a Turkish identity. The interviewed Turkish people were all very proud of being Turkish and you understand the role of their nationality in their lives. Nobody said anything negative about Turkishness; instead the responses were really similar to each other. Considering the importance of Turkishness and how great role the history of the Ottomans Empire has for the Turkish peoples’ pride. This implies the essential reason why such a law as TPC 301 exists, for the society as well as for the government. The Turkish state has tried to keep the society in peace through integration and a strong nationalism feeling ‘Turkishness’. The physically powerful state and the well-built nationalism feeling, has created taboos to express negative thought in press about the state or nation.
The majority of the Turkish citizens’ believe that it should be forbidden to insult Turkishness and make statements such as Dink and Pamuk did. They support Freedom of Expression, but they dislike the idea of accepting public insulting of Turkishness in media.

Norbert Elias believes that one of the most important characteristic of national identity is the emotional connection. Defining it such as the like/love relationship, but the love of nation is never something one experiences when they refer to the nation as ‘them’. Elias claims that this love is something you experience towards a group you refer to as ‘we’, such as self-love. The national identity becomes an integral part of the individual’s identity, there is no ‘we’ identity alone, and instead it is an ‘I/we’ balanced identity. For that reason, one’s nation is at the same time a self-image. The individuals and nation occupies same places, individuals from same nation identify with one another, which makes it difficult to separate oneself and the crimes committed by the nation, especially those against other nations. This is the case of the Turkish people; they feel that the nationality has an importance in their personal identity. The interviewed people were all in Sweden when they participated, this may also affect the answers. Since if you insult Turkishness abroad the punishment will increase is you become convicted. Moreover, the nationalism feeling become more important when you are outside the boarders of the country since the identity become treated and influenced from outside nationalities, which makes people protect their national identity more form outside influence. The reactions from the Turks outside Turkey are as strong, or stronger, against insults against their nationality and state, compared to the Turkish people inside the state. This statement is made from the primary data. For example, person C, the Turkish female from Bulgaria, Turkishness according to her was a major part in her identity and ethnicity. Since, her Turkish side has always been undertreated especially in Bulgaria when they forced her to change name and give up her Turkish identity, it became even more meaningful and important to her. The interesting part in this is the fact that she visit Turkey least of the participants, every third year, still the Turkishness was most meaningful for her which strengthen this analyse.

The primary data and secondary data both describe the value of the nationalism feeling in Turkey, and one of the main reasons to this is due the history of the Turks from a crashed Ottoman Empire which almost crushed the Turkish nation.
7.2 The importance of the Ottoman History

Turkey has transit from being a great Ottoman Empire, to become the Republic state of Turkey with a secular, westernized state. After the new boundaries of Turkey was permanent, the first president of Turkey Mustafa Kemal ‘Ataturk’, emphasize a nationalism feeling of being Turkish “Turkishness” in order to integrate the people inside the country to become one common nation, Turk. Turkishness implies a commitment to an 'imagined' nationhood of people living within the National Pact (Turkish) boarders. "Turkishness" (citizenship of Turkey) is the cornerstone of the Republic of Turkey. This transformation was the movement towards a more Westernized state with democracy with Turkishness (powerful nationalism, integration) as a foundation stone that was developed through the military elite (the elite with the main authority over the government as well).

Turkey has a military elite which has greater power then the parliament (democratically elected), ever since the first president Ataturk was in rule, this has been the hierchy of the state. The elite has the power to influence the government, whic decreses the societys power to interact with the authority. They have the authority to influence what information the society should recive and not, by infeering they are controlling the Freedom of Speech. According to EU the state of Turkey should not intefre with the Media as much as they do. Turkey has for the last years signficatnltly increase the Freedom of Speech and decrse their interactions with the informations flow. However, ven if the Freedom of Expression has improved, there are still restrictions left such as the TPC 301. It is still forbidden and restrictions on the information about the claimed Armenian genocide which accordingly 'happen'd during the Ottoman time. In order to understand why this subject is sensitivce even if it happepnd in the past (almost 100 years ago), is due the fact that Turkey was developed by the military elite from the Ottoman Empire. Ataturk, the Turkish hero and the founder of the state, is a part from the Ottoman history as well. Ottomans are the old Turks, they share the same ethnicity/nation, even if the coundaries has decresed and the structure 'changed'.

The interviewed Turkish people stated that the Ottomans are the Turkish people’s ancestors, they are from the same nation, but the State has changed from being an Empire to become a republic. The Turkish people are not really similar to the Ottomans, since time has change and
this has influenced the people as well but they are the same ethnic group. Let us continue to understand why it is so sensitive to discuss the claimed massacres of the time of the Ottomans. Accordingly it is important to understand the connections between the Turkish people and the Ottomans. The Ottoman Empire is the foundation stone of the Turkish pride towards their nation. Claiming Ottoman Armenian genocide, is similar to claiming the Turkish people did it.

7.3 The claimed Armenian issue

Claiming that the Armenian genocide has occurred is seen as insults towards the history of the ancient Turks, which is why it is forbidden and seen as a taboo. The author decided to consider this issue since it is a currently a major debate in the EU as well as in the US. The major reason to evaluate the Armenian genocide is due the fact that it is forbidden to claim such genocide and it is a target for the TPC 301. There are underlying reasons to why this subject is sensitive and why this law exists. Hopefully, the reader has understood the basis of the Turkish authority structure and the power of the elite, how they protect the Turkishness in the modern state of Turkey. Even if they have become more modern with a democracy, they still have significant influence form their past, the history of the Ottoman Empire and the military elite.

Turkey's reactions are robust against acknowledging such claimed genocide, for example in Sweden after the voting procedures ended in the Swedish Parliament and they constantly that Turkey should acknowledge a genocide, the Turkish government decided quickly to pull back its ambassadors from Sweden. This is seen as an undiplomatic reaction; on the other hand, it was a protest against the Swedish state. Turkey wanted to make clear for Sweden and the rest of the World that they are strictly against this procedure of Politicians without historical research taking actions against Turkey. Turkish people are proud people of their history and they refuse to accept insults against their nations past.

The majority of Turkish peoples' reaction towards this is similar. They are fully against the voting procedures and the forcing for acknowledgment. The interviewed people were all agreed on this point as well, stating their anger against these claims. This claim is seen as a threat against the state of Turkey and its nation. With its ability to affect the countries foreign policies and economy, it makes them even more integrated in this according to them unfair fight against
Turkey and the Ottomans. They fully deny that any such as thing as genocide have not happened, the Ottomans according to the majority of Turkish people were the most powerful and friendly rulers of the world. Turkish people in states that the claimed genocide is just propaganda the Armenians use with the intention of forcing Turkey to give them compensations, for a genocide that never occurred. In matter a fact, the ‘Armenian Genocide’ might be used as a Political weapon, in good or bad since the politician around the world does not base their claims on historical research. One of the greatest taboos in Turkey is to claim is to state that an Armenian genocide has occurred. Turkish people and Turkey consider such statement to be racial agitation against Turkish people. They believe that people stating that is racist and state that it is a hate speech against the Turkish nation, in the sense they accuse them for something they fully deny has occurred. This is seen as insulting the Turkish Republic and the nation with propaganda for something that never occurred.

Even though claiming Armenian genocide is forbidden, there are still people that are brave enough to make such as statements and those who support this claim. Two of these courageous people are Orhan Pamuk and Hrant Dink. They are two of the most famous victims under the TPC 301; they are international heroes and Turkish traitors. The author used them to prove the how the TPC 301 interact with the Freedom of Speech.

The EU and the World reacted when Orhan Pamuk was convicted for his opinions, and they believe it is a Human Right to state one’s opinion. Therefore, they claimed Turkey for limiting the Turkish citizen’s Freedom of Speech. Hence, Turkey saw the international reactions and dropped his case in order to proof that Turkey’s Freedom of Expression was not limited. This can be seen as a political act, since they dropped it because they need to show the EU that they fulfilled the criteria of ECHR Article 10, to increase their chances of becoming a member state.

Turkishness has a noteworthy role for the Turkish people. Turkish people are proud of their history as one of the greatest Empires (Ottoman Empire). If such genocide really had occurred, this would imply that the history they are so proud of actually was propaganda and that the Ottomans (Turks) where a brutal killers. Important to recognize here is the connection the Turkish people have with their nation, they feel ‘one’ with their nation and past history. Insulting the Ottomans actions is similar to insulting current Turkish people as well and this is seen as an of-
fense against the Turkish individuals. The society would lose their nationalistic prides that is build upon their past. This would also imply that the state has been lying for its citizens for almost 100 years with propagandas about the history and how the state is capable to influence the nation of Turkey with other propagandas as well. In order to keep the society in peace and have a strong nationalism feeling they have to deny this claims, whether they are true or not.

7.4 The TPC 301 affects on the Turkish Freedom of Expression

The EU claims that the citizens should be guaranteed the right to disagree with the government and state with their own opinions, which is unfortunately limited in Turkey due the TPC 301. This is why the EU interferes and claims that Turkey has not fulfilled the Article 10 of ECHR. Turkey believe that they limit the Freedom of Expression to protect the society and the state, which is in a way accepted under article 10§2. The EU on the other hand, does not support this kind of limitation since they do not find any reasons why such law exists. They imply that the citizens of Turkey should have the right to make such statements, which Turkey consider to be insulting, as the Armenian genocide.

Turkey has adopted the EU’s requirement from the Article 10 of ERHR into legislations. Nevertheless, there is still one controversial law TPC 301, which the EU claims limits the Freedom of Speech inside the country. Even though Turkey changed the law to become more tolerant, it still infringes the Freedom of Expression. Moreover, it is the citizens right to receive information, from all perspectives and it is a Human Right to express ones opinions, to influence the society and the state. Democracy is about letting the society interact with the government; Freedom of Expression is needed to accomplish a Democratic state. Even Turkey has adopted the Article 10, they are considered to limit is too much, since there are sensitive subjects and taboos which are forbidden to discuss openly in media. Currently there have been significant improvements on this point. According to the EU progress report, Turkey has become much more tolerant towards the discussion of this issue, and less people are convicted under the TPC 301. The current regime has open Kurdish television, they have also improved their relations with the Armenian state and they are discussing a full abolishment of this law.
The EU claim that the Turkish Freedom of Expression is not fully free and that they have to face their history in a more critical way in order to become a member state of the EU. However, the purpose of this study was not to investigate about the Ottoman history, but it still needs to be considered since the history of the Turkishness has a significant role in the understanding of the TPC 301.

7.5 Turkishness and Freedom of Expression

The state of Turkey foundations stone is a powerful authority, Hobbes would call the Turkish state the ‘Leviathan’. Turkey’s main power is in the hand of the military elite force, which has had the major power to influence ever since the fall of the Ottoman Empire. Even if Turkey has become a democratic state, with a selected Parliament, the major power still belongs to the authoritarian state and not the society. Having such a powerful authority, the society cannot interact, which is seen undemocratic. Democracy is about letting the society influence the authority over the society. Freedom of Expression is a Human Right that provides the society and its individual’s right to interfere. Giving them the right to gain information and inform the society.

Mustafa Kemal Ataturk, the founder of Turkey was the leader in the military elite, and he was also the one who created the concept Turkishness. The aim with the military elite today is to control the state (Parliament), and ensure that the state remain secular towards Western democratization. The limitations of Freedom of Expression aim to control the information that the society receives. In order to protects the state of Turkey from conflicts against them by keeping some information in hide. They do not want the society to increase distrust against them.

The TPC 301, may also have noteworthy influence on the Turkish Freedom of Speech even outside the state. The punishment for making insults against Turkishness under TPC 301 § 3, it is stated that:
“In cases where denigration of Turkishness is committed by a Turkish citizen in another country the punishment shall be increased by one third.”

Orhan Pamuk for example were convicted for his statement he made at to the international press. Moreover the interviewed person A, he stressed the importance of being anonymous in the interview, due his fear of Turkish people to misunderstand him and claim him for his opinions. This make one wonder if they really support the Turkishness importance, or if it has become a national phenomenon towards their nationality, it is their duty to protect the Turkishness inside and outside the state. Especially in the current times when the state is threatened by the international Politicians trying to make them acknowledge a genocide, they feel it is their duty to protect the state from the threats from outside. It would be wrong to stand by the foreign side and agree with this claim, since that would destroy the meaning of Turkishness which is the foundation stone in their nationality and the state of Turkey.

The Turkish propaganda is efficient and powerful, about Turkishness as well as the Turkish history. The word propaganda is used as a concept defining information that is spread for the purpose of promoting some cause. This propaganda/information about the past is difficult to analyze since the state has the power to influence the information. However, the material used in this study is based on literature and articles from outside Turkey as well, and it has been compared to the domestic view from the Turkish material and the interviews.

Hence, the Turkish Freedom of Speech is manipulated by the state’s propaganda; control over the society thorough the media to show the society the beautiful side of the picture. The cover-up the bad sides of the information and aim to provide the Turkish people the brightest possible side of the picture.

When it comes to history, the version of the story will changes as it moves from generation to generation. People tend to change it, leave out some details, usually if the story is sad, it will turn into even more depression, if it is funny, and it will grow to be amusing. In the case of the Turkish history, of the Ottoman Empire, as the time move on the history about the Empire becomes even more glorious and celebrated. While the history of the Armenians and their stories of surviving a difficult time become even more tragic. The Turkish state has hold back the whole story about the Ottoman failure and the rough collapse. Similar to how the Armenians hold back the positive information about how good their life use to be under the Ottomans be-
fore the war time. The lack of information and propaganda has come to the degree of an international debate about this issue. It is usually this type of information that affects the Freedom of Speech, as in the case of Turkey the state want to control that the citizens receive a subjective Turkish picture of the events and vice versa. Citizens need to have the ability and right to see the whole picture and receive all of the information. Misinformation and lack of information, is what really limits the freedom of expression. Turkey limits the freedom of expression to protect its citizens from believing in propaganda from outside such as the Armenian propaganda, since they want to protect their own propaganda in order to keep the Turkish people trust towards the state. To prevent the consequences that can be created from events, such as the ‘Susurluk accident’, which was mentioned in the brief history part.

Finally, this research has improved the understanding about the problem of Freedom of Expression in Turkey. The purpose has been achieved and the next part will give the authors conclusion in the direction of the research questions.
8 Conclusion

This part will provide the author’s conclusions from the study and the answers to the research questions will be explained. What is Freedom of Expression, and how is it defined in Turkey?

What is Freedom of Expression, and how is it defined in Turkey?

Freedom of Expression is a fundamental right for the citizens in a Democratic state, and Freedom of Speech and Expression is described similarly in the EU as in Turkey, according to the ECHR Article 10.

What importance does the Freedom of Expression have in order for Turkey to become a member state?

Since Freedom of speech is a important part in a Democracy, given the citizens right to receive and press information, it is important for Turkey to include this right domestically.

In what way does the Turkishness and the article 301 TPC, infringe the Freedom of Expression?

To conclude from this study is the fact that the TPC 301 does infringe with the right, since it limit’s the right to express insulting and negative opinions about Turkishness. The difficulty in decided what is insulting, and what should be forbidden is not constant. The state has become and the law has become more tolerant and they are progressing in their way towards having Freedom of Speech. However, currently there is a discussion about an abolishment of this article, due the pressure from the EU. This law is not accepted by the EU and Turkey need to let the society interact more. In order to fulfil the democratic criteria’s needed; it is also an issue of Turkey to have elite over the elected government. Turkey need more structural reforms, such as having a Democracy where the society has elected their authority, without an elite over the government. The society should have their elected ruler, not a state with power over the society. The day Turkey give up their military elite, the day they effort to have a ‘real’ Democracy, the day they become more tolerant towards the society, the day the society has the main power, that is the day they will have full Freedom of Speech and no limitations from the state such as article 301.
What is Turkey’s reaction to the international criticism of their lack of acknowledgment of the Armenian Genocide?

The Turkish denial is the consequence against the criticism, inside and outside the boarders. Turkish people fully deny that Ottomans ever intended to such genocide. They will not acknowledge genocide as long as they can. Even though several EU member states push pressure on Turkey about this issue, it is a matter of pride for Turkey and Turkishness. Due its important and the underlying factors that has been discussed this acknowledgment will not happened in the near time. Maybe later on, if the archives from the Ottoman time prove the statement and if they give up their story about denial for the aim of a EU membership.

Why is it sensitive to discuss and debate the Armenian issue?

The sensitivity is created by the issue of the fact that it is insulting Turkishness. The study has described the Turkish denial and why they do not believe in this claim. It becomes sensitive if you accuse Turkey for genocide, not if you deny it. Due the consequences that would appear if they agree to accept the genocide. The European countries and the US need to understand the Turkish side of this discussion in order to understand why Turkey react the way they do. Such as the case when the Swedish Parliamentary voted about a Turkish acknowledgment, they pulled back their ambassadors to show their disappointment towards the voting procedure and the acknowledgement. The Armenian that wants recognition of the Ottoman massacres is on the other side positive towards the international acknowledgment and accordingly they will continue lobbying towards a Turkish acknowledgement as well.
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Appendices

Interview questions:

1. Age?

2. History, links to Turkey?

3. What does 'Turkishness' Turkish identity / nationality for you? How important is Turkishness for you?

4. a) Do you agree that the national sentiment is strong among the Turks?
   b) Why is possibly so?

5. How do you view the relationship between the Ottoman Empire and modern Turkey, Moreover, how is the ethnic relation between Ottomans and Turks are?

6. How do you view the relationship between modern Turkey and the Armenian question?

7. a) What do you think is the explanation for what happened between Turks and Armenians, the reason that this 'conflict' occurred?
   b) What do / do you think of Ottoman Armenians in relation to 1914-16? How would you describe the events?

8. Why do you think the Armenian question has become relevant today, nearly 100 years later?

9. What do you think about the voting about Turkey’s recognition of the Armenian question, in America and Europe?

10. Have you heard of TPC 301?
    If yes, what do you think about it and do you think it right to convict people under this law legislation?