NICTs and the limitation of freedom of speech

Questions of legitimacy and quality of democracy
The Gezi Protests in Istanbul May and June 2013

Kerem Öktem | **University of Graz** | **Austria** | **kerem.oktem@uni-graz.at**

UNI GRAZ

Centre for Southeast European Studies
Zentrum für Südosteuropastudien

Academic background
- Politics of Turkey
- Southeast Europe and the Middle East
- Recent history of Turkey
  - Replete with instances of (urban) violence
  - Most recent: Gezi Protests
  - Kurdish struggles

UNI GRAZ Points of departure

According to liberal tradition, *Freedom of Speech* is the primary form of all freedoms. It can only be compromised under very specific circumstances.

- We do **not need** a general limitation of freedom of expression on the internet!
- We do **need** responsible government behaviour, transparent politics and intelligent policing.
- Such strategies may include some measure of monitoring and surveillance of NICTs.

Freedom of expression is (almost) non-negotiable

Limits on the freedom of expression and assembly may only be considered, if

There is a credible danger of life to a particular person or group of people

The measures are limited

- to a certain group
- to a specific event or threat situation
- for a limited time

Bottom line

Before considering limitations of human rights...

1. Intent
2. Actors
3. Specificity
4. Context
5. Availability of alternatives to protest
6. Responsible policing

Think about legitimacy...

Before considering limitations of human rights...

- What is the **intent** of the actors?
- *Is their intent legitimate or illegitimate, based on common sense and European legal norms?*

- Who are the **actors** of violence?
- *Do they have a history of violence or are they new to the protest?*

- Do the actors target or plan to attack physically a **specific** societal group?

- What is the **context** whereby actors are galvanised to resort to violent behaviour?
- *Have there been prior events that aggravated social unrest or disaffection?*

- To what extent is the democratic system able to provide **alternatives** to violent demonstrations?
- *Have chances of de-escalation been exhausted?*

- Do law enforcement agencies use **responsible policing** and de-escalation strategies?
- *Do they distinguish between violent and non-violent actors?*

- What is the role of **NICT** in escalating a conflict situation?

Legitimacy Checklist

Without credible answers, we face risks...

- The risk of labelling all unruly behaviour in urban space as violence
- Then declare all violence as a threat to public order
- Justifying heavy-handed response by law enforcement agencies.
- > Securitisation

Are there moments, when violence may be as legitimate, as heavy-handed policing? Sometimes, yes! > Gezi, for instance

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Why Gezi?

- I followed the events closely.
- Participated in some of the demonstrations.
- Followed up with activists and organisers.
- Major turning point for modes of governance in Turkey
- From weak democratic to weak authoritarian modes of governance

A forensic appraisal of Gezi

Based on the Legitimacy Checklist

What was the **intent** of the actors?

Was their intent legitimate or illegitimate, based on common sense and European legal norms?

- Original intent of the protestors:
  - protect a rare public green space in central Istanbul (Gezi Park) against a government-sponsored building project including a mall.

- The intent was by all measures legitimate.
  - Whether common sense or
  - European legal norms,
  - this was a case of citizens practising their right to democratic protest.

1. Intent

Who were the **actors**?
Did they have a history of violence or were they new to protest movements?

- The original protestors:
  - Environmental activists, students and networks of activists opposing Istanbul's state-enforced overdevelopment.
  - highly-educated, well-connected, middle-class
- No prior history of violence.
- No conduct suggesting possibility of violent behaviour.

2. Actors

3. Specificity

Did the actors target or plan to attack physically a **specific** societal group?

- The protestors in Gezi Park did not attack any particular group, or threatened to attack it.
- They tried to protect a green space, which was about to be demolished.

4. Context

What was the **context** whereby actors were galvanised to resort to violent behaviour?

Had there been prior events that aggravated social unrest or disaffection?

- A barrage of developments prior to the protests that galvanised activists to take to the streets.
  - Urban regeneration projects
  - Demolition of cultural heritage sites
  - Theatres, cinemas and architectural landmarks.
- Pushed through with central government consent, but without public consultation procedures.
- All projects were heavily compromised by allegations of corruption.
- Authoritarian government behaviour and patronizing rhetoric of the government party.
- The initial protesters had good reasons to feel impelled to take action. It was clear that the demolition of the park would not be halted by legal action.
- **BUT! There was no instance of violence.**

To what extent was the democratic system able to provide **alternatives** to violent demonstrations?

Were opportunities of de-escalation exhausted?

- The political system failed to provide alternatives.
- Government, and particularly then Prime Minister Erdogan, used an **aggressive rhetoric** against the protestors.
- Several **turning points** were missed, when the situation could have been deflated, i.e.. by an announcement that the plans will be put on hold.
- While there were such attempts from party members, they were thwarted by the then Prime Minister, who insulted the protestors.

5. Alternatives to violence?

Did law enforcement agencies engage in **responsible policing?**

Did they distinguish between violent and non-violent actors?

- Limited instances of de-escalation by the police only where demonstrators outnumbered security forces.
- **Communication break-down** between police-men and demonstrators.
- Heavy-handed and disproportionate use of force
  - Targeting of demonstrators with tear gas capsules
- Initial violence emanated almost exclusively from the law enforcement agencies.
- Only after two weeks of police violence did demonstrations turn violent.
- **But: Escalation did not occur due to radicalisation of the original protesters, but through a massive extension of the actor pool.**

6. Responsible policing

- NICTs spread information faster and to a larger crowd
- The protests would not have spread as rapidly without the infrastructure provided by NICTs
- Certain expert knowledge (i.e. on protection against tear gas) would not have spread as rapidly
- Fewer people may have joined the protests.

What is the role of **NICT** in escalating a conflict situation?

7. Role of NICTs

- Twitter and Facebook did not cause the events.
- It was not the NICTs, which made the protests, but the **amalgam of grievances and policy blunders**
- Hence, any attempt to curb the freedom of speech through controlling NICTs would be illegitimate.

BUT...

7. Role of NICTs

So when can restrictions to the freedoms of speech and assembly be considered?

If …

- the intent of the actors is **illegitimate** according to European legal norms
- the actors have a **history of violence** and a readiness to make further use of violence.
- they **target a specific societal group**, like immigrants or gay people, or religious and ethnic groups like Muslims or Jews.

Extreme-right wing actor groups
Neo-Nazis
Violent Jihadi-Salafi terrorists

Restrictions

Small-scale protests can turn into major public order events

When

- legitimate concerns by actors without a history of violence are not addressed effectively,
- the political system fails to accommodate criticism,
- intelligent, interactional and measured policing is not implemented.

Law enforcement cannot atone for failing politics and feeble democracy

**It is the responsibility
of governments and
law enforcement
agencies**

To make appropriate choices between
- legitimate and illegitimate intent
- violent and non-violent actors
- between actors who actively seek to
  undermine democratic values, and
  those who struggle for them.

- If these choices are not made, their
  efforts to curb the freedom of speech
  and engage in heavy-handed
  policing will not be legitimate.

- **Quality of democracy and quality
  of politics!**

Conclusion

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Thank you!

Kerem Öktem | University of Graz | Austria | kerem.oktem@uni-graz.at

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