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# Between Protection and Restriction: Academic Freedom in the Case Law of Turkish Administrative Courts Through the Lens of Frederick Schauer

## 1. Introduction

Pablo Picasso painted his famous *Guernica* to express the tragedy of war and individual suffering. When a German soldier asked, "Did you do this?", Picasso replied, "No, you did." As in this example, thoughts are expressed not only through words or writing, but also through art and various other means, such as the evocation of symbols. Moreover, the ability to express a thought is not a problem in itself. The problem, as in the case of *Guernica*, involves many factors, including the reasons behind the emergence of such expressions. However, the legal perspective is shaped by debates on what can or cannot be expressed.

These debates, however, rarely go beyond a sterile opposition between restricting or protecting expression through law. For instance, should the phrase "state terrorism"

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be considered within the scope of freedom of expression or not? Although such debates are not insignificant, limiting them to this question does not adequately contribute to fundamental understanding of the human being and the state as serving the human. To give an ironic example: there are texts on Turkish lawyers' websites – and even a book titled *Dictionary of Insults* – noting that the Court of Cassation did not consider the phrases "ignoble, indecent" as insults, while it did consider "dishonourable, dishonoured" as such. Of course, this varies depending on the specific case, but the legal perspective, as also adopted by Schauer, by "its very nature" tends to categorize and derive definitive conclusions. However, as Schauer emphasizes, this does not lead to the conclusion that freedom of expression or academic freedom of expression is an end in itself.

Since Schauer does not approach freedom of expression as an end in itself, his perspective lends itself to moving beyond these sterile debates. This is because he does not limit the issue to legal debates on how to balance restricting or protecting freedom of expression; rather, he offers a philosophical foundation and contextual grounding. He argues that freedom of expression was initially viewed within the dichotomy of limiting or protecting, and later debated within the framework of elements such as self-expression, self-actualization, the capacity to influence political change, or a combination of these elements. However, he also points out that the importance of freedom of expression is being discussed without a sufficient understanding of its philosophical foundations.<sup>1</sup> In this study, we argue that academic freedoms are being addressed without a proper understanding of the philosophical foundations of freedom of expression in the context of the cases involving the Academics for Peace in the Turkish Administrative Court.

In this article, we will not present all of Schauer's arguments regarding freedom of expression. Instead, we will attempt to evaluate the approach of Turkish administrative judiciary toward academic freedom of expression within the context of debates oscillating between the restriction and protection of the individual right. In this regard, the main question we seek to answer is: "What are the restrictive and protective factors affecting academic freedom of expression in the case law of Turkish administrative courts?" By assessing this question through Schauer's holistic perspective, we aim, just as in *Guernica*, to discuss not only what is expressed, but the underlying reasons for the expression. Within this framework, and drawing upon Schauer's insights into the instrumental nature of freedom of expression and the institutional limitations of academic expression, we will attempt to demonstrate that the deeper problem lies not in the Turkish administrative judiciary itself, but in institutional barriers, such as universities and academic hierarchies, that may foster self-censorship. However, to do this, we must first briefly introduce Schauer's views on freedom of expression.

<sup>1</sup> F. Schauer, *Must Speech be Special?* [in:] *Freedom of Speech*, ed. L.J. Alexander, Routledge, New York – London 2018, pp. 343–349.

## 2. Schauer and freedom of expression

According to Schauer, there has been little doubt, at least in the abstract, that freedom of expression is inherently a good thing. As a result, relatively little attention has been paid to articulating why freedom of expression is valuable. Instead, scholarly and legal debates have predominantly focused on the extent to which freedom of expression should be protected when it comes into conflict with other universally recognized values, most notably national security or public order.<sup>2</sup> Schauer finds it is not enough to engage in debates over what can or cannot be expressed based solely on abstract legal arguments and rights. Therefore, he argues that we must examine the philosophical foundations of freedom of expression. However, it should not be overlooked that Schauer does not disregard legal arguments regarding freedom of expression; on the contrary, he seeks to analyse these arguments by supporting them philosophically. Schauer states that unless the philosophical foundations of a political principle are clarified, it is unlikely that the specific applications of that principle can succeed. Accordingly, legal rules concerning freedom of speech often serve as sources of important philosophical principles, while in many cases they also constitute examples of instructive errors.<sup>3</sup>

Schauer interprets John Stuart Mill's view of freedom of expression as grounded in the idea that it serves as a facilitator of the pursuit of truth and knowledge. Mill argues that human beings, as fallible creatures, are capable of holding conflicting ideas. Consequently, individuals engage in discussion and deliberation with one another as a means of striving toward correct knowledge – that is, in pursuit of truth. Mill, therefore, focuses on expression not for its own sake, but rather on the impact of reciprocal deliberation on the search for truth. Schauer, by elucidating this focus, underscores that Mill does not attribute a unique intrinsic value to speech itself, distinct from other forms of expression, but rather highlights the value of the process of mutual deliberation.<sup>4</sup> For this reason, Schauer states that we need more than the argument about true ideas' ability to survive in the "marketplace of ideas" through free competition. He argues that a Free Speech Principle that is specific to speech but not based on a value or set of values is not really a Free Speech Principle, but a general principle of personal liberty. Thus, he notes that one cannot grant more protection to speech than to other forms of conduct simply because it is speech.<sup>5</sup>

From this point, Schauer emphasizes the need to examine the philosophical foundations of freedom of expression, while also making it clear that he does not view

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<sup>2</sup> *Ibidem*, pp. 343–349.

<sup>3</sup> F. Schauer, *Free Speech: A Philosophical Enquiry*, Cambridge University Press, Cambridge 1982, p. ix.

<sup>4</sup> F. Schauer, *What is Speech? The Question of Coverage* [in:] *The Oxford Handbook of Freedom of Speech*, eds. A. Stone, F. Schauer, Oxford University Press, Oxford 2021, pp. 166–169.

<sup>5</sup> F.S. Haiman, *Review of the book Free Speech: A Philosophical Enquiry, by F. Schauer*, "Philosophy & Rhetoric" 1984, vol. 17, no. 3, pp. 176–178.

freedom of speech as a value in and of itself. He illustrates why freedom of speech should not always be seen as a standalone value with the following example: if a globally respected academic makes demeaning comments about a scholarship they received, they may suffer harm as a result of that speech.<sup>6</sup> According to Schauer, free speech is not defined by what it is but by what it does.<sup>7</sup> For instance, lying cannot be considered free speech because it obstructs the enlightenment of minds and ideas by others.<sup>8</sup> Schauer insists that the scope of free speech should be determined based on what speech does. This is the reason why he underscores that freedom of speech is not merely a matter of positive law, but also a philosophical or political issue.<sup>9</sup>

Schauer also states that his emphasis on the concept of the coverage, or scope, of speech is intended to draw attention to the important distinction between the coverage of a right and the protection it offers. Accordingly, when an act falls under the principle of free speech, the question of whether that act is permissible requires examining the values on which freedom of speech is based. From this point of view, in distinguishing between the scope of the right to free speech and the protection of that right, it is essential not to overlook the context of actions that may involve rights violations, so they can be examined clearly and specifically. Thus, Schauer emphasizes that there is a difference between the ordinary meaning of freedom of expression and the activities it actually encompasses. He notes that determining where to look when identifying the coverage of freedom of expression is a highly complex problem. As such, the question of which acts or types of acts are covered by the right to freedom of expression cannot be discussed in the abstract, without considering the purpose(s) underlying the need to protect that right.<sup>10</sup>

While highlighting the importance of focusing on which acts or types of acts are covered, Schauer states that the coverage of the right to freedom of speech – just like that of any other right – depends on the purposes or background reasons that underlie it. For example, he argues that the underlying purpose of expressing oneself through art in relation to autonomy, self-expression, self-realization, and associated virtues is not necessarily the same.<sup>11</sup> Schauer already maintains that free speech is not a single right, freedom, or principle, but rather a bundle of different and sometimes interrelated principles.<sup>12</sup> Accordingly, he characterizes freedom of expression as a label, and asserts that we cannot determine whether this label refers to a single right or to different (though possibly overlapping) rights just by looking at the label itself.<sup>13</sup>

<sup>6</sup> F. Schauer, *Free Speech...*, pp. 8–10.

<sup>7</sup> *Ibidem*, p. 91.

<sup>8</sup> F. Schauer, *What is Speech?...*, p. 167.

<sup>9</sup> F. Schauer, *Free Speech...*, pp. 169–171.

<sup>10</sup> *Ibidem*, pp. 164–171.

<sup>11</sup> F. Schauer, *What is Speech?...*, pp. 165–167.

<sup>12</sup> F. Schauer, *Free Speech...*, p. 13.

<sup>13</sup> F. Schauer, *What is Speech?...*, pp. 165–168.

In conclusion, freedom of expression is not an absolute principle and may be overridden in some cases. For example, the possibility of direct or indirect harm is neither sufficient nor necessary to restrict expression. On this matter, Schauer argues that we should restrict fewer expressions than those that are actually harmful in order to create a “breathing space” or a “buffer zone” for strategic protection.<sup>14</sup> In this way, the undesirable self-censorship effects on legitimate expressions can be reduced.<sup>15</sup> Because even separating night from day inevitably involves ambiguity, and speaking without any margin of error can lead to not speaking at all:

It could be argued that the distortion of reality caused by the imperfect nature of the legal system makes it impossible to know whether the buffer zone is wide enough. But, as with all legal rules, there is no reason to believe that an a posteriori evaluation of the results under a rule cannot provide a basis for evaluating the success of a rule. Adjustments are inevitable, and it is a fallacy to reject a concept merely because it is imprecise. Edmund Burke once said, ‘Though no man can draw a stroke between the confines of night and day, still light and darkness are on the whole tolerably distinguishable.’<sup>16</sup>

### 3. A basis for self-censorship: “The state knows best how to be free” and “Academics for Peace”

The more fundamental problem we pointed out at the beginning is related to self-censorship: a phenomenon where people avoid leaving room for error. In the case law of Turkish administrative courts, censorship and restrictions imposed by the state are not intended to reduce the effects of self-censorship but are instead disciplinary in nature. They reflect the approach that “the state knows best how to be free”. On this matter, we will offer a few examples from court decisions and evaluate the statements made by the Academics for Peace – which came to public attention about a decade ago – as well as the attitudes of the administrative judiciary and universities towards them.

In 2015–2016, curfews were declared in the southeastern region of Turkey, and serious human rights violations were committed during the security operations. In order to condemn these violations and call for the resumption of peace negotiations that had been halted in 2015, a petition titled “We will not be a party to this crime” was published, signed by over a thousand academics. It condemned the government’s security policies and called for the protection of fundamental human rights. After the petition was made public, the signatory academics were subjected to criminal investigations,

<sup>14</sup> F. Schauer, *Fear, Risk and the First Amendment: Unraveling the Chilling Effect*, “Boston University Law Review” 1978, no. 58, p. 710.

<sup>15</sup> J.W. Howard, *Freedom of Speech* [in:] *The Stanford Encyclopedia of Philosophy*, eds. E.N. Zalta, U. Nodelman, Spring 2024, <https://plato.stanford.edu/archives/spr2024/entries/freedom-speech> (accessed: 10.05.2025).

<sup>16</sup> F. Schauer, *Fear, Risk...*, p. 711.

dismissals, and expulsions from public service. Subsequently, the number of signatories rose to over two thousand. Among them, 406 individuals were permanently dismissed from public service through emergency decrees. Additionally, some signatories were prosecuted under Article 7(2) of the Anti-Terror Law for “propagandizing for a terrorist organization by legitimizing or encouraging methods involving force, violence, or threats”.<sup>17</sup> These proceedings, involving both administrative and judicial institutions, were carried out using the convenient suppressive label of “terrorist propaganda”. However, the points discussed in the following paragraphs were either overlooked or insufficiently addressed.

First, although our focus is on administrative approaches, most academics were acquitted in criminal courts. Similarly, administrative courts issued reinstatement rulings. The Constitutional Court evaluated the petition within the scope of freedom of expression and found that the sanctions imposed violated this principle.<sup>18</sup> However, the Court also issued a press release and expressed its own opinion about the text, thus reflecting the “the state knows best” mentality:

The Constitutional Court is aware that the petition at the centre of the application was prepared from a particular perspective, that it is one-sided, contains exaggerated comments, and includes some offensive and aggressive statements toward security forces. The Court’s interpretation that this petition should be protected under Article 26 of the Constitution does not mean that the Constitutional Court shares or supports the views expressed therein.

At the same time, the Court stated:

It is clear that the opinions expressed in the petition signed by the applicants differ significantly from those of the vast majority of society. Precisely for this reason, a more sensitive approach should be taken when responding judicially to such statements. Because such interventions impose a serious limitation on the public’s right to learn about extremely important events taking place in the country from a different perspective – even if that perspective is difficult for the majority to accept.<sup>19</sup>

<sup>17</sup> H. Dinçer, *Bir Siyasi Davanın Anatomisi: Barış için Akademisyenler Vakası Egemenlik Gösterisi Olarak Dava ve Hakikatin Tersi Yüzü* [Eng. An Anatomy of a Political Trial: The Case of Academics for Peace as a Demonstration of Sovereignty and The Reversal of Truth], “Mülkiye Dergisi” 2024, vol. 48, no. 2, pp. 403–406.

<sup>18</sup> Constitutional Court of Turkey, *Zübeyde Fusun Üstel and Others*, App. No: 2018/17635, 26/7/2019 [hereinafter: *Üstel and Others*].

<sup>19</sup> *Basın Duyurusu: Bildiriye İmza Atan Akademisyenlerin Cezalandırılmaları Nedeniyle İfade Özgürlüklerinin İhlal Edilmesi* [Eng. Press Release: Violation of Freedom of Expression Due to the Punishment of Academics Who Signed the Declaration], <https://www.anayasa.gov.tr/tr/haberler/bireysel-basvuru-basin-duyurulari/bildiriye-imza-atan-akademisyenlerin-cezalandirilmalari-nedeniyle-ifade-ozgurluklerinin-ihlal-edilmesi/> (accessed: 30.07.2019).

Most administrative courts ruled consistently with this judgment. The Constitutional Court's judgment and the following excerpt, in particular, significantly influenced the attitude of both administrative courts and universities concerning academic freedoms:

Undoubtedly, it cannot be claimed that everything academics say is absolutely true... Therefore, even if outside their area of expertise, the ability of academics to oppose even the strongest opinions on the most critical and sensitive political matters – just like any other citizen – may have greater influence than the views of others, and for this reason, it is of vital importance for the society and the country.<sup>20</sup>

Within this framework, the Council of State also issued some decisions in favour of the dismissed academics, citing the Constitutional Court's judgment. However, in some cases, the non-renewal of employment contracts based on administrative discretion was also found to be lawful.<sup>21</sup>

Second, pressure also came from within the academic community. For instance, in dismissals by other means than the emergency decrees, some universities did not dismiss signatory academics, while others refused to implement court rulings in favour of the academics. Similarly, the wording of the petition itself also carried weight. The statement "We will not be a party to this crime" implied criminality for those who thought differently, or at the very least, could easily be interpreted that way.<sup>22</sup> Yet is freedom of expression not meant for articulating our views and persuading others? If open-mindedness is required for being persuaded, how does a language that does not even attempt persuasion contribute to freedom?

Of course, prosecuting someone for their opinions is, in itself, a method of suppression. But courts are obliged to rule on the cases before them. Therefore, the pressures exerted by academics who – like Hitler's vengeful informers – voluntarily assume certain roles without any obligation represent a deeper issue. After all, all administrators, including rectors, are also academics. For example, the attempt to re-dismiss an academic who was reinstated by a court ruling amounts to one academic imposing authority over another through legal means. Still, the fact that the vast majority were not criminally convicted should not lead to the misleading conclusion that the courts subscribe to libertarian views. Their attitude, in fact, resembles Barak A. Salmoni's description of education in Turkey between 1925–1950 as shaped by "disciplined freedom". The new understanding – framed by nationalism, freedom, duty, equality, society-orientedness, rationality, and laicism – offered many democratic advantages compared to the

<sup>20</sup> *Üstel and Others*, § 112.

<sup>21</sup> See: Council of State (8th Chamber) decisions: 2018/3183 K. 2021/7123 T. 29.12.2021; 2022/3284 K. 2024/2396 T. 30.4.2024; 82020/6044 K. 2023/2930 T. 31.5.2023.

<sup>22</sup> "The fact that an expressed opinion harshly criticizes authorities, uses accusatory and sharp language, and is even one-sided, contradictory, and subjective does not mean that it incites violence, poses a threat to society, the state, or the democratic political order, or encourages individuals to engage in unlawful actions." (*Üstel and Others*, § 128).

previous undemocratic regime.<sup>23</sup> On the other hand, it privileged the collective over the individual. The exclusion of different groups from society was seen as a necessity. For example, one of the era's ideologues, Hilmi Ziya Ülken, stated in 1930: "The first condition of democracy and the formation of the modern state is the absence of different groups within society".<sup>24</sup> This approach was partly based on the ideal of equal citizenship against class divisions, regardless of beliefs or wealth.<sup>25</sup> But it was also driven by concerns that granting ethnic minorities a separate status would empower them economically and push them toward forming independent states.<sup>26</sup>

Since the early years of the Republic, unfortunately, freedom has been associated with fear (fear of privileged classes, division, reactionary movements, etc.). Therefore, academic freedom has existed under the shadow of what may or may not be thought. This situation has undoubtedly affected the cultivation of generations of academics who are afraid to think. A Turkish author Vedat Türkali's famous quote, "When one begins to fear speaking their mind, they will begin to fear thinking as well",<sup>27</sup> aptly summarizes this condition. That shadow, unfortunately, was also reflected in the language of the Academics for Peace petition.

The aforementioned statement, "We will not be a party to this crime," implied criminality for those who thought differently or pushed those with similar views to adopt more rigid positions. Yet, as Schauer stated, we do assume that speech has an effect on others. That is one of the reasons for free expression. After all, speech is not merely a self-regarding act.<sup>28</sup> Is freedom of expression not meant for articulating our thoughts and persuading others to think alike – and even being persuaded ourselves? If open-mindedness and an awareness of our own fallibility are necessary<sup>29</sup> for persuasion, then a style of speech that does not even attempt to persuade contributes less to freedom and more to calling people into a pre-defined ideological camp.

Moreover, Schauer's answer to the question of how we exercise free speech shows that the problem extends beyond the legal realm:

The enforcement of free speech is not largely enforcement by the government. Its enforcement in everyday discourse, its enforcement in how people react to speech and so on. The enforcement of legal norms, the enforcement of constitutional norms depends

<sup>23</sup> B.A. Salmon, *Ordered Liberty and Disciplined Freedom: Turkish Education and Republican Democracy, 1923–50*, "Middle Eastern Studies" 2010, vol. 40, no. 2, p. 83.

<sup>24</sup> *Ibidem*, p. 87.

<sup>25</sup> *Ibidem*, pp. 87–88.

<sup>26</sup> S. Ateş, A. Şanlı, *Kültür, Modernleşme ve Milliyetçilik Bağlamında Hilmi Ziya Ülken ve Türk Modernleşmesi* [Eng. Hilmi Ziya Ülken and Turkish Modernization in The Context of Cult, Modernization, and Nationalism], "Uluslararası Türkçe Edebiyat Kültür Eğitim Dergisi" [Eng. International Journal of Turkish Literature Culture and Education] 2021, vol. 10, no. 4, p. 1640.

<sup>27</sup> V. Türkali, *Mavi Karanlık* [Eng. Blue darkness], Ayrinti Publishing, İstanbul 2021, p. 97.

<sup>28</sup> F. Schauer, *Free Speech...*, p. 10.

<sup>29</sup> G. Uygur, *Hukukta Adaletsizliği Görmek* [Eng. Seeing Injustice in Law], Turkish Philosophical Association Press, Ankara 2013, p. 71.



to a very significant extent on public acceptance of the norms. If we want to avoid actions that violate the law in other respects, including violating the First Amendment, then we need a fair amount of education of public officials, education of law enforcement officials, education of school teachers. That will do far more good than the formal devices of legal and constitutional enforcement. Because by the time we get to the formal devices of legal and constitutional enforcement, it's too late.<sup>30</sup>

Therefore, since divergent thinking takes root even among those who think differently, the issue of academic freedom of expression is far from being a problem that can easily be solved through judicial independence or a democratic administration. For example, the current ruling party in Turkey is clearly composed of those who think differently from Republican Kemalists. The fact that a closure case was filed against the AKP (Justice and Development Party) which came to power alone, demonstrates this. However, when the problem is related to fear of thinking itself, even a different ruling power continues to fear what is different. Thus, legal arguments in court regarding freedom of expression do not, by themselves, indicate a genuinely libertarian stance. Therefore, Schauer's observation that freedom of expression should not be regarded as a right in itself becomes increasingly significant – and reveals that it has already come too late. Because unless it is aimed at preventing self-censorship and unless it is understood as inseparable from freedom itself, this principle or right has the potential to do little more than legitimizing new forms of censorship and restriction.

#### 4. Conclusion

Schauer argues that courts, when attempting to interpret open-ended and morally relevant constitutional provisions, such as freedom of expression, equal protection, prohibition of cruel and inhumane punishments, etc., must develop a theory about these provisions, and, moreover, that this theory must have a philosophical basis.<sup>31</sup> However, we can confidently state that the philosophical foundations of freedom of expression within the Turkish Administrative Judiciary are not examined in the decisions we analysed, specifically those concerning the Academics for Peace.

In this article, we did not discuss all of Schauer's arguments regarding freedom of expression. Instead, within the framework of debates oscillating between the restriction and protection of the individual, we attempted to evaluate the approach of Turkish administrative courts toward academic freedom of expression. Accordingly, the main question of the article – "What are the restrictive and protective factors affecting

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<sup>30</sup> F. Schauer, *Defining Free Speech and Why It's a Counter-intuitive Idea*. An interview by Adam Hamza, 2024, <https://www.vpm.org/2024-02-23/defining-free-speech-and-why-its-a-counter-intuitive-idea> (accessed: 10.05.2025).

<sup>31</sup> F. Schauer, *Must Speech...*, pp. 376–378.

academic freedom of expression in the case law of Turkish administrative courts?” – can be answered as follows: both the courts and the academics themselves are agents of both restrictive and protective factors.

In a country where “the state knows best” mentality prevails, and where the freedom of each and every citizen is not valued as a principle, the question of whether freedom of expression is a right in itself becomes relatively less significant. Therefore, Schauer’s holistic perspective becomes important in revealing the link between freedom of expression and other freedoms, as well as the restrictions on those freedoms. When we approach the issue from Schauer’s holistic viewpoint – just as in the *Guernica* example – the essential task is not merely to evaluate what is being expressed, but to explain the underlying factors that lead to that expression.

Moreover, as noted above, the argument that ideas will freely clash and the truth will prevail in the “marketplace of ideas” is not, on its own, particularly suitable to justify exposing human rights violations. Exposing human rights violations in a state may help render such violations visible, contribute to the formation of public awareness to prevent their recurrence, and create an environment in which the state can be held accountable, thereby paving the way for the transformation of the state into one where rights are protected. These reasons may offer a more effective justification for why human rights violations should be exposed. From this point of view, preventing academics from exposing human rights violations cannot be reduced solely to the concern that the destructive consequences of self-censorship will eliminate the grounds for the free clashing of ideas in the marketplace and thus hinder the emergence of the most accurate ideas for society.

On this basis, preventing academics from exposing human rights violations cannot simply be reduced to the idea that not exposing them results only in the loss of a marketplace for ideas. The destructive consequences of self-censorship go far beyond that.

In this context, we may conclude that the real issue lies not only within Turkish administrative courts but also in institutional obstacles – such as universities and academic hierarchies – that may foster self-censorship. In other words, it is often not the courts but academics in administrative roles, such as rectors, who practice censorship. This conclusion, of course, does not mean that the courts are libertarian. Yet, we argue that even if the courts were to render very libertarian rulings, freedom of expression would still lose its meaning in an academic climate where people are afraid to think.

As with the *Guernica* painting mentioned in the introduction, in a century-long tableau of coups and oppressive politics in Turkey, what the artist depicts – that is, what is expressed – fails to go beyond the sterile debate of “this is freedom of expression, that is not”. This indicates that legal mechanisms have been late in protecting freedom of expression and that only profound transformations (such as the kind of education Schauer proposes) can compensate for that delay.

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## Abstract

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### **Between Protection and Restriction: Academic Freedom in the Case Law of Turkish Administrative Courts Through the Lens of Frederick Schauer**

The question of freedom of expression involves more than just the ability to voice an idea; it also encompasses the broader context in which such expression emerges. Nevertheless, in legal discussions the focus is often narrowed to the boundaries of what may or may not be said. These discussions frequently remain confined within a binary framework of restriction versus protection, primarily through legal instruments, and seldom move beyond this limited perspective. In line with Schauer's view, the legal approach tends to classify and reach definitive judgments "by its very nature". Yet, as Schauer himself underlines, this does not mean that freedom of expression and/or academic freedom is valuable solely for its own sake. Schauer's framework, therefore, offers a way to move past the confines of strictly legalistic debates. He provides not only a legal

but also a philosophical basis for examining how expression is either restricted or protected. This article does not attempt to explore the entirety of Schauer's arguments on freedom of expression. Instead, it concentrates on evaluating how the Turkish administrative judiciary approaches academic freedom of expression, particularly from the point of view of the tension between restriction and protection. The central question it addresses is: What are the protective and restraining dynamics shaping academic freedom of expression in the case law of Turkish administrative courts, especially in the context of the Academics for Peace? Drawing on Schauer's analysis of the instrumental function of expression and the institutional limits placed on academic freedom, the article argues that the core issue lies not only within the judiciary but also in structural constraints, such as universities and academic hierarchies, that may foster self-censorship.

**Keywords:** freedom of expression, academic freedom, Frederick Schauer, Turkish administrative judiciary, Academics for Peace, self-censorship