

TURKEY

A panoramic view of the Istanbul skyline at dusk or dawn. The city is built on a hillside overlooking a large body of water. The skyline is dominated by a large, historic mosque with a prominent dome and several minarets. To the right, modern skyscrapers and buildings are visible against a red and orange sky. The foreground shows the dark, calm water of the Bosphorus or Golden Horn.

FREE EXPRESSION
UNDER A SHADOW

Founded in 1922, Norwegian PEN is the Norwegian division of PEN International. Like other PEN Centres, it works primarily with freedom of expression issues, mostly internationally. Norwegian PEN is active in PEN International's Writers in Prison Committee and is also a member of the International Freedom of Expression eXchange (IFEX)

For more information visit our website www.norskpen.no (also in English) or follow us on Twitter [@norsk_pen](https://twitter.com/norsk_pen) and Facebook

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FOREWORD

EUGENE SCHOULGIN
VICE PRESIDENT, PEN INTERNATIONAL

Since the so-called Arab Spring started in Tunisia in 2011, many voices in the western world have expressed the hope that Turkey could be a model for more democratic and open societies in the Middle East. It is true that the Turkish state during the last 90 years, since Mustafa Kemal Atatürk created the Turkish Republic, has moved a long way towards what we in the west like to regard as a functioning democracy. However, a substantial part of the reason for that is to be found in the work of this man and his unique position as saviour of the nation during a bloody liberation war. This combined with his belief that Turkey should follow the western path towards democracy, and his separation of civil society and religious powers.

Although Kemal Atatürk succeeded in modernizing his society to a remarkable extent, he did not manage to heal the wounds created by the centuries-long history of repression of ethnic and religious minorities in the country, and by the gap between the educated western-oriented upper and middle class and the huge rural parts of the society, that dated from the Ottoman era. For 80 years, between 1922 and 2002, the secular Turkish state, highly influenced by the military that were broadly looked upon as the defenders of the nation both by themselves and a majority of the population, ruled the country. The outspoken anti-clerical views of the creator of the republic were followed by all the different political parties who ruled in Turkey over the decades until Recep Tayyip Erdoğan's Justice and Development Party (AKP) came to power over twelve years ago, in 2002.

During my first 10 years monitoring the situation for free expression in Turkey, I witnessed a great number of trials against writers, journalists and intellectuals who expressed their discontent with the way Turkey treated its minorities, primarily the Kurds. Many of these oppositional individuals faced absurd sentences, from life imprisonment to sometimes more than one hundred years behind bars (such as the historian İsmail Beşikçi). Misuse of articles in the penal code, endless custody periods, widespread torture in prisons, murders by the militia, ultra-nationalist gangs - the so-called Grey Wolves - and by Turkish Hezbollah hired to do their dirty job by the "deep state" were common. Along with widespread corruption and misuse of power by leading politicians came the civil war with the Kurdish Workers' Party (PKK), a guerrilla group designated as a terrorist organisation internationally.

It is easy to understand why the situation for freedom of expression in Turkey has been a major concern for many human rights organizations, and not the least for PEN International and the many PEN centres worldwide with active Writers in Prison Committees. Our work defending, assisting and monitoring writers' suffering from harassment, threats, imprisonment and even murder in Turkey has been of great importance to the PEN movement. We have concentrated on the victims and their families, and it is because of this work that I, among others, have monitored all these trials and visited our colleagues while in prison (where it was allowed) and supported their families.

Then came the shift in power. A party founded on Islamic beliefs came into office in a nonviolent and democratic, but still rather turbulent, way. Many foreign observers, as well as Turkish intellectuals, were led to believe that the oppression by the Turkish state would diminish, and during its first years in power the AKP seemed to live up to these hopes. But after the party had won its second general election in 2007, and increasingly after 2010, we saw many examples that made it clear that when it came to human rights and freedom of expression, not much had changed.

Today, the situation in Turkey is more complicated than ever. It even looks as if the neighbouring Arab states have influenced Turkey more than vice versa. The military has been pushed back into the barracks, but the atmosphere between the secularists and the religious society are more tense than ever. The judiciary continues to misuse its own laws. The Anti-Terror Law, which gives the authorities the possibility to hand down ridiculously heavy sentences, remains largely unchanged, and the conflict with the Kurds – after a period of relative calm (the so-called Kurdish Opening) – has reached a new critical point as events in Syria unfold.

Two years ago, a major PEN International delegation under the leadership of its president John Ralston Saul, and including PEN's international secretary Takeaki Hori, the chair of its Writers in Prison Committee (WiPC), Marian Botsford Fraser, its treasurer Eric Lax, myself and several representatives from PEN Turkey and seven other PEN centres, visited Istanbul and Ankara for talks, among others, with then president of the Republic, Abdullah Gül. During the meeting with president Gül, he voiced his deep regret and concern related to the situation for free expression in his country and promised us that substantial changes in the Penal Code, as well as the Constitution, were very soon to be seen.

Now, two years later, the situation in Turkey is changed. Turkey has a new president, and although most of the writers imprisoned in 2012 are now free, many remain on trial, which means that in reality not much has changed. They all live with a Damocles Sword over their heads.

I have never, during my eight years living in Turkey, had so much feedback from writers and journalists fearing censorship as today.

Is this because we, westerners, have a tendency to mingle with a limited group in the society, or is this a feeling shared by many? The repression during and following the Gezi Park demonstrations last summer could be a sign that the latter is actually the case. This report is an attempt to clarify some of these questions, and to take the temperature of the current atmosphere in the country.

Let me finish by stating that Turkey has never been an easy society to read. The more complicated the political and religious situation in the entire enlarged Middle East becomes, the more difficult it is to identify towards where Turkey is moving – if it is moving at all.

Eugene Schougin
 Vice President, PEN International
 Oslo, October 2014

PREFACE

In November 2012, a delegation of writers from PEN International visited Istanbul and Ankara to raise long-standing concerns about the dire state of freedom of expression in Turkey. During the visit, the writers met with Turkey's then President Abdullah Gül. The discussion was frank. Among the topics raised were: the large numbers of writers then in prison and on trial; the use of anti-terror legislation to stifle dissent, particularly of commentary on Kurdish issues; writers who had served years of untried detention; and suppression of the Internet. The meeting was amicable and Gül gave assurances that he was following the situation closely. He made an important observation, that he recognised that freedom of expression in his country was problematic, saying: **“There are many good things unfolding in Turkey, but these concerns cast a shadow over the progress we are achieving.”**¹

Norwegian PEN returned to Turkey early in 2014 to investigate how the situation for freedom of expression had changed, if at all, eighteen months after PEN's visit in 2012, as the country prepared for the next presidential election, the first ever by popular vote. Norwegian PEN's researchers met with writers, NGO activists, journalists, publishers and students from across the political and religious spectrums to find out how they saw the state of free expression in their country, giving voice to those who live under the free expression 'shadow'. What, if anything, had been done to improve the state of affairs since November 2012? What was the impact of the intervening months' political turmoil on people's capacity to speak out? What were their hopes for the future? **The methodology is further outlined in section 3.**

This report gives a summary overview of events affecting freedom of expression, from the November 2012 PEN International visit to Turkey, to September 2014. The report closes with a review of PEN's concerns in 2012, and commentary on developments two years later by Norwegian PEN.

“There are many good things unfolding in Turkey, but these concerns cast a shadow over the progress we are achieving.”

Former President Abdullah Gül,
November 2012

INTRODUCTION

“Freedom of expression for me is to be able to say or write whatever I like without facing consequences and without having to worry about them.”

Roni Margulies, writer.

Freedom of thought means the free formulation and expression of ideas without fear of prosecution, pressure, or reproach. For me, freedom of expression is not limited to words or writing. It also includes participating in a legal organisation, becoming a member of a political party, organising and joining campaigning platforms, going on strike, protesting in the streets, initiating a trade union, becoming a member of one, wearing objects that represent one's political thought or worldview. In short, expressing one's ideas in different forms and through different means are all part of freedom of expression. And above all, freedom of expression is about expression in one's mother tongue.... Just as freedom of thought would not mean anything without freedom of expression, freedom of expression in turn would be insignificant without the right to participate in politics, the right to express oneself in the mother tongue. Those are inseparable.”

Ayşegül Devecioğlu, activist and novelist, prosecuted and sentenced to two years in prison under anti-terrorism laws for a speech she delivered at a public meeting.

PEN INTERNATIONAL'S DELEGATION TO TURKEY, 11-16 NOVEMBER, 2012

THE MISSION AND ITS CONCERNS

In November 2012, PEN International recorded that there were over 70 journalists and writers in prison in Turkey with another 50 on trial. It was then the country holding the largest number of writers, journalists and publishers in prison worldwide. The vast majority were held under the Anti-Terror Law (ATL), - see box - which in many cases was used against people where there was no material evidence of their having carried out or plotted violence. Kurdish and pro-Kurdish writers, journalists and intellectuals were singled out in the Kurdistan Communities Union (Koma Civakên Kurdistan – KCK) case, - see box - under which thousands of people were arrested between 2009 and 2011 and were being tried in clusters before a number of courts across the country. In one KCK trial alone, more than 40 journalists were before the dock. On the other end of the political spectrum, writers were among the hundreds held and tried in what is known as the Ergenekon case, -see box- accused of plotting a nationalist coup. Among them were writers where the evidence against them was based only on their writings and research.

The **Kurdistan Communities Union** (Koma Civakên Kurdistan - KCK) was founded in 2005 by the Kurdistan Workers Party (Partiya Karkerên Kurdistan - PKK) to put in practice the ideology of 'democratic confederalism' of its leader, Abdullah Öcalan which is 'significantly influenced by Communalism.'² The PKK has been engaged in armed conflict with the Turkish army since 1984. The various waves of investigation in the KCK case have targeted Kurdish and Turkish civilians with pro-Kurdish sympathies, including politicians, lawyers, human rights defenders, academics, translators, researchers, publishers, journalists and writers. Each investigation is aimed at targeting a separate alleged 'wing' of the KCK organisation, such as the 'committee of leadership' (46 of the 50 under trial in this wave are lawyers), the 'political wing' (including publishers, academics and translators as well as politicians) and the 'press wing' (which implicates 44 journalists).

The **Ergenekon**³ investigation attempts to uncover an alleged clandestine, ultra-nationalist organisation engaged in the plotting of a military-backed overthrow of the government. The early waves of this investigation largely targeted members of security and intelligence forces, as well as investigative journalists with alleged relationships to them. One of the latter waves of the investigation implicated online news outlet ODATV in the conspiracy, as well as a number of investigative journalists writing about the alleged infiltration of the police and judiciary by members of the Islamic 'Gülen Movement' (see box).

Source: PEN International Caselist, January-December 2013, pp 194-195.

THE ANTI-TERROR LAW AND FREEDOM OF EXPRESSION

The **Anti-Terror Law (ATL)** came into effect in 1991; since then it has been amended on a number of occasions. Before 1991, journalists and writers were commonly accused under Articles 141, 142 and 163 of the Penal Code that prohibited Kurdish independence, Communism, Islamist activities, writings in support of Kurdish issues and acts which included support for or promotion of terrorism. Ostensibly, the introduction of the ATL was meant to address violations of freedom of expression that the Penal Code then presented. Some problematic articles were removed, to be replaced by the new law. However, far from addressing the problems, the ATL extended the scope of what could be considered terrorism. Today, writers and journalists commonly face charges under ATL Art.5/1 (membership of a terrorist organization), Art. 6/2 (printing or publishing declarations or statements of terrorist organizations), and Art. 7/2 (making propaganda for a terrorist organization). Before the ATL, writers and journalists charged under the previous articles were considered as political prisoners. After the ATL, those charged for similar acts can be considered as 'terrorists' in the eyes of the authorities.

For more on the ATL see Amnesty International's report, "Turkey: Decriminalize Dissent": <http://www.amnesty.org/es/library/asset/EUR44/001/2013/en/2f995e94-75e3-4a73-b50c-28f7e84f46d8/eur440012013en.pdf> (English)

Extraordinarily long periods of untried, pre-trial detention, in some cases over five years, was another concern raised by PEN in 2012, as was the panoply of laws that led writers into prisons and court rooms. There was also disquiet about the suppression of the Internet and social media. These concerns combined to make Turkey a high priority for PEN International.

15 November, 2012 marked PEN International's 31st International Day of the Imprisoned Writer. PEN Turkey was hosting a commemoration event with readings and the annual Istanbul Book Fair was to be held a few days later. These events presented the opportunity for PEN's leadership, accompanied by representatives of PEN centres, to come to Turkey in person, to raise publicity about detained writers and to lobby for their release directly with government officials.

The delegation was headed by PEN International president John Ralston Saul, joined by the chair of the International Writers in Prison Committee, Marian Botsford Fraser, and leading members of PEN centres in Norway, Turkey, Canada, the USA, Lebanon, England, Sweden and Switzerland (Swiss-German).

The delegation carried with it a statement outlining PEN's concerns and which concluded:

"Many writers, publishers and journalists in Turkey have expressed concern to PEN International about a climate of intimidation and fear that is fostering widespread self-censorship. Many dread publishing controversial but completely legitimate opinions and ideas that are protected under national and international free expression guarantees."

During the visit, the PEN delegation travelled to Ankara, where they were granted a meeting with then President Abdullah Gül, then Minister for European Union Affairs Egemen Bağış, and with members of the diplomatic community. The delegation conveyed to the president PEN's concerns about Turkey's anti-terror laws and raised the cases of individual writers penalised for their writings. The delegates requested that the government ensure that no one was being punished or prosecuted for their exercise of the right to peaceful freedom of expression. Gül reiterated his belief that the best way to combat and isolate terrorism is to raise the standards of democracy. He told the delegation:

“There are many good things unfolding in Turkey, but these concerns cast a shadow over the progress we are achieving. They also have international repercussions. These developments deeply sadden me, and as President, I more than anyone else want to see that they are resolved and no longer on the country's agenda.”

Minister for EU Affairs Egemen Bağış also acknowledged that not all in Turkey was perfect, and that there were human rights issues that needed to be resolved, including freedom of expression. However, he felt that the situation was much better than before, referring to the lifting of restrictions on the Kurdish language and broadcasting, among others. He pointed to the continuing process of judicial reforms that he believed would address many of PEN's concerns, yet stressed that terrorism was a problem that needed a strong response. He was clearly frustrated by the EU accession process, saying that the positive developments in Turkey were not being acknowledged, and that tougher acceptance criteria and “double standards” were being applied against his country.

The delegation returned to Istanbul where it took part in the PEN Turkey Day of the Imprisoned Writer commemoration, where over 20 writers read pieces that they had written specially for the event. They included Büşra Ersanlı and Nedim Şener, who were both on trial, Ali Berktaş, brother of academic Ayşe Berktaş who was still in prison, politician Şafak Pavey, free expression activists Nadire Mater and Şanar Yurdatapan and writers Aslı Tohumcu, Ayfer Tunç, Elif Batuman, Gaye Boralıoğlu, İnci Aral, İpek Çalışlar, İrfan Sancı, Jaklin Çelik, Ned Beauman, Neşe Yaşın, Tarik Günersel, Tülin Dursun, Yavuz Ekinci and Zeynep Oral. PEN Vice President Eugene Schoulgin also read a piece by the imprisoned writer Muharrem Erbey. A letter from Ayşe Berktaş was read by her brother.⁴

Remarkable, in light of the fact that the Istanbul Book Fair is a mainstream event for the general public, was that the state of free expression in Turkey was a key issue raised at the opening ceremony, both by the director of TÜYAP, the book fair organiser, and the director of the Turkish Publishers Association, co-host of the event. Addressing themselves to the government representatives present in the hall packed with participants and press, including then Minister for EU Affairs Egemen Bağış, they protested the fact that over 70 writers were in jail. PEN International's president, John Ralston Saul, also spoke out from the stage in defence of writers in prison. Bağış gave a vigorous response when it was his turn to address the room, raising positive changes such as the lifting of some restrictions on Kurdish language and greater religious freedom. However, he challenged how the EU could demand others to stand by human rights standards when its own member states do not uphold them, specifically on minority rights. He also referred to the need for tough measures to combat terrorism.

PEN also hosted a panel debate at the book fair where writers from Morocco and Iran spoke about freedom of expression in their own countries. Asieh Amini, Iranian poet and activist, talked of her experience defending women's rights and of her ‘Stop Stoning Forever’ campaign. Zineb el Rhazoui is a Moroccan journalist whose outspoken criticism of the government had led to intimidation and death threats, resulting in her fleeing to Belgium. Gillian Slovo, a South African-born writer, and a leading member of English PEN's campaign for freedom of expression in the UK and worldwide, was the third panellist.

A FREE EXPRESSION TIMELINE

NOVEMBER 2012 TO SEPTEMBER 2014

DECEMBER 2012 TO JANUARY-FEBRUARY 2013

PEN International's Writers in Prison Caselist for the period January to December 2013 stated that 76 writers and journalists were then in jail in Turkey, many of whom had been arrested and charged with offenses under the Anti-Terror Law.

- Ahmet Altan, editor of *Taraf* newspaper, is ordered to pay 15,000TL (Turkish Liras) to Prime Minister Erdoğan as a compensation for "insult." Erdoğan opens another case against the *BirGün* newspaper, demanding 100,000TL as compensation for "insult."
- In January, as part of peace negotiations between the government and the imprisoned PKK leader Abdullah Öcalan, restrictions on the Kurdish language are eased, a ban on Öcalan's books is lifted and the right to use Kurdish language in court is granted.
- PEN protests the life sentence handed down, in absentia, to writer and sociologist Pinar Selek, accused of involvement in an explosion in 1998, although she had been acquitted three times previously.
- An investigation is opened against PEN Turkey board members for "denigrating the state and influencing legal authorities" under Penal Code Art. 301/4. This arose from PEN Turkey's criticism of the court case opened against Fazıl Say, a musician accused of blasphemy for a series of tweets.⁵ In February, the Turkish government rejects suggestions that journalists and writers are in prison in denial of their rights. At a high level Council of Europe freedom of expression and media conference, then Minister of Justice Sadullah Ergin states that, **"the ones who are in prison are not journalists, they are terrorists."**

MARCH- APRIL-MAY 2013

Responding to national and international criticism of the suppression of freedom of expression and the high number of journalists and writers in prison, amendments are made to some articles of the ATL and Penal Code under the Law on Amending Laws Regarding Human Rights and Freedom of Expression, also known as the 4th Judicial Reform Package. Adopted by Parliament on 11 April, the changes are seen by many as ineffective. Amnesty International noted that the Package "will allow abusive prosecutions to continue, forcing still more political activists, journalists and human rights defenders to face jail sentences for carrying out their work."

Positive news came with the amendments to ATL Articles 6/2 (printing or publishing of declarations or statements of terrorist organizations) and 6/4 (committing the offence in Art. 6/2), which narrowed the definition of promotion of terrorism to statements directly calling for or encouraging violence. Penal Code Art. 215, also applied against numerous journalists accused of "praise for a crime and criminals" in the past, now needs evidence of "clear and imminent threat to public order" to proceed with prosecution. However, there remained concerns that the law was still open to broad interpretation with ambiguous terms such as "promoting, legitimizing acts of terror groups."

- Writer Ayşegül Deveciloğlu was among 21 pro-Kurdish Peace and Democracy Party (Barış ve Demokrasi Partisi - BDP) members whose trial opened in March 2013, charged under the ATL for their participation in Newroz (Kurdish New Year) celebrations the previous year.
- Journalist Temel Demirer is referred to the Ankara Chief Prosecutor's office for breaking the conditions of a suspended sentence given to him under Article 301 of the Penal Code for "denigrating the Turkish Nation, the Turkish Republic, its government or government institutions" in connection with references he made in 2007 to an Armenian genocide carried out in the early 1900s.
- PEN launches a petition on behalf of detained writer Ayşe Berktaş, held in the KCK case since October 2011.
- The Turkey-based Internet Publishers Association states that the number of banned websites in Turkey has reached 30,000.
- Media unions across Turkey protest a court decision to ban news coverage of car bombs in the town of Reyhanlı near the Syrian border in which over 50 people died. Several people with alleged links to the Syrian intelligence services are arrested as suspects.
- On 1 May, International Worker's Day celebrations are banned, sparking nationwide protests which are met with police violence. Over 70 people are arrested, and scores of protesters, including six journalists, are injured in Istanbul during the protests.
- Protests to defend Gezi Park in central Istanbul against its demolition transform into a nationwide uprising against government policies (see box).

THE GEZI PARK PROTESTS

On the evening of 27 May, 2013, bulldozers were seen working in the Gezi Park, a signal that plans to demolish the park under the Taksim renewal process were about to start. Already there had been serious opposition to the plans from the Chamber of Architects, ecologists and many others who had organized as Taksim Solidarity against gentrification projects in the Taksim area of Istanbul. Information that the bulldozers had entered Gezi Park spread through social media. A group of twenty people then set up camp in the park, staying on guard in the park that night to stop bulldozers destroying trees.

The following is excerpted from the English PEN/PEN International report, “The Gezi Park Protests: The Impact on Freedom of Expression in Turkey”, published in March 2014:

The next morning, 28 May, police attempted to clear the site for the first time using excessive force, tear gas and pepper spray. The image of a woman in a red dress being showered with tear gas during this attempted dispersal was shared across social media, galvanising the protests as more people came to the park the following day in defiance of the police’s heavy-handed tactics. Seeking to break the resolve of the protesters occupying the park, the police launched a raid in the early hours of 30 May, using pepper spray and water cannon to disperse them while municipal authorities set fire to their tents. Once again, images of police violence spread on social media, leading to yet more protesters pouring into the park and the surrounding areas in Istanbul. This defiance was met with police aggression in the early hours of 31 May. Solidarity protests started to take place in Ankara and İzmir. Solidarity protests kept expanding and spreading to surrounding cities. [The next evening, Gezi Park was occupied yet again, which resulted in 15 days of communal living inside the Park, although nationwide protests and clashes with the police continued to take place every evening until 16 June.] By the end of July, according to official government estimates, 3,545,000 people across 80 of Turkey’s 81 provinces had taken to the streets in solidarity with the Gezi Park protesters. 5,300 individuals were arrested and 160 were kept in long-term detention, with many arbitrarily detained without charge for hours on end.

*The tough government response was not limited to the suppression of freedom of assembly on the streets. Large-scale investigations into the use of Twitter during the protests led to the arrest of scores of users in the cities of Izmir, Antakya and Mersin, while defamation cases were brought against outspoken voices on social media. Investigations into playwrights, actors and caricaturists had a chilling effect in the aftermath of the protests, while those television stations audacious enough to show live footage of events faced heavy fines for contravening broadcast regulations. **According to the Journalists’ Union of Turkey, 845 journalists lost their jobs during the protests. By 30 September, 153 journalists had been attacked and 39 taken into police custody.***

To read the full report go to: <http://www.pen-international.org/wp-content/uploads/2014/03/PEN-Gezi-Report.pdf>

JULY-AUGUST-SEPTEMBER 2013

Repercussions from the Gezi uprising continued through July and August with police raids on the offices and houses of protesters and mass arrests nationwide. The death of protester Ali İsmail Korkmaz, injured in Eskişehir in north-west Turkey, was widely protested.

- Writer Ahmet Altan’s previous sentence of 15,000TL for “insult” to then Prime Minister Erdoğan is changed to 11 months in prison, commuted to a fine. Journalist Bekir Coşkun is similarly fined in another case of “insult” to Erdoğan.
- In its annual report published in July, the Turkish Publishers Association reports that 26 journalists and media workers being prosecuted in the KCK journalists case are still in jail.
- PEN International protests the flawed trial leading to the lengthy sentences against numerous writers and journalists under the ATL, among them writer Mustafa Balbay.
- Composer Fazil Say’s 10-month sentence for blasphemy is upheld in a retrial. (His original sentence had been passed in April 2013 for tweets made in 2012.)
- Eight journalists are reported injured while covering protests at the death of Ahmet Atakan, killed during a Gezi-related protest.
- Prominent journalist Can Dunder is laid off from his newspaper, *Milliyet*; this is a case similar to other layoffs and resignations of critical journalists in this period. According to Bianet’s report on journalism during the Gezi uprising, at least 22 journalists’ resignations and 14 others’ dismissals are a result of their reports on the Gezi protests.
- More than 40 account holders of the popular online dictionary, Ekşi Sözlük, are charged with “blasphemy” for their posts on the site.
- Two more journalists are freed to continue trial in the KCK journalists case, leaving 20 journalists in jail. PEN issues a call to action in their support.

OCTOBER-NOVEMBER-DECEMBER 2013

The conflict between the government and the Gülen movement erupted, following the revelation of a scandal involving allegations that politicians, government officials and businessmen had been involved in bribery and illegal construction projects. Prosecutors and police forces conducted raids on government officials under a corruption investigation. Then Prime Minister Erdoğan, in response, denounced the operation as an attempted coup d'état by his former ally, Fetullah Gülen (leader of the Gülen movement), – see box- and started a purge of police chiefs linked to the corruption accusations. Wiretap recordings of the prime minister, his family and many cabinet members, forming the basis of the allegations, purport to show the prime minister directly instructing a media head to censor broadcasts. There were nationwide protests against the revelations.

The Gülen Movement (Hizmet – ‘the Service’ - in Turkish), headed by its charismatic leader, Fetullah Gülen, who lives in self-imposed exile in the USA, is a moderate Islamic social and religious movement, which, until recently, was allied to the government Justice and Development Party [Adalet ve Kalkınma Partisi - AKP]. It runs a network of private schools across Turkey and in 140 other countries, and promotes inter-faith activities. However, suspicions have been raised that it has infiltrated Turkish bureaucracy, specifically the police, military and judiciary, forming what its critics describe as a ‘parallel structure’ within the government. Hundreds of police, military and judicial figures have since been purged or reassigned, with arrests of police involved in the corruption investigation.

For more, read: <http://www.bbc.co.uk/news/world-13503361>

- Writer Ayşe Berktaş is freed to continue trial after serving two years in prison, along with five other KCK defendants. Journalist Mustafa Balbay, sentenced to 34 years in prison under the ATL in the Ergenekon case, is similarly freed after more than four years in prison and his appeal hearings continue. PEN welcomes the release while emphasising the need for judicial reforms to ensure against continued free expression infractions.
- Reporter Füsün Erdoğan and five other journalists are sentenced to life imprisonment under the ATL for their alleged leading roles in the banned Marxist-Leninist Communist Party (Marksist-Leninist Komünist Partisi- MLKP). They were among 29 people who had been on trial since 2006. Norwegian PEN issues an international [protest](#).

JANUARY-FEBRUARY-MARCH 2014

Through January and February 2014, the wiretapped recordings of high level officials reputedly exposing their involvement in corruption led to an extraordinary backlash from the authorities, which then led to harsher Internet restrictions and greater controls on independence of the judiciary. Local government elections were the main agenda of March. Although the AKP won the majority of local elections, questions were raised in some media about purported election fraud.

The 5th Judicial Reform Package, that included lifting of restrictions on political statements and access to education in mother tongue languages, was passed through Parliament in February. It also included a cap on the length of time that can be spent in pre-trial detention to five years. This led to the release of a number of prisoners. However, amendments to the Assembly and Demonstration Law included in the package brought additional strict measures on practicing the right to assembly.

- Demonstrations are held against Law 5651, popularly known as the Internet censorship regulation, already much criticized over the years for draconian measures to censor the Internet. Passed on 6 February, the extended restrictions include enabling the Turkish telecommunications authority to block websites without court orders, and limits on users’ access to “inappropriate websites.” Also, ISPs are required to store users’ browsing histories for up to two years, making this information available to the authorities on demand. The amendments are passed despite local and international protests. PEN International issues a [protest](#) against the law. On 26 February, some aspects of this law are [ameliorated](#) on request of then President Gül, so that temporary blocking of websites needs court approval within 48 hours, and court orders are needed for authorities to access personal data.
- The Gezi repercussions continue when, in February, 29 students are ordered to be brought to trial for tweets they sent during the June 2013 Gezi demonstrations.
- The death of Berkin Elvan, a 15 year-old boy who had been in a coma for 269 days after being hit by a police gas bomb canister during the Gezi protests, leads to widespread protests, met with further police violence, tear gas and water cannons.
- In March, English PEN/PEN International issues the report, [“The Gezi Park Protests: The Impact on Freedom of Expression in Turkey.”](#)
- Three more journalists are freed in the KCK journalists case, and the last writer detained in the KCK academics case, Deniz Zarakolu, is also freed. Journalists Tuncay Özkan and Merdan Yanardağ, imprisoned in the Ergenekon case, are freed. By the end of March, [according to Bianet](#), 35 journalists and 15 publishers are still in jail. The news monitor notes that 22 of the journalists and all of the publishers are from the Kurdish media.
- Twitter and YouTube are banned, with the ban on Twitter eventually lifted in early April and on YouTube in May. Sixty-four leading international writers send a [protest](#) letter to the Turkish government against the banning.

APRIL- MAY-JUNE 2014

In April, [Bianet reported](#) that in the first three months of 2014, 17 people were convicted to a total of 31 years in prison for insulting Prime Minister Erdoğan (none as yet detained), and at least 40 journalists reported assaults.

- Kurdish writer and lawyer, Muharrem Erbey, is freed in April, benefitting from the 5th Judicial Reform Package amendment that enables the release of those who had been held without trial for several years. Journalist Füsün Erdoğan, sentenced to life imprisonment in November 2013, is freed in May, another beneficiary of this package.
- May Day demonstrations are banned once again. 171 protesters against the ban are arrested and many injured by tear gas canisters and rubber bullets, with journalists said to be among those injured.
- An officially-stated figure of 301 miners who perished in the Soma mine disaster on 13 May is released, deaths which many condemn as being avoidable had proper safety measures been in place. Erdoğan accuses journalists of biased coverage of the disaster, and reporters are faced with restrictions on reporting about the incident and the official death figures.
- PEN International [issues a statement](#) on a new defamation case brought against journalist Can Dündar in May.
- In June, the Turkish consulate in Mosul, Iraq, is seized by IS. Turkey places a media ban on reporting on this and on the almost 50 consulate staff and their families, including small children, who were taken as hostages.
- An English translation of NTV Tarih magazine's [Gezi issue](#) is published by Metis Publications, Norwegian PEN and the Norwegian Non-Fiction Writers and Translators Association. The issue had been withdrawn by its publishers at the time of the Gezi protests and the magazine series closed.
- PEN International [issues a call](#) for an end to Pınar Selek's trial (see above). Her case is overturned by the Supreme Court a few days later.

JULY – AUGUST – SEPTEMBER 2014

The first-ever direct presidential elections are held in early August, with Recep Tayyip Erdoğan gaining over 51% of the vote, and elected as president. Threats and prosecutions of journalists continue, and there is a reported rise in hate speech in the media. Internet repression intensifies.

- In July, the Ankara Press Association publishes its "[Press Project for Freedom Report](#)", which covers a range of issues including pressures on digital communication that encompass bans on social media, the right to demonstrate, penalties served on broadcasters and other developments.
- In early August, Recep Tayyip Erdoğan refers during a presidential election rally to the reporter for the *Economist*, Amberin Zaman, as: "A militant in the guise of a journalist, a shameless woman... Know your place! ... [Y]ou insult a society of 99 percent Muslims." Zaman had earlier criticised the government in a television interview, and since has spoken of living under a [flood of threats](#) on social media inspired by Erdoğan's comments. Three other female journalists, Ceyda Karan, Selin Girit and Ceylan Yeğinsu are similarly targeted by government officials.
- The country's first direct presidential elections are held on 10 August. Recep Tayyip Erdoğan, formerly prime minister, wins 51.79% of the vote and is formally inaugurated as the 12th president of Turkey on 28 August.
- The Hrant Dink Foundation releases its "[Hate Speech Media Monitoring Report](#)" on 22 August. Covering January to April 2014, it shows a rise in hate speech in the media over the period, specifically against non-Muslim minorities and the LGBTI community.
- Former foreign minister Ahmet Davutoğlu, who becomes prime minister on 29 August, [identifies](#) the continuation of Kurdish peace talks and the EU accession process as priorities, alongside removing the influence of the Gülen movement within the 'parallel' state. Two dozen police officers allegedly linked to the movement are [subsequently arrested](#) in early September, the fourth such raid in recent months.
- The 9th Annual [Internet Governance Forum](#) is held in Istanbul from 2-5 September, amidst much criticism of the Turkish authorities' increasingly draconian measures against Internet users at home. Some Turkish organisations boycott the event, staging their own Internet Un-Governance Forum alongside.
- Internet repression is further deepened with the passing of new bill that gives the Turkish Telecommunications Authorities [wider powers](#) to block websites and to access data without a court order. In late September, all but one of 28 people tried for their comments on Twitter during the Gezi protests are [acquitted](#).
- Three further [defamation investigations](#) are initiated against journalist Can Dündar (see above), linked to his reporting on high-level corruption published in August. The press monitor, Bianet, reports that 36 individuals were given monetary fines, a further 17 convicted to prison terms and another 35 were on trial in the previous six months for defamation against Erdoğan.
- Writer Erol Özkoray is [sentenced](#) to an 11-month prison term, suspended for five years for his book on the Gezi protests, deemed to be insulting to President Erdoğan.
- Although the hostages in the Mosul Turkish consulate are freed in late September, the blackout on news coverage of the event remains in place.

THE INTERVIEWS

METHODOLOGY

Norwegian PEN researchers met with 57 people in 38 interviews held between December and March 2014 in Istanbul, Diyarbakir and London, in person and on email. Most of the interviewees were writers, journalists and activists known to PEN from its work in Turkey in recent years, or recommended by others. All were selected because of their knowledge or experience of freedom of expression in Turkey. The aim was to gather input from across political, religious, ethnic and age groups. This was largely successful – see charts below. There was greater input from Kurdish than from other minority groups, due in part to the dominance of Kurdish activists in prison and the presence of an active Kurdish PEN centre.

The three researchers carried out thirty one-to-one interviews: one with nine people, one with seven people, two with groups of three and three more with two people.

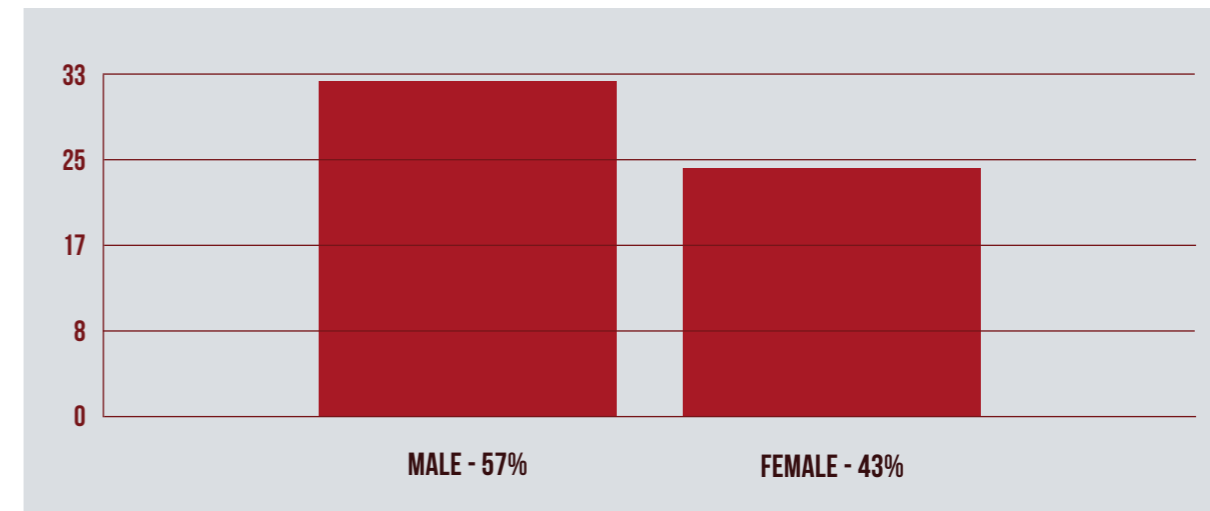
The focus of the research is qualitative rather than quantitative to allow for the expression of individual views and opinions. A great deal of interview material was gathered from which only a selection of comments could be made. These were chosen either as being representative of a number of views, or as providing an interesting perspective on the issue at hand.

A questionnaire was used as the basis of the interviews. It contained questions that asked for responses on issues including the state of free expression today compared with ten years earlier, the number of writers in prison, the independence of the judiciary, self-censorship, the Gezi protests and new restrictions on the Internet, free expression for minorities, and thoughts for the future. See Appendix III for a full list of the questions. In some cases, the interviewees were not able to complete all questions due to time constraints. In this event, key questions had been identified that were asked of all interviewees, with additional questions asked as time allowed.

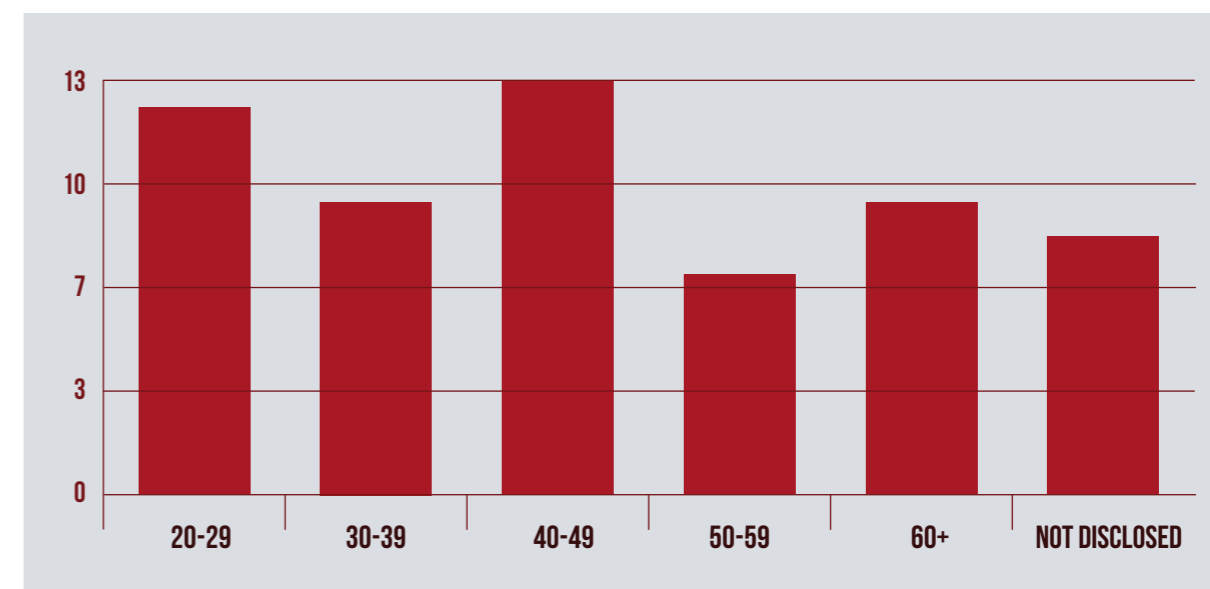
As the interviews were being carried out, between January and March 2014, tumultuous changes were under way in Turkey and the repercussions of the Gezi protests were still being absorbed. Consequently, the responses often reflect a pervasive sense of insecurity and trepidation for what is to come. In some cases, interviewees requested anonymity.

The views and opinions expressed and quoted in this report are those of the interviewees alone and are not necessarily shared by the authors of this report or by Norwegian PEN.

GENDER

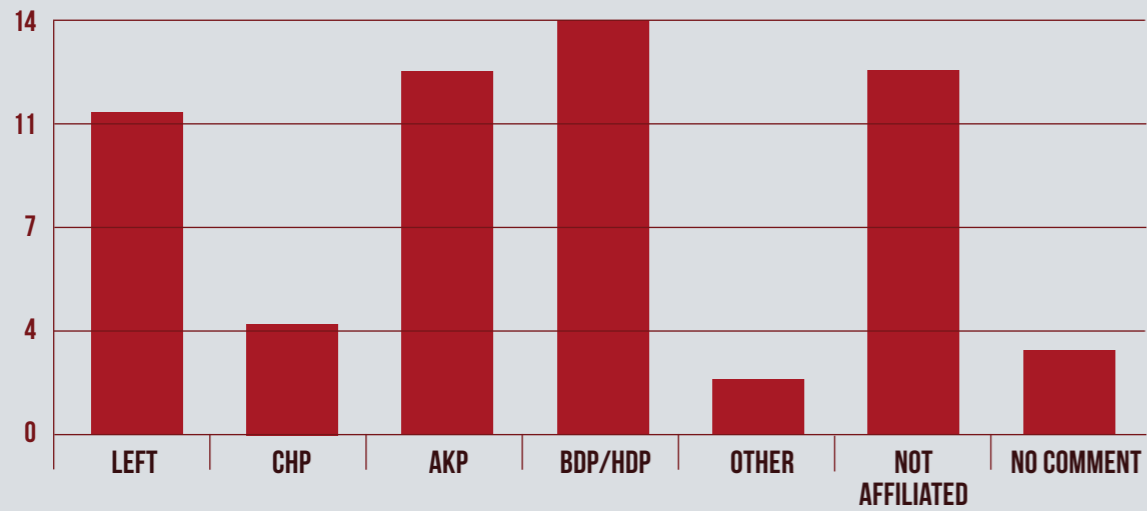


AGE RANGE



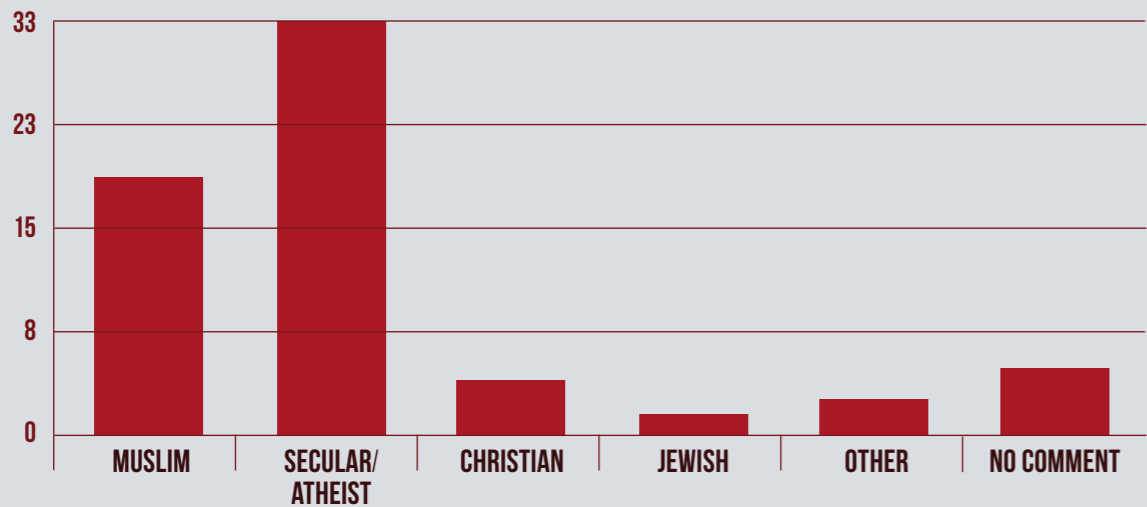
POLITICAL ALLEGIANCE

Interviewees were asked to define their political allegiance. Eleven described themselves as leftist, ranging from liberal to Marxist. Four allied themselves to the opposition CHP, and twelve to the ruling AKP. Another fourteen declared affiliation to pro-Kurdish BDP and HDP parties. Twelve claimed no affiliation to any party. Twelve claimed no affiliation to any party.



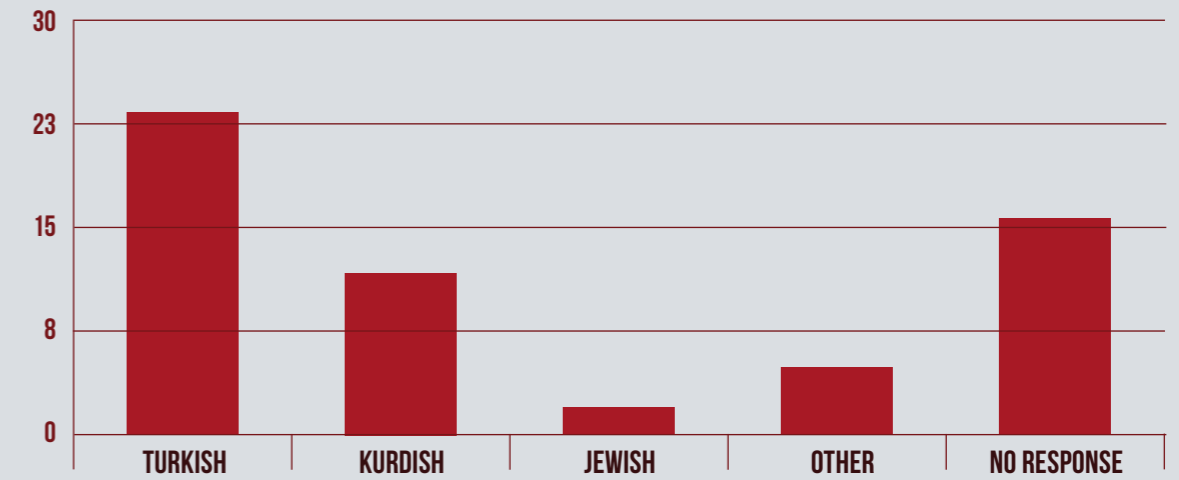
RELIGION

Of those interviewed, nineteen described their religion as Muslim, including two following Sufism; the majority described themselves as atheist or secular; a minority identified as Jewish or Christian and the remainder preferred not to comment.



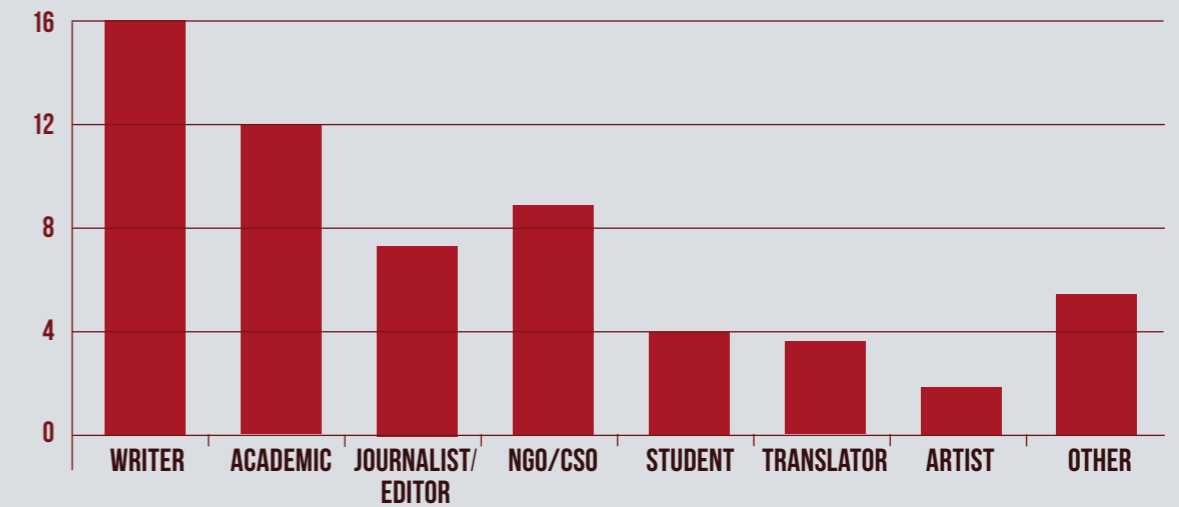
ETHNIC BACKGROUND

Twenty-four identified themselves as either Turkish or as not being from any minority group; thirteen identified themselves as Kurdish (including one of the Zaza group); two identified as Jewish, one as Armenian, one as Syriac and two as from outside Turkey. The remainder did not comment.



PROFESSION

Sixteen of those interviewed were writers, twelve were academics, seven were editors/journalists or publishers, nine were working for non-governmental, civil society or arts organisations; there were three translators, two artists, four students, and the remainder from other professions.

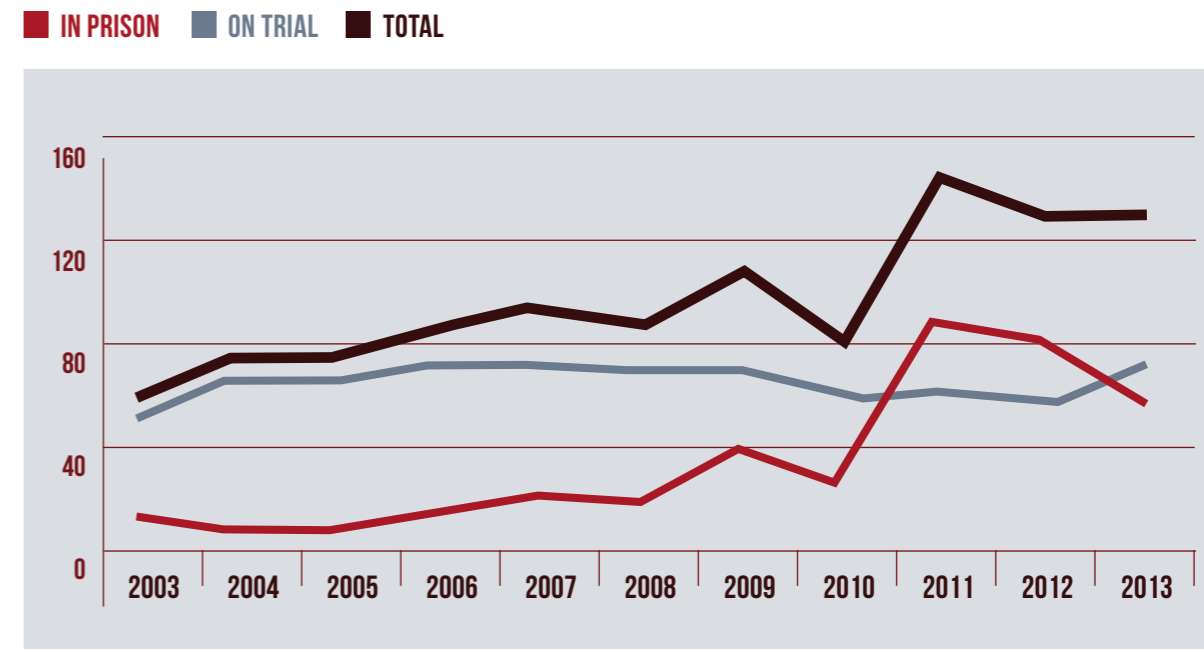


WRITERS AND JOURNALISTS IN JAIL

In November 2012, when PEN visited Turkey, its records showed that around **70** writers and journalists were in prison and another 50 on trial. Such figures had led to Turkey being widely criticised at home and abroad for holding more writers in prison than any other country, including Iran and China. By the end of 2013, the numbers had dropped as long-term prisoners began to be freed pending trial as a result of changes to the law.

At the end of 2013, PEN International recorded **54** writers and journalists in prison, and more than 70 others on trial. In July 2014, freedom of expression monitors in Turkey reported that there were around **23** still in jail after a series of releases that came from a reduction in the amount of time that can be spent in pre-trial detention. However, as the trials against many of those freed had not ended, and as fresh cases continue to be opened, records at the end of 2014 could well show the number of writers on trial little changed from those of previous years.

WRITERS IN PRISON AND ON TRIAL – 2003-2013*



*Source: PEN International Writers in Prison Committee Caselists (December editions), 2003-2013.

INTERVIEWEES WERE ASKED TO COMMENT ON THE REPORTS THAT TURKEY HAS A HIGH NUMBER OF WRITERS AND JOURNALISTS IN JAIL.

Comments from interviewees included that the high levels of prosecutions of writers reflected badly on Turkey. While there were questions about whether some had been detained for activities other than writings, it was widely acknowledged that there is a long-standing problem of successive governments using the courts and prison to penalise their political opponents.

“When I read that we are not only on a par with, but worse than other countries, such as Iran or China [...] I feel this is terribly negative,” said Merve Pehlivan, a young writer and translator. Academic Alper Bilgili agreed: *“The prosecution of journalists might be considered one of the most significant indicators of the quality of democracy in a country.”* A writer, who prefers anonymity, saw that situation as long-standing. *“It has always been like this,”* she said. *“This country is renowned for it.”* Academic and translator, Ayşe Bertay, herself recently freed from jail, described the situation as, *“A normal state of affairs, part of everyday life. Everyone knows somebody in prison, so they say ‘so what?’ You get used to it, but it is not something to get used to.”*

Ayhan Ogan, director of the Civil Society Platform (Sivil Dayanışma Platformu - SDP), an umbrella group representing religious circles, foundations and organisations, reflected that the imprisonment of journalists had been a constant feature of the changing political structures of the 90 years of the Turkish Republic. *“Why do we have fifty⁶ journalists in jail? The political structure in Turkey is under the sovereignty of bureaucracy and whoever is considered a threat to bureaucracy is imprisoned.”* He added, *“Almost all the journalists in prison are accused of having ties with illegal [terrorist] groups. Their imprisonment has nothing to do with their written or spoken statements.”* Nine young people linked to the SPD, who were interviewed as a group, also questioned whether the imprisoned journalists were not held for their writings or journalism, but rather for their involvement with terrorism.

Questions were also raised from those who are not government sympathisers, such as Emel Kurma of the Istanbul-based NGO, the Helsinki Citizens' Assembly, who saw bias among those who compiled the lists: *“The issue has been co-opted as a harassment of the left, as a ‘misery of the left’ ... That really bothers me and it suggests that there are only leftists in prison. You need to ask if there are any from Islamic groups or others, and yes, there are, as can be seen by the campaigns for release or fair re-trial of some people in prison who belong to political Islamist groups.”*

Writer Roni Margulies said that: *“The West is informed about [the detentions] from Kemalist Islamophobic sources in Turkey. [It is] true that many journalists are in prison, but a very high percentage of these [...] are Kurds, who are in prison not because of a general lack of freedom of expression, but a specific taboo. This does not make it any less acceptable, but the general impression one gets talking to the Kemalists or reading Western sources, is that anyone goes to prison. This is not the case.”*

Ultimately, said magazine editor Murat Yalçın: *“The number is unimportant. What matters is that thoughts and ideas are being put on trial.”*

Gürkan Özturan, a blogger, pointed to a counter-effect in that the detentions had in some cases brought books to the attention of readers they would otherwise not have reached: *“There have been banned books in recent years that I would not have heard about if they had not been in the headlines [...]. When I heard of Ahmet Şik’s arrest⁷, I asked, ‘Who is this guy everyone is shouting about? And then I started reading his books.”*

FREE EXPRESSION UNDER PRESSURE

These answers ranged from past incidents of imprisonment to exile and, in one horrific case, an assassination attempt. More recently, imprisonment was no longer the main problem, although some writers were still on trial, often lasting several years. Fears of losing a job, difficulties in finding employment, attacks on social media and through the press, punitive tax inspections, and, for the younger people, pressure from their families, were other ways that interviewees found their opinions stifled or even suppressed.

THE INTERVIEWEES WERE ASKED IF THEY HAD BEEN PROSECUTED OR SUFFERED RETALIATION FOR THEIR WRITINGS OR POLITICAL ACTIVITIES.

Around half of the interviewees reported some kind of pressure, including those who had recently been freed from prison and were still on trial and others who had been prosecuted in the past. There was one case of a serious, life-threatening assault, and other cases of threats on social media, problems with employment and punitive tax inspections.

PHYSICAL ASSAULT

Bedri Baykam is an artist who was stabbed in an Istanbul street in 2011 and narrowly escaped death. The attack was linked to his protests of the destruction of a ‘peace statue’ promoting reconciliation between Turkey and Armenia which had been erected in eastern Turkey. His attacker was later imprisoned. *“The reason I survived is that I had been expecting this attack for 26 years. [...] Two weeks after I got out of hospital, I returned to writing the same kind of articles. They are not going to shut me up.”* He added that, *“You develop a hard skin and you expect the worst at any moment. That is how we live.”*

FEAR OF RETRIBUTION

Also for others there was pervasive fear that retribution could come at any moment. *“You don’t know what may happen tomorrow,”* said writer Zeynep Oral. *“You can find yourself one moment in a prison, the next beaten by the police. You can find yourself brought to court without knowing what you are accused of. Anything may happen to you, your friends, your children. You have no idea. So there is a great state of fear, in my opinion. People are afraid.”*

Bedri Baykam added that: *“When the [Ergenekon] raids were happening, if we woke up to an early morning ring on the door, we didn’t know if it was the milkman or a police raid. This is how we live. It is a very difficult situation [...] but you get used to living with it.”*

MEDIA HOSTILITY

Muslim commentators spoke of the hostility they face in the print and social media from secularists and Muslims alike. A Muslim journalist who prefers to remain anonymous told of how she, *“... got threats from seculars just because I am a veiled woman columnist. I got really sexist threats [from them] even when I wrote a piece to defend abortion rights.”* Academic Alper Bilgili, also a Muslim, told of the aggressive reaction he gets from several quarters. *“In response to my meta ethical arguments published in a newspaper, I got hostile criticism from atheists. Then when I criticised Menderes⁹, the conservatives were highly critical of me. Finally, when I argued that we should not take too seriously people who insult the Koran without genuine criticism, I was accused of being a fake Muslim. I think there is low tolerance for oppositional ideas in the country. Yet it has nothing to do with the Koran, it is our political culture.”*

FAMILY TENSIONS

Younger interviewees spoke of the impact their activism had on their relations with their families. One writer found herself cut off by her family after she posted comments on social media at the time of the Gezi protests, only to be reunited with them some months later. A student complained that a cousin had reported his posts to the police. Another writer told how others had told his father, who did not own a computer, about his blog and social media posts, and how his father had pleaded with him to stop writing. *“I come from a very secular family and they are very afraid that they are already targets of the government or the tax office.”*

“I come from a very secular family and they are very afraid that they are already targets of the government or the tax office.”

TAX INSPECTIONS

Tax inspections were seen by a number of interviewees as a means to penalise and intimidate organisations and business people who are critical of the government. As Gökçe Tüylüoğlu, Open Society Foundation (Turkey)’s executive director, was being interviewed for this report, a tax inspection of the organisation was being carried out. She was keen to point out she has no problem with audits as such. However, *“... an anonymous complaint can lead to an audit, like the one currently taking place. I do understand, and I accept that it is good to go through an audit. It puts one in discipline. If there are any issues that are raised, you can correct them and you can continue doing your work even better, [...] but there should be some limitations and they should certainly not continue for months, and not become a routine.”* Blogger Gürkan Özturan saw fear of tax officials as one of the obstacles he faced in his struggle to get work: *“I am not unemployed because of lack of education, but I am unemployable. That is what I hear from bosses who say they cannot hire me because they fear tax officers. Tax officers are the new police.”*

DEFIANCE

Some expressed defiance. Mustafa Balbay, a columnist and MP for the opposition Republican People’s Party (Cumhuriyet Halk Partisi- CHP), who recently had been freed to continue trial in the Ergenekon case after having spent over four years in pre-trial detention, said of his prison experience: *“Prisons are liberating places. Fear of imprisonment is worse than being imprisoned. Prisons are spaces of freedom of speech. I published nine books in prison [in the face of] efforts to silence me. For me, prison served as a space where my soul was free and I could strengthen my willpower. I could focus on my responsibility to express myself.”*

Gürkan Özturan, on being forced to write under a pseudonym: *“It is so annoying that the pen-name gets all the credit and not you! Your pen-name receives the applause that you are denied.”*

THE LONG VIEW LOOKING BACK AT THE PAST DECADE

The present ruling Justice and Development Party (AKP) took office in 2002 and has won successive elections since. Centre-right and socially conservative, the party has its roots in the Islamic movement of the 1960s, and, although it rejects claims that it is Islamist or Islamic, it set out to address the suppression of religious freedoms that had marred the previous government while maintaining it was a secular state. However, its bias towards traditional and Muslim values has become more apparent in recent years, with such moves as the lifting of the ban on the wearing of the veil in government institutions and limitations on alcohol consumption. At the outset, the AKP party pledged to address the acute democratic problems prevalent at the time, and over the years, through a series of judicial reforms, had indeed lessened some of the more acute abuses.

However, PEN records show that the situation for writers who speak out remains tenuous. In 2002, PEN reported that 17 writers were in jail and another 68 on trial. The seven years between 2003 and 2010 saw a gradual increase in the number of writers detained, while the figures of those on trial remained steady. However, 2011 saw a steep increase in imprisonment, and although in 2013 this figure had started to drop, the number of those on trial had risen such that the combined numbers of persons in prison and on trial was only marginally less than at the height of the crisis in 2011. (See graph above.)

With a presidential election taking place in August 2014, the first-ever by popular vote, the interviewees were asked to reflect on how the situation for free expression compared with that of ten years ago, when the AKP party first came to power, and on what the most significant areas of improvement in free expression were in that period, if any.

There were mixed responses to these questions. None of the interviewees saw that the problems for freedom of expression had been resolved completely in the past ten years. Many acknowledged that there had been progress, notably in minority rights, but that there was still some way to go. Others saw the situation has having worsened. This was particularly marked among secularists who felt that they were under particular scrutiny, even threat. Others were concerned by the developments since the June 2013 Gezi protests: new, more stringent regulations on the Internet, disclosures of corruption at the highest levels of government which led to widespread dismissals and relocation of police and judges, followed by measures placing greater government control on the judiciary. Alongside these, while interviews were under way - in February and early March 2014 - there was trepidation about what preparations for local elections would bring to the capacity for public protest and discourse. The weeks and months around the interviews were a time of flux and uncertainty that are reflected in the responses.

“There have been positive changes and more people speak up. But there are red lines, too, and self-censorship is an issue. Overall it is much better compared to the past.” **SDP member**

POLARISATION

Zeynep Banu Dalaman, sociologist and political scientist: “[In 2002] The AKP opened the door to freedom of expression. That was a good point. But after the 2011 election the political culture changed and there is growing polarisation.” Tarik Günersel, writer and president of the PEN Turkey centre: “[Those who] supported Erdoğan’s AKP hoped for democratisation. But while he and his party utilised that desire, things have become worse because the dominant AKP mentality has nothing to do with democracy. They are enemies of secularism. Without secularism no democratisation is possible, even in a country like Turkey which is a neighbour to the Middle East.” Ihsan Eliaçık, theologian and writer: “The [present] government is not geared to freedom. The situation is little different from the past when the Kemalists [previous governments, ed.] were uncomfortable about conservatives. Now it is the conservatives who are uncomfortable about Kemalists. There are red lines that cannot be crossed. Both sides are no different - they are similar.”

Another Muslim writer and activist, Abdurrahman Dilipak, disagreed. *“The repression has decreased over time and the discourse around freedom of expression has changed. Where in the past we would talk about a political crime, now we talk about crimes of hate and insult [to religious values].”* The SDP’s Ayan Ogan explained his view that, *“The fundamental problem in Turkey is the one between the state and the government. Political sovereignty is maintained not through elected governments but through titular institutions founded and promoted by military coup d’état constitutions. Seen from this perspective, the elected government is the only body through which the public can exercise its right to choose [its leader]. In the last decade, the government has issued tens of regulations and has taken many steps to change this structure and improve freedom of speech.”*

THE MILITARY

Women’s rights activist Gülnur Elçik believed that the diminishment of military influence was a key change: *“[...] the biggest impact is probably the disintegration of the military. The military was such a suppressive force against free expression.”* Open Society Foundation (Turkey)’s executive director, Gökçe Tüylüoğlu, agreed, adding that freedom of expression had been, *“... controlled by the military 10 years ago, but now it is controlled by the governing party. It is like the Ottoman March – it is two steps forward and one step backward. [...] The situation, unfortunately, seems to have worsened. One should acknowledge the reforms that the governing AKP party has realised. However, recent negative developments in many fields in society with regards to rule of law, transparency, women’s rights and many more are becoming quite concerning.”*

Writer Zeynep Oral: *“I have lived through many military coups in this country. At least then I knew what would occur. I knew what was dangerous, for what I could be held culpable. Now you know nothing. Under the military regime, my friends and I learned how to write in between the lines. We created a language. [...] Now] the same sentence, the same paragraph, can be written or said by three different people or hundreds of people. One of them would be accused, the rest – nothing. How she or he is chosen we never know.”*

SELF-CENSORSHIP

Editor and publisher Ulus Atayurt spoke of the self-censorship that pervades in Turkey. *“There is a fundamental difference in the structure of suppression of freedom of expression, [...] it is as if there is room for criticism. However, a very carefully established self-censorship mechanism is in practice. I would call it a well-constructed dynamic stillness. The censorship mechanism we are living under is very different from the ones in the 90s, and its scope is broader.”*

HUMOUR

Yet evidence of a freer society was seen by academic Ayşe Berktaş, who, although she was herself on trial, saw, *“...broad sections of society who can make fun of, ridicule oppressors and oppression and state practice. There is ridicule going on everywhere and that is a good sign.”*⁹

SEXUAL ORIENTATION

For LGBTI activist and teacher Erdal Partog, *“Turkey is still dealing with the same old problems. However, this government seems to be more open towards some groups and not to others. For example, this government is more open to Kurdish people but not to Alevites or to LGBTI’s. [...] So] For certain groups, problems for freedom of expression continue without a change.”*

MINORITIES

Members of Kurdish PEN, interviewed at their office in Diyarbakir, welcomed the recent lifting of restrictions on Kurdish publications. However, they saw the ATL being applied disproportionately to Kurdish writers and their supporters as remaining a significant problem. As one Kurdish PEN member explained: *“There has been some progress but the state can still open a trial against you just for using a word which they say is used by the Kurdistan Workers Party (PKK).”*

One of the more traumatic moments in Turkey’s recent history was the assassination of the Armenian editor, Hrant Dink, in January 2007. Writer İpek Çalışlar told of how, before Dink’s death, a conference on the Armenian issue had to be moved from its original venue because of fear of attacks by nationalists. However, the mass public outcry against Dink’s death had forced the issue into the open. Conferences on Armenia have since been held without incident, notably one hosted by Boğaziçi University in Istanbul in November 2013 on the forcible Islamisation of Armenians in the first decade of the 20th century: *“People came – including Armenians – and they were not afraid and the conference was not obstructed. There were people there who had had to hide their identity before. Now you could listen to them in open discussion.”* But, as one anonymous author of Armenian descent puts it: *“It’s without a doubt that there has been major progress. But there is a l-o-o-o-ong [sic] way to go.”*

“Every day is a civil war, a war of thoughts, not guns [...] If there is an improvement today regarding free expression, it is because of the constant struggle of groups that are being suppressed systematically by the political powers.”

Ulus Atayurt, editor/publisher

AFTER GEZI

In November 2012, few, if any, could have predicted the events in Gezi Park that were to precipitate country-wide demonstrations just six months later. 5,300 were arrested, over 8,000 more were injured, and eleven lost their lives¹⁰. In March 2014, English PEN and PEN International published the report, "The Gezi Park Protests: the Impact on Freedom of Expression in Turkey", that detailed intimidation, judicial harassment and violence against writers and journalists during the Gezi events and shed light on the mechanisms by which the mainstream media in Turkey are pushed towards self-censorship.

INTERVIEWED SOME MONTHS AFTER THE EVENT, THE INTERVIEWEES WERE ASKED TO REFLECT ON WHAT THEY SAW AS THE IMPACT OF THE GEZI PROTESTS ON FREEDOM OF EXPRESSION, AND WHAT, IF ANY, CHANGES HAD COME ABOUT AS A RESULT. THE RESPONSES WERE BOTH OPTIMISTIC AND PESSIMISTIC.

OPTIMISM

Women's rights activist Gülnur Elçik felt that, "... people who had not demonstrated before or who were not involved in politics - mothers, grandpas, consumerist youth - they all experienced for themselves how freedom of expression was limited and politicised." Writer Liz Behmoaras saw, "Unprecedented free expression and daring in social media. [...] It was festive, hilarious, and courageous. It was the dawn of a new era. Everyone became more articulate, voiced their criticism."

NGO CEO Emel Kurma welcomed the broad scope of people who came together to protest: "[Gezi was] a sign of the maturation of our society in the acceptance of the other and representation of the other's speech. [...] It was difficult for some of us to sit next to people with the Turkish flag, Kemalists, secularists. But it was also good for them to sit next to the LGBTI tent, or the Kurdish tents ..."

Writer Zeynep Oral also saw the events as, "... help[ing] a lot of people to break down the wall of fear. Not only among journalists, writers and artists but also among businessmen, among students. That wall broke, thanks to the Gezi spirit." Syriac publisher Tuma Çelik agrees, seeing Gezi as a result of growing, "individualism and courage [which has] improved in the last ten years." He added: "A year ago the prime minister could change and shape the news and the public agenda. Post-Gezi, he cannot do that."

"It's as if it opened a secret door in our hearts, whoever that 'we' is."

Writer, anonymous

.... TO PESSIMISM

However, the events in the months post-Gezi led others to feel less optimistic. Columnist Mustafa Balbay believed that, "If Turkey opens up, it will be thanks to Gezi. On the other hand, [in the newspapers] the reviews against Gezi outweigh the positive ones. All today's problems are attributed to Gezi and these comments serve to suppress and limit the positive spirit that emanated from the movement."

Others spoke of demonstrations being met with increased suppression. An NGO director, who preferred to remain anonymous, observed: "Since Gezi, every demo that happens in this area is met with a police resistance which was not necessarily the case before. [...] Now, if there is a demo it is always dispersed by violence."

Asena Günal, an arts centre director, and Banu Karaca, an anthropologist and scholar, who had recently published their research on censorship in the arts for the organization Siyah Bant, told how, since Gezi, people they have interviewed had become more reluctant to speak out. "It was easier interviewing officials pre-Gezi than post-Gezi," said Günal. "Now they say, 'this is off the record, that is off the record'." Karaça added: "Yes, then they would say, 'He said this, and he said that'. Now they say 'it is said this, it is said that'."

Conversely, young SDP members saw the Gezi events in a more negative light. One said, *“I was among those who didn’t support Gezi, and [as a result] I got many negative remarks on social media.”* Another spoke of harassment of government supporters who went to Gezi demonstrations: *“[...who] were openly ridiculed, sworn at. Gezi was a restriction on everyone else except them.”* An anonymous writer pointed out that pro-government media felt at threat in the midst of the Gezi demonstrations: *“[...] Because of the fear of being attacked, all Sabah and ATV logos were removed from their vehicles during the Gezi events.”*¹¹ *So whose freedom of expression are we are talking about?”*

An anonymous Muslim writer saw the Gezi protests as having no positive impact: *“On the contrary, it polarized and split us.”* Another Muslim writer, Abdurrahman Dilipak, claimed that the events were “shameful” and fired up by a conspiratorial alliance of foreign news agencies, including CNN, AFP and the BBC, combined with the forces of, *“a conspiracy orchestrated by the deep state and the parallel state in which they worked together and marketed through social media, so it was an international conspiracy.”* However, he felt that there had been, *“little damage. [...] It was not an issue of freedom of expression or of religion, it was an organised conspiracy based on lies.”*

Several months later, disillusion had set in for some Gezi supporters. Blogger Gürkan Özturan: *“In Gezi there was political dissent but I don’t think, unfortunately, that it will lead to any substantial change in politics or how politics are run because it didn’t turn into a movement that would eventually form a party ... There is really nothing that can change policy.”* A literature student added: *“Political parties such as the AKP used it for their own purposes, [...] They] could say, ‘Hey, these [Gezi] people do not represent your people!’ They subverted the real meaning of it.”*

Others feared that the events had been manipulated by other influences. Writer Roni Margulies: *“The anti-government press pictured Gezi as an uprising against the government. It largely wasn’t. Both sides were unconcerned with reporting what was going on, and tried instead to sculpt the thing according to their own purposes. An anonymous NGO worker saw it as, [...] A demo of the urban middle class, and it became internationally visible because they all had iPhones and iPads and were on Twitter and the journalists, the foreign media were their friends. It was tiny on the whole. When you went on the other side, to the conservative areas on the other side of the Golden Horn, you would not see much support.”* Gökçe Tüylüoğlu, executive director of OSF(Turkey), agreed: *“Gezi did not get aired widely inside Turkey [because of the media blackout], especially in initial phases, so not all people had seen what happened, but instead they saw what was aired, that is, the hard core demos, the violence.”*

HOW WOULD YOU ASSESS THE STATE OF FREE EXPRESSION IN TURKEY TODAY, ON A SCALE FROM 1 TO 10 (10 BEING THE MOST POSITIVE)?

Of the 31 people who responded to this question, 12 gave a median score of 4 to 5, with 11 giving a low score of 0 to 3. Six rated the situation as relatively good, with scores of between 6 and 8. None gave higher scores. This indicates that 74% of interviewees felt that the situation for free expression was either poor or unsatisfactory.

Editor and publisher Ulus Atayurt pointed out that: *“It differs according to who you are. If a person is Kurdish, Communist and Alevi then it is ‘one’. But if someone is Sunni Muslim, liberal, conservative then this number may ascend.”*

Magazine editor Murat Yalçın commented: *“I can’t give an objective answer to that question. I am a product of this country, I’ve absorbed its intellectual climate. I don’t even know how ‘ten’ would be like.”*

THE LAW, THE JUDICIARY AND THEIR IMPACT ON FREE EXPRESSION

In its November 2012 statement, PEN International referred to: *“The majority of [...] writers, publishers and journalists have been or are being prosecuted under the Anti-Terror Law which defines offences too broadly, is applied inconsistently across jurisdictions and has been used against writers, publishers and journalists who have not supported, plotted, or carried out acts of terrorism or violence.”* PEN added that, *“The large number of writers, publishers and journalists who are in prison or are on trial under broadly framed and inconsistently applied laws, often in obscure proceedings, affects all who wish to exercise their right to freedom of expression.”*

In November 2012, around 120 writers, journalists and publishers in total were detained or on trial, mostly under the ATL and other penal code articles relating to terrorism. While the number of those imprisoned had dropped considerably by mid-2014, as most had been freed pending trial, the overall figures of writers under prosecution under the ATL remained largely unchanged.

THE INTERVIEWEES WERE ASKED TO COMMENT ON LAWS REGULATING FREEDOM OF EXPRESSION AND ON THE LEVELS OF IMPARTIALITY OF THE RULINGS OF THE COURTS.

The ambiguities inherent in the law, the lack of clarity and discriminatory application were cited as problems. Even those more supportive of the government acknowledged that there are changes that need to be made to address these problems.

Büşra Ersanlı, an academic who had spent nine months in prison under the ATL in the KCK case:¹² *“When young people demonstrate, they are called terrorists. When the under-classes in urban areas question the government, they become terrorists. When in the past they were labelled communists or anarchists, now they are called terrorists.”*

Özlem Dalkiran, rights activist: *“If Kurdish writers or journalists are arrested, they are prosecuted under the Anti-Terror Law as if they were members of a violent Kurdish organisation, even if they are not. It is political, about silencing dissent.”*

Academic Ayşe Berktaş: *“Laws that regulate freedom of expression give too much freedom to those who prosecute. They are very broad and they are very flexible. They are open to interpretation and can be pulled this way or that way depending on what the prosecutors want to do.”*

Writer Murat Mihçioğlu: *“[It is] not the law but the loopholes in the law that really matter. I don’t know of any case in which the accusation directly matches up with what is written in the law. The terminology of the law lets the prosecutors read more into it than is there.”*

Academic Banu Karaca: *“Most censorship cases are not based on legal precepts and are arbitrary, which makes it even more effective [as a tool for censorship]. For example, you can make ten works about Atatürk and the eleventh will cause an outcry. You can refer to the Armenian genocide by name in a ton of books and then one particular publication will be picked out. [...] You never know when it will hit you.”* Asena Günel, art centre director, agreed: *“It can happen to you any time. When I know that I write or say [something considered problematic], I’m going to be prepared. When the application of law is arbitrary, it leads to self-censorship.”*

“The description of terror is really ambiguous. [...] Such a vague definition of terror results in arbitrary enforcement.”

Pinar İlkiz,
NGO communications
coordinator

THE 'DAMOCLES' SWORD' LAW

The 4th Judicial Reform Package, enacted in 2012, is an illustration of how reforms, past and present, have created greater confusion and compounded problems for free expression. This package introduced the suspension for three to five years of trials then underway against writers and publications, but on condition that the defendant did not 'reoffend' in that period. Breaking the conditions could lead to the original sentence being reinstated and added to the penalty given for the new offence. These conditions led to the amendment being branded the 'Damocles' Sword' law.

As Kurdish writer Irfan Babaolu explained: "I was sentenced for two of my books and in 2012 they suspended my sentence, saying that if I repeat my offence in the next three years, I will have this sentence reinstated. But I am still writing." There are numerous others who had their trials similarly suspended; the first suspension will expire in 2015. Only then will it become clear if the threat of reinstatement of the original trials will be carried out for those who continue to write critically. Two key cases are the obscenity trials against the publishers of American authors William Burroughs' *Soft Machine* and Chuck Palahniuk's *Snuff*, both suspended for three years in July 2012, followed in October that year by a similar sentence against the publishers of a diary on the theme of the right not to believe in any religion.

Ayşegül Devecioğlu, writer and activist also on trial in the KCK case (for more on the KCK, see box), saw that: *"In Turkey, the Constitution, the law and the implementing regulations which should guarantee freedom of expression in fact restrict it. The government imposes censorship on the media, anti-terrorism laws penalise free thought and speech."*

Writer Tarik Günersel feared that there was a danger that constitutional change could erode human rights protections: *"The present Constitution was formed after the military coup in 1980 and there are very few good points to it, but it does refer to there being 'a secular and democratic social state based on human rights'. It is an ideal rather than the reality."*

Ayhan Ogan, director of the Civil Society Platform (SDP), acknowledged that change is needed: *"The judiciary needs to be restructured. Bureaucracy needs to be restructured."* Yet, he saw it needed to be done, *"in ways that take Turkish society into account and that do not imitate or emulate the western system. [Changes] to the state institutions are essential. Unless this is done, the problems will not end."*

Tarik Günersel: *"There are, basically, three anti-democratic forces in our judicial system, ideologically. First is the present government, second is Gülen and third is the conservative nationalists."*

An anonymous NGO director commented on the previous situation where, *"Up to 2011, the writers who criticised the military could be jailed by those who were [controlled by] the government, although it was perceived to be the government that had done so."* He added that, now that the government has consolidated power and acts independently, *"It can't now escape blame in the same way as before."*

"... The judiciary should have the wisdom to use the laws for the benefit of the people, not against the people."

Rights activist Özlem Dalkiran

INDEPENDENCE OF THE JUDICIARY

In 2010, a constitutional referendum saw the AKP government introduce the separation of the High Council of Judges and Prosecutors (Hâkimler ve Savcılar Yüksek Kurulu - HSYK), the disciplinary body of the Turkish judicial system, from the Ministry of Justice, granting greater judicial independence. However, with the AKP's split with the Gülen movement, in February 2014 a law was passed that would give greater government control over the HSYK, criticized as a political decision to remove Gülen members from its ranks. The power to appoint judges, the management of judicial disciplinary investigations and the selection of judicial training personnel and HSYK staff was moved to the Ministry of Justice by this regulation. However, in April 2014, the Constitutional Court overturned the bill as being unconstitutional.¹³ Hundreds of judges and judicial personnel have been dismissed or relocated since December 2013, and scores of police arrested for their involvement with a 'parallel state' led by the Gülen movement, including for concocting a corruption scandal which led to legal investigations into over ninety high level officials, among them Prime Minister Erdoğan's son, Bilal. Legal proceedings against these officials were subsequently dropped in early September 2014.¹⁴

Pro-AKP supporters were fearful of an alleged infiltration of the judiciary by the Gülen movement and saw measures to bring HSYK under Ministry of Justice control as *"necessary to deal with the infiltration of the judiciary first by the deep state and now by the parallel state,"* according to writer Abdurrahman Dilipak. The group of young people affiliated with the SDP group agreed: *"This is a decision required to manage the crisis. The question does not relate to free expression issues. It is a question of governance."*

"This is a decision required to manage the crisis. The question does not relate to free expression issues. It is a question of governance."

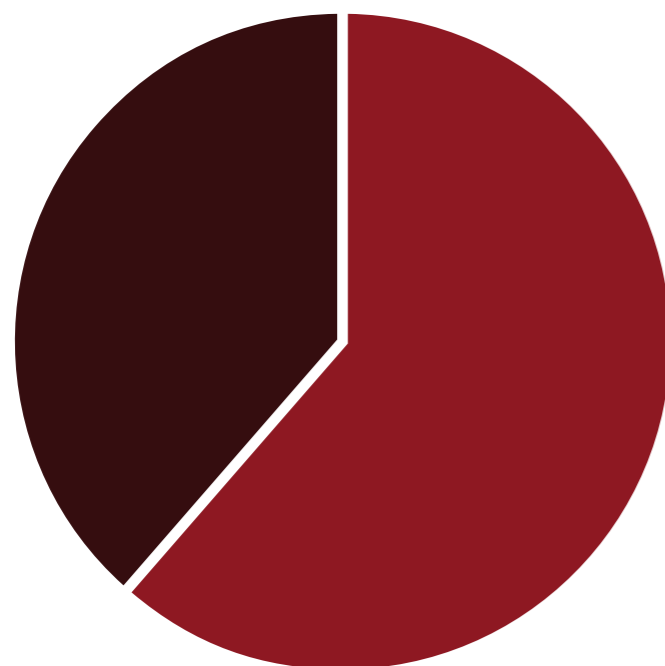
Mistrust of the judicial system was widespread. Emel Kurma, NGO CEO: *"This society knows not to trust the judiciary, because of its unreliability, bias and corruption even in regular lawsuits, and because of the state-citizen relationship which is very unbalanced, the state totally outweighing and oppressing the citizen. It is the state representing the state. [...] It is in the culture. So people refrain from going to the courts."* An anonymous Muslim writer explains: *"We the religious people do not have a habit or culture of facing the police, or demonstrating. [...] However, if I could believe that the overall juridical process is as it should be, I would have courage to come face to face with police or to demonstrate."*

SELF-CENSORSHIP

Self-censorship, being unreported, is difficult to measure or to define. Yet a significant number of interviewees spoke of feeling constrained in writing freely, fearing repercussions. In November 2012, PEN International raised the problem of self-censorship endemic among writers: “Many writers, publishers and journalists in Turkey have expressed concern to PEN International about a climate of intimidation and fear that is fostering widespread self-censorship. Many dread publishing controversial but completely legitimate opinions and ideas that are protected under national and international free expression guarantees. This climate is clearly at odds with, and a threat to, the emergence of stronger, more diverse and more accountable democratic institutions in Turkey.”

Interviewees were asked if ever they had engaged in self-censorship by not writing, or had considered not writing, about a particular topic.

HAVE YOU EVER PRACTICED SELF CENSORSHIP?



■ YES 16
■ NO 10

Of the interviewees, 26 responded directly to this question, and of these, more than 60% said they practiced some form of self-censorship.

Blogger Gürkan Özturan: “[I think about what I post] about a hundred times a day ...A lot of issues I simply do not touch because I do not want to deal with the trouble that will follow.”

Political scientist Zeynep Banu Dalaman: “If I say something positive about the government – because there are positive things - I get accused on social media of being a tool of and in the pay of the government. If on the other hand I criticise the government, I am accused of changing direction. [...] So, expression is also censored by the public.”

Those who have experienced the convoluted and long-winded Turkish judicial system can become reluctant to put themselves through it again. Artist Bedri Baykam, who has published a number of books that have been brought to court, decided against publishing one book, “... because I was sick and tired of all the court cases, although I have won all of them. They are tiring, energy consuming and stressful. They drain you out.”

Writer Liz Behmoaras spoke of having taken out sections of the original manuscripts of her novels that referred to Turkish stereotypes. “I don’t want to be prosecuted under Article 301, so I think twice when writing about some topics.” Academic Ayşegül Devocioğlu: “I always believed in resisting the temptation to practice self-censorship in the face of risk. However, there were times when I had doubts. I remember hesitating about writing a critical piece on the army when my son was doing military service. I was concerned that he might be harmed. In the end I decided not to change the narrative. This was because I had a fair idea about the risk associated with my decision, but the risk and damage associated with succumbing to self-censorship were not [the same].”

For Pinar İlkiz, an NGO communications coordinator, it was the knowledge that particular topics would never be published that stops her writing on them: “Since you know that if you write on a certain topic it will not be published, after a while it results in a self-censorship mechanism within the self.”

“We are a bunch of people whose aim is to produce good writing. We are not activists. Our sole priority is writing. Yet we write amidst myriad prejudices, leading to self-censorship as well as restrictions in our writing.”

Murat Yalçın, magazine editor

Art galleries and venues are for artists what publishers and newspapers are for writers. Banu Karaca, arts academic, pointed out that: “Galleries and venues are reliant on support and patronage from government, so they are reluctant to display works that may lead to defamation cases.” This makes artists, “[...] most vulnerable, as they are reliant on the Ministry of Culture for support. Public institutions are accountable to government, and even commercial galleries are reluctant to take on those who are in conflict with the state.” She added that artists’ problems are compounded by the fact that they, “[...] are not organised in the same way as journalists and writers are, and don’t know their rights, so they are more likely to self-censor.”

Ayşegül Devocioğlu, academic: “I probably don’t even know what independent journalism and free expression are. It’s hard to imagine how I would have written if I’d been truly free.”

FREEDOM OF EXPRESSION, THE MEDIA AND BIG BUSINESS

Government influence over the media came to sharp focus during the Gezi demonstrations, when there was a blackout on reporting of events, a refusal of mainstream media to cover the demonstrations, and a crackdown on social media use. Large numbers of journalists working for print and broadcast media were sacked, or forced to resign from their posts, amidst accusations that the media owners were being directly, or indirectly, coerced into getting rid of dissenters in their employ and refusing to cover contentious issues. These accusations were shown to be founded within the disclosure of a recording of a telephone conversation, made in the early days of the Gezi protests in June 2013 by then Prime Minister Erdoğan to a leading media owner, in which Erdoğan demands that certain items of news coverage be taken off-air. The demand was met, and Erdoğan confirmed that the conversation had taken place, saying that the media, “[...] must be taught – whenever it is needed.”¹⁵ Business conglomerates that own much of the mainstream media are reliant on the patronage of the government, making them susceptible to pressure, and this became an issue of heightened concern and debate.

The interviewees were asked for their assessment of the relations between the media and pro-government business.

Of the **26** people who responded, the great majority - **20** - believed that the mainstream media is **entirely or mainly influenced by the government**. **Four** felt that the situation in Turkey does not differ greatly from other European countries in that big business control of the media is a **global phenomenon**. **Two** pointed out that the **opposition press** still holds a significant percentage of the print media, and so remains independent of the government. Others noted that business and government influence on the media is far from a new trend, but has been a pervasive part of Turkey’s political culture for decades.

Gökçe Tüylüoğlu: *“I do not think there ever has been a time where the government has so much power over both the visual and the written media.”*

Women’s rights activist Gülnur Elçik: *“Editors act as mediators between capital and journalists. So it is really hard for a journalist to work in a place that satisfies the intellectual needs of journalism. A journalist must be political, but when s/he is, s/he has to resign and cannot find a place to work.”* Another activist, Özlem Dalkiran, saw those who voluntarily stepped down as, *“honorable, because if you cannot do your job without your professional honour and dignity, then you should resign.”* An anonymous writer saw the situation as, *“... over-rid[ing] three fundamental fields of ethics. Political ethics, professional ethics and press ethics have been destroyed.”* SDP director Ayhan Ogan maintained that the pro-AKP media represents only around 20% of the total,¹⁶ adding that the rest, the opposition media, are *“representatives of the artificial bourgeoisie”* and that, *“the public wants to change that media system.”* However columnist and politician Mustafa Balbay, who writes for the opposition newspaper *Cümhuriyet*, said: *“The media today is a branch of the government, part of its propaganda network. It is a single voice emanating from different channels.”*

For Özlem Dalkiran, an NGO activist, it is a complex legislative web: *“You have to look at everything: the media law, the anti-trust law, the council of state law,¹⁷ and some banking laws are totally connected with freedom of expression. Everything is interconnected. So, when the government comes along and says, ‘OK, we’re changing these laws on free expression’, we say, thank you, but then you go to the ATL, the problems are still there. Then you go to commercial law and there they are too.”*

Some took a global view. Anonymous writer: *“It is not possible to publish nowadays without the support of a business, and politics and business have always had a close relation. This is true globally, not just for Turkey.”* NGO communications coordinator Pinar İlkiz agreed: *“When we take a look at the economy-politics of media, impartial and independent news seems impossible all around the world.”* Other countries could provide models to ensure media independence, suggested Gökçe Tüylüoğlu: *“To set the system right, to have an independent media, or to have media conglomerates that do not interfere, we need to have a rule that one who wants to own a media outlet should stay out of government contracts. We should look to alternative platforms in other countries, such as in the US which has the Centre for Public Integrity or Pro Publica,¹⁸ for that matter.”*

RESTRAINTS ON THE INTERNET AND SOCIAL MEDIA

As the interviews were being carried out, there was furore around proposed amendments to the already much-criticised existing Internet legislation. The measures came soon after the December 2013 disclosures of wiretapped conversations allegedly showing corruption at high levels, reports of which flooded social media. On 6 February, 2014, the Protection of Private Life Bill (Law no. 6518) was introduced and passed in Parliament despite serious opposition. The bill extended existing restrictions, enabling greater capacity for the authorities to block websites and to restrict access to “inappropriate” content seen as “attacks on privacy”, or that are “insulting or discriminatory.” It also enabled the storing of all user browser histories for two years, and obliged ISPs to hand over this information to the authorities on request. Failure to comply with a request to take down ‘illegal’ items from their sites, or to comply with information requests, can lead to fines or even prison for ISPs.

The amendments were widely condemned, leading to street protests and criticism from NGOs inside and outside Turkey. Three weeks later, some aspects of the law were ameliorated on the request of President Gül so that the preventive blocking of a website must be reviewed by a court within 48 hours, and requiring a court ruling for the authorities to request access to an individual’s data.

(Another set of amendments, passed in September 2014, expanded the type of content that can be blocked to those seen to be detrimental to “national security” or to “protect public order” and reintroduced the ability of the authorities to gather users’ Internet connection data without a court order.)

Interviewees were asked for their opinion on the new Internet law, and from where they sought independent commentary on events in Turkey.

Some, such as publisher Ulus Atayurt, feared that, “*It will result in a massive wave of censorship. It is a tool for government to be in total control of media.*” An anonymous writer adds that the law is, “[...] *stupid, but also threatening. Makes us feel we are all doing something illegal.*”

Anonymous NGO activist: “*The situation now is that suddenly everything has become utterly transparent, and in a very odd way. No one can have secrets any more, particularly dirty secrets. This is what has led to the new Internet legislation, which is trying to contain the fall-out of the dirty secrets that keep coming out.*”

Kurdish PEN members saw the deepening of restrictions as a result of the way that the Gülen movement had utilised the Internet to disseminate information against the government, which now sees it as a priority to protect itself against such attacks. They saw that freedom of expression was not uppermost for the government in formulating this new law, but rather was to stop further allegations of corruption at high levels of government. Teacher and LGBTI rights activist Erdal Partog feared that the application of this legislation could be bound to protect the needs of, “*one person [the Prime Minister], and if the institutions are not participatory, then the practice will be arbitrary.*”

Abdurrahman Dilipak, Muslim rights activist and writer, is a supporter of the legislation, believing it will tackle acts that are criminal offline as well as online. “*There has been increasing concern among the public about a real threat to tarnish the honour and dignity of people. Crimes over the Internet include drug trafficking, prostitution and child trafficking. It [the legislation] was an effort to show to those who do such acts over the Internet that, ‘I am watching you’.* It was an effort to show a stick to criminals for what they also carry out in the offline world.” SDP director Ayhan Ogan had been one of thousands of people said to have been illegally wiretapped and he saw the new legislation as protective: “*Now I can go to this new office created to regulate this problem if information is revealed that is insulting to me or that reveals my intimate affairs. In 24 hours the prosecutor can make a decision and if they agree that that I am right, they can remove [the information]. If they see it is democratic, it remains online. So this is a law to protect privacy.*”

WHERE TO TURN FOR INDEPENDENT COMMENTARY?

Most of the respondents read a wide variety of media, digital and print, with very few relying on just one news source. Many had a time-consuming daily regime of scanning a range of sources in an attempt to get a complete picture of events. Social scientist Zeynep Banu Dalaman: “*I try to read all publications to see their point of view and also because there is news censored in some papers which you can read in others. The coverage is so different.*” Emel Kurma, NGO CEO: “*I have to filter for propaganda. I read press from - to me – the unbearable camps as their internal discussion is of interest to me to be able to make an analysis. The headlines give a clue. They can make you jump out of your shoes screaming, and the columnists! ... There are some unbelievable people... .*” Gökçe Tüylüoğlu: “*[It is] exhausting. You have to visit different Internet sites. Written, visual, Internet, social media, and then try to analyse them yourself after having gathered different sources of information. Not many people have the time [...] so, you don’t want to do it, but you have to give up all your time in order to have some sort of healthy information.*”

Younger commentators referred to the weekly, hugely popular, comic magazines that satirise political events. Literature student: “*Traditional media are boring. They lack style and cannot attract the reader but with cartoons there is always something there. They are also the closest voice to the public’s. They are very sophisticated but the regular reader does not have to tear himself apart in order to understand them.*”

“In my opinion, Turkish TV sometimes is sounding like fairy tales.”

Liz Behmoaras, writer

ETHNIC AND RELIGIOUS MINORITIES, SEXUAL ORIENTATION AND FREE EXPRESSION

PEN International's 2012 delegation referred to 70% of the writers, publishers, journalists and intellectuals who were in prison at the time as being of Kurdish origin or as supporting Kurdish political and cultural rights. Most were held under the KCK investigation. Although the writers in the KCK case have since been freed, their trials continued. Questions to the interviewees in early 2014 included asking for opinions not only on the treatment of Kurdish writers, but also of other ethnic and religious minorities.

Interviewees were asked for their opinion on the treatment of ethnic and religious minority writers and those from the LGBTI community.

KURDS

By May 2014, all of those held in the KCK case had been freed, although their trials carried on and problems remained. Kurdish writer Şeymus Diken: *"If you use Kurdish in literary works there is no problem. But when you start to deal with politics in your mother tongue then you face a lot of trouble. From that moment on the state does not see you as a writer but as a politician. The Kurdish question is still alive and still unresolved. That is the main problem. I can translate Shakespeare on the one hand, but when one uses one's mother tongue in politics, then the attitude changes."* Another Kurdish writer and artist, Şener Ösman, added: *"Ten years ago it was difficult for Kurds to use their mother tongue and Kurdish words. This has changed. However, our position and the position of Turkish intellectuals in speaking freely are totally different. Sometimes when something happens to them for their writing, they get punished only by half of what would be given to us."*

Kurdish PEN members, who spoke with the interviewer at their office in Diyarbakir, welcomed the lifting of the ban on Kurdish language publications and the easing of linguistic rights. Yet they spoke of continuing problems, such as with Kurdish newspapers' reliance on the support from their readers and Kurdish supporters, and with relatively low readership and circulation figures. They cited Turkish newspapers that are better financed, such as *Zaman*,¹⁹ which is distributed free, thus significantly impacting the market. Kurdish PEN regretted that more Turkish than Kurdish newspapers are read in the region, including in the larger cities such as Diyarbakir. Relatively low Kurdish press sales are also linked, they said, to the preference of many people for news from television: there are over twenty channels broadcasting from Kurdish regions and communities around the world. Homes frequently will have two satellite dishes - one for Kurdish broadcasts and the other for Turkish.

The interviewer was told that, although the Kurdish media are politicised with many relying on funding from political parties, there are many Internet sites and TV channels, and for every political group there is some form of media that meets its interests, creating a broad spectrum of choice. This pertains to the Kurdish regions outside Turkey as well as to other countries where there is a Kurdish diaspora. Asked about whether there are any restraints on the Kurdish press, one writer explained: *"I can say, 'I agree with this ideology but I still have some problems with its implementation.' I feel free to question and criticise, even if I cannot publish my opinions in a particular newspaper, but one should not expect to publish in a newspaper that holds the political position that one is criticising."*

"My experience of minority has been due to being a woman, a socialist and an atheist. However, I am aware that the ethnic identity of a minority writer is being subsumed under the Turkish identity. I believe this is intentional because failure to acknowledge the identity of minority people is a practice that facilitates and ensures the denial of rights and leads to dispossession."

Ayşegül Devecioğlu, academic

Three Turkish writers and academics who had spent time in prison for their support for Kurdish rights, and who were still on trial at the time of the interviews, commented on the importance of linguistic rights for Kurds. Büşra Eranlı, a Turkish academic, saw the lifting of restrictions as beneficial to all in Turkey: *"The Kurdish intelligentsia is growing, and they are, much more than ten years ago, using their own ways of analysis and criticism. So I think it is the Kurdish political opposition and the intelligentsia that has the most dynamic potential for democracy in Turkey."* Ayşe Berktaş agreed, adding: *"If the Kurdish problem can be solved, many other minority issues will be solved."* Ayşegül Devecioğlu saw complicity among Turkish intellectuals towards the slow pace of reform: *"The inevitable consequence of suppressing identity is the ignorance of the language and literature. In Turkey, it has taken some time for some sections of the opposition to reflect awareness and take an anti-nationalist position with respect to identity and the crucial importance of language for minority literature. [...] The failure of the Turkish authors to take a principled and consistent stance on these matters had an adverse effect on Turkish language and literature."*

ARMENIANS

Writer İpek Çalışlar noted that the huge public outcry against the 2007 murder of Armenian Turkish editor Hrant Dink served to raise public consciousness about the repression Armenians suffer. *“We learned from Hrant Dink that there had been a big tragedy in our history, that so many Armenians had been killed in the past [...] Now we can hold a meeting in the street to say that Armenians were massacred in 1915. You can even have interviews with [PKK leader] Abdullah Öcalan. These have been big steps for us, but we still have other problems.”*

Kurdish writer and artist Şener Ösman saw Dink’s murder as the day when, *“People were able to accept that there had been an Armenian genocide. It took his death to enable even the Armenian community, as well as others, to speak on this.”* However, Dink’s death still resonates as a threat to others. An anonymous Armenian writer speaks of living with, *“Self-censorship due to fear, administrative pressure and intimidation, unresolved murders or those whose perpetrators are known [but not prosecuted] make up this landscape.”*²⁰

ALEVIS

Although not specifically raised by interviewees in this report, it should be noted that the Alevi minority was disproportionately affected by the Gezi protests, during which Alevi protesters were a significant presence. News reports after the events cite that around 80% of those detained during protests were Alevis, as were almost all of those killed. Alevis form the largest religious minority in Turkey. It is a Shia-based faith with pre-Islamic folkloric traditions, and its followers are seen as heretics by some of the Sunni majority Muslims. Alevi demands, among others, to have their religion and places of worship officially recognised, have consistently been resisted and can account for their large participation in the demonstrations.[ed.]

OTHER MINORITIES

Minority publications are treated as of lesser importance, as Syriac publisher Tuma Celik illustrates: *“At an EU meeting for minority newspapers in Turkey, we discovered that none of us had press IDs. Even the editor of a Greek newspaper, the second oldest newspaper in Turkey [Apoyevmatini, founded in 1925 – ed.], does not have a press ID.”*

SEXUAL ORIENTATION

The prevailing view was that while LGBTI groups’ visibility was growing in the media, they remained at threat. A trans-gender journalist, Yıldız Tar, spoke of life under the shadow of three ‘horrific’ elements that are *“present in every aspect of our life: extermination, denial, assimilation [...] This exists within the journalists themselves as well. I am not considered equal to a heterosexual male journalist. If I make a mistake it stands out more.”* Coverage of LGBTI issues falls into three categories, she added: *“First, tabloidization by the mainstream media; second, media that openly targets LGBTI, inciting attacks; third, the not so common one, and that is non-discriminatory, rights-based journalism.”* Women’s rights activist Gülnur Elçik pointed out that, *“The most common way of reporting on LGBTI is mockery. They use humiliating, funny details within the writing even if it is about murder.”* LGBTI activist Erdal Partog saw some conservative press as especially dangerous, identifying the Islamist right-wing newspaper Akit as a particular culprit. *“[I]t follows the LGBTI movement really closely and targets and writes against them. Actually, what they are engaging in is hate speech, it is not freedom of expression. They insult, they humiliate, they endanger individuals’ lives. [Yet] some people assume it is journalism.”*

HATE SPEECH

Welcome regulations on discrimination and hate crimes under a democratization package, the “Law to Change Various Laws to Improve Fundamental Rights (Law No. 6529)”, was passed by Parliament on 3 March, 2014. This saw hate crimes recognised for the first time in Turkish law. Although considered a positive attempt at reform, some sectors point out that it fails to meet civil society demands. LGBTI groups specifically raised their disappointment that sexual orientation and sexual identity were not included, despite their long campaigning. Others remained sceptical on issues such as the law’s emphasis on Islamophobia and how the regulation would be applied in practice.²¹

Interviewees were asked if they found hate speech to be a problem in Turkey, and if so, which groups are especially targeted.

*“The whole society is against everyone!
Everyone is a target and everyone is a victim!”*

Blogger Gürkan Özturan

“Everyone is a target of hate speech except the heterosexual, Turk, laic, Sunni man.”

Trans-gender journalist Yıldız Tar

ULTRA-NATIONALISM

NGO activist Emel Kurma: *“When you see some local newspapers, you would not believe the ultra-nationalist language there. These journalists are not in prison. [...] Yet I think some of them should be prosecuted for hate speech, ultra-fascist racist language or racist allegations.”*

“OUTSIDERS”

“Outsiders, or those on the peripheries of the state discourse, are all exposed to hate speech. What is worse, many commentators do not realize the consequences of their words,” commented Syriac publisher Tuma Celik, adding that: *“Not many people know what tolerance means or that tolerance can be condescending: one tolerates something faulty or problematic. Those who are exposed to [this type of] tolerance are looked down upon for being different.”*

SEXUAL ORIENTATION

Trans-gender journalist Yıldız Tar spoke of how language used against the LGBTI community is applied to denigrate others. *“If you are a LGBTI person, you personally can be a target or [even] killed to give a message to someone else as well.”* Tar pointed to the use of the expression “faggot Kurds” as an example of where, *“LGBTI’s are used to humiliate or denigrate Kurdish people and other minorities. Then Kurds, Armenians, Alevis and other minority groups follow LGBTI as targets.”*

MUSLIM WOMEN

An anonymous Muslim writer advised that all should be concerned about hate speech, towards whomever it is directed: *“When hate speech is uttered against me as a veiled woman you should be disturbed, also I should be disturbed when it targets you as an LGBTI person.”*

ANTI-HATE LEGISLATION

Many did not see legislation as the solution to the problem of hate speech. Academic Ayşe Berktaş expressed a commonly held view that it should be left to, *“Civil society, to people and their sense of justice, and to find some kind of mechanism where people themselves can discuss and act upon this. To discuss and resolve the issues within themselves.”*

EDUCATION

Education was also seen as essential. An anonymous Armenian writer says: *“The understanding of history imposed on society at every opportunity [through the] Turkish education system and existing school books, are the most important sources of this problem [hate speech].* Syriac publisher Tuma Celik added: *“Empathy and education [...] this is about human interaction.”*

RELIGION AND FREE SPEECH

In 2012, PEN International’s delegation raised cases of writers on trial for their comments on religion. They included musician Fazıl Say, prosecuted for his comments on social media, and the Metis Publishing House, accused for producing a diary on the theme of non-believers. Both were charged with “inciting the population to enmity or hatred.” In September 2014, Say was still on trial, having refused to accept a suspended sentence. Metis remains under the ‘Sword of Damocles’ suspension, and will learn in 2015 whether the case will no longer be continued. New religious insult cases continued, such as the May 2014 ten-month suspended sentence against Sedat Kapanoğlu the founder of the *Ekşi Sözlük* hypertext dictionary, one of the country’s biggest online communities with over 400,000 registered users, accused for postings made by contributors to the site.

Interviewees were asked whether they saw the influence of conservative Islam as a significant element of suppression of free speech in Turkey, and if so, how it manifested itself.

Syriac publisher Tuma Celik: *“In Turkey, religion is intense, it is oppressive, it affects and shapes everything, even though Turkey is reputedly a secular state. The heads of state shape the rules and regulations according to their religious beliefs.”* LGBTI activist Erdal Partog: *“Conservative Islam is one of the main factors that suppresses free expression, from atheists to LGBTI’s, to women’s, to Alevis’, to Armenians’ and even of laics’.”* Young writer and translator Merve Pehlivan: *“It is nearly impossible to be outspoken about any heretic views or views strongly critical of Islam without risking direct physical assault or, as is more common in our age, without an onrush of cyber threats.”*

NGO communications coordinator Pinar İlkiz described, *“[...] A general atmosphere of intolerance. Others are also intolerant of the right to freedom of expression for conservative Islam as well. There is a serious polarisation.”*

Journalist Yıldız Tar: *“The problem of freedom of expression in Turkey cannot be reduced to, or cannot be explained solely by, conservative Islam. Before, there was a Kemalist modernisation dictatorship. Right now, what we are living under is a modernised Islam. With conservative politics now, we are living under a different understanding of governance that is a combination of Islam and neo-liberalism.”*

Anonymous writer: *“I cannot blame the Islamic government for limiting freedoms. [Before,] leftist Kemalists did not do one inch better in coming to terms with these issues.”*

Women’s rights activist Gülnur Elçik: *“At first, we [women’s groups] ...created a symmetry between secularism and religion. We had the illusion that they both gave the same level of oppression. However, now when I compare religious groups’ newspapers and secular newspapers I see a difference. In secular newspapers, I only see some discrimination against religious people, however when I take a look at the religious ones, there is open and indirect discrimination against women, LGBTI, seculars, conscientious objectors, [... they are] against any alternative groups.”*

Gökçe Tüylüoğlu: *“[Muslims] had been neglected, degraded and pushed out of the public space for so long that when they had the power they could not act with tolerance but acted revengefully. This has further polarised society. If the secularists come back into power, I am afraid they will continue acting in a revengeful way, which will suck the whole population into a vicious circle.”* Writer and translator Merve Pehlivan added that, *“Part of society’s aggression towards so-called sacrilegious expression is rooted in the history of modern Turkey, where the conservative majority has been traditionally humiliated and underestimated by the Kemalist elite, dismissed as ignorant peasants. The psychological aspect of the problem is that conservatives are aggressive towards this patronising attitude [to which] they have been subject for decades. Under the AKP rule, with strict control over legislation, conservatives are enjoying a newfound stronghold which of course boosts their confidence.”*

Anonymous Armenian writer: *“Religion doesn’t pose a significant legal hurdle against freedom of expression, but it is social prejudices and traditions that render religion and some of its requirements as absolutely indisputable.”*

Anonymous Sufi Muslim writer: *“Those who display extremely conservative and repressive behaviours in the name of Islam restrict freedom of expression because of their regional traditions and lifestyles. Others insist on keeping traditions like vendettas and honour killings even though they find no support in Islam. All these have to do with ethnic culture and not religion.”* She saw at the roots of this problem that, *“In the early years of the Turkish Republic, Muslims were denied free speech and practice of their religion in the name of secularism, socially and constitutionally.”*

Muslim interviewees pointed out their belief that religion has been misunderstood and that Islamic teachings promote free speech. *“When understood correctly,”* says an anonymous Sufi writer, *“religion promotes free speech, rather than hinders it. The Revered Prophet Muhammad is a wonder of free speech.”*

“It is a war between the mosque and the barracks.”

Mehmet Altan, academic and writer

Ihsan Eliaçık, theologian, writer and a founder of the Anti-Captialist Muslims’ group²² calls for, *“[...] Socialist and Marxist groups [...] to put Islam back on their agenda, to rethink and look at this again. Religious groups need to put atheism on their agenda and they too need to rethink this. We have to understand that we can all live with this.”*

Muslim academic Alper Bilgili: *“Speech should not be restricted. As a religious person, I denounce and am against what happened to Salman Rushdie. Khomeini’s fatwa harmed Islam more than Rushdie did. And if Islam could be harmed by just one book, I would not regard it as God’s religion.”*

Eliaçık advises: *“Where Allah’s verses are mocked, don’t listen. [So] If you see hurtful things on TV, change the channel. Don’t resort to violence. If you hear hurtful words at the table, just say ‘excuse me’ and walk away.”*

The Kurdish PEN members saw the issue through their experience of the 1990s, which one described as having been a “huge catastrophe.” In the early years of that decade, the Turkish military conducted the forced evacuation of over 3,500 Kurdish villages in an attempt to quash the Kurdistan Workers Party (PKK), itself Marxist-Leninist and secular. At the same time, the Kurdish Islamic militant group Hezbollah (not to be confused with Hezbollah in Lebanon and elsewhere) was responsible for the killings of many hundreds of PKK fighters and sympathisers as it sought to gain presence in the region.²³ All the Kurdish PEN interviewees described themselves as secular. They were concerned that there are some within the Kurdish region today who have strong religious ties, who present an obstacle to civil society and have a too-close affiliation with the Turkish authorities.

“Speech should not be restricted. As a religious person, I denounce and am against what happened to Salman Rushdie. Khomeini’s fatwa harmed Islam more than Rushdie did. And if Islam could be harmed by just one book, I would not regard it as God’s religion.”

Muslim academic Alper Bilgili

FORCES FOR CHANGE

Turkey became a candidate for membership of the EU in 1999 and since then has adopted a series of reforms addressing human rights, among other issues. Abolition of the death penalty, mechanisms to end torture and revision of the Penal Code, including addressing free expression concerns and linguistic rights, have been among the changes. The formal accession process got under way in 2005, but negotiations have faltered as progress towards achieving the conditions of membership, notably around recognition of Cyprus and persistence of repression of freedom of expression, have presented stumbling blocks. Popular support for membership of the EU in the mid-2000s, when it stood at 74%, had fallen to 44% by 2013, according to surveys. Interviewees' responses reflected disillusionment about the EU's impact on improving free expression.

Interviewees were asked for their opinion on the role of the EU in the promotion of freedom of expression, and on who they saw as the most important drivers of possible and positive change in Turkey.

THE EU AND FREEDOM OF EXPRESSION IN TURKEY

İpek Çalışlar, writer: *"The issues in Turkey are so complex and difficult to understand that even those in Turkey have difficulty in getting to the truth, so how can those outside the country understand?"* Others saw the EU as "insincere", or swayed by what one interviewee described as "Turkophobic" attitudes in Europe. That EU states themselves breach human rights is another undermining factor. *"Freedom of expression cannot be brought to Turkey from outside, and the level of respect for freedom of expression within the EU itself is another topic,"* said journalist Yıldız Tar, adding, *"We are aware of anti-immigration laws, Islamo-phobia and trans-phobia in the EU."*

That the EU holds "double standards" is why the institution has lost influence, said a Sufi writer: *"Preaching freedom of speech to a country [EU member state] that rejects it due to historical conflicts and religious differences sounds unconvincing, if not preposterous."* One of the young SDP group referred to the EU as being "inconsistent and dishonest" but, at the same time, they did see a positive impact by the EU, *"forc[ing] new laws and having helped launch human rights courts."*

There was a strong criticism of the role of Western media in distorting Turkey in the opinions of the EU and elsewhere. Academic Zeynep Banu Dalaman saw "orientalism" in the coverage of reports by CNN, BBC and other Western media. *"For example, I saw during Gezi they were comparing it to the Arab Spring, to events in Syria. That is an orientalist point of view. [...] If Turkey one day joins democracy it will find its own way."* Another academic, Banu Karaca, was frustrated by Western journalists who carry out interviews but go home to tell a story about, *"... a binary [view] of 'Islam', religion versus secularism, when really much more complex historical and political factors are at play."*

Yet there was support for the EU, such as from academic and writer Mehmet Altan: *"During the transformation from the Ottoman Empire to the Turkish Republic, the social structure did not really change. The Sultan's bureaucrats became the 'state', and the Sultan's subjects became the 'nation'. It was neither a democratic state nor an active citizenship. [...] Today, the State is still perceived as if it were a Sultan and his subjects. At this point, I am a big supporter of the EU because, with the existing internal dynamics, Turkey will not change or transform. For fundamental and positive change we need the energy of the EU. I cannot see any other way. The EU is a really positive and beneficial global supportive power for change and transformation."*

WHO ARE THE MOST IMPORTANT DRIVERS OF POSSIBLE AND POSITIVE CHANGE IN TURKEY?

There was greater positivity about the potential for change coming from within Turkey than from outside. The model set by the Kurdish community in gaining rights was one positive force, as are young people. The Kurdish rights movement, says writer Roni Margulies, has, “Broken doors open through which all sorts of other people could go, and the silenced Islamic majority’s unhappiness with the Kemalist state broke down further doors through which all of us were able to go.”

“Who will be the main drivers of change? Kurds, Gezi people, women, LGBTI—these ‘minorities’ in sum are the motor forces for acting against all discriminations.”

Büşra Ersanlı, academic

Writer and translator Merve Pehlivan: “[...] The internationally-minded, educated young generation that sparked a nationwide uprising in Gezi is the only hope. We need a grassroots change, we need to reach out to different strata of society to educate and guide. We need to talk, we need to explain and we need to justify ourselves. Unless our voices are heard by the masses, we will remain marginalized.”

“I believe in writing. Words ultimately transform whatever they define.”

Anonymous Muslim writer

VIEW TO THE FUTURE - HOW DO YOU SEE THE STATE OF FREE EXPRESSION IN FIVE YEARS’ TIME?

Yıldız Tar, journalist: “On the one hand, the legislation [in Turkey] is really horrific; on the other hand, we have lived through the really amazing Gezi protests. I guess the clash of those two in the hegemonic arena will determine what’s going to happen. I believe that right now Turkey has a huge potential. This potential can lead to freedom or to fascism.”

Anonymous writer: “As I look back into the recent past, I do have hope, I mean, I did have hope, albeit to a small degree, that there will be progress. I used to say there is no way we will turn back to the past. However, it is really difficult to maintain a positive outlook in the present chaos. Unfortunately, it will not come as a surprise if we turn back to the past.”

Roni Margulies, writer: “I don’t know about five days’ time! Politics change very rapidly. There could be revelations about corruption and the government could fall. [...] There could be a military coup next week or various factors might make the government behave in a more democratic way. Or something more unpredictable. All of these are possible and will change the country in very different ways. This is the nature of politics in Turkey.”

Gökçe Tüylüoğlu, CSO CEO: “There is hope. ... People ask me whether we lose hope and I say we lose hope every night but then we regain hope every morning. It is like Sisyphus. [...] This is not a 100-metre run. We are running a marathon.”

İpek Çalışlar, writer:
“People in Turkey are in a better position economically. People are not starving on the streets. People are not dying in clashes. In such a harsh political atmosphere as today’s, I am glad they are not killing each other, just fighting with words.”

İpek Çalışlar, writer

WHAT PROGRESS SINCE NOVEMBER 2012?

In November 2012, the PEN International delegation issued a statement that raised a number of concerns about the state of freedom of expression in Turkey. The subsequent months have seen some of those concerns addressed, if only in part, while others remain largely unchanged and new issues have emerged.

WRITERS IN PRISON

NOVEMBER 2012

“The number of cases PEN is monitoring in Turkey has increased alarmingly in the past year: more than 70 writers and journalists are currently in prison, and at least 60 other writers, publishers and journalists are on trial, ensnared in legal processes that can last years.”

SEPTEMBER 2014

A series of releases in recent months has led to a decline in the number of writers in prison, with monitors in Turkey recording around 20 still in jail. However, for many of those freed, the trials continue, including those against writers Ayşe Berktaş and Muharrem Erbey, both in prison in November 2012 and whose cases were raised by the delegation at that time.

The cases continue against five others who were on trial but not imprisoned at the time of the PEN visit: Büşra Ersanlı, Fazıl Say, Nedim Şener, Ahmet Şik and Ragıp Zarakolu. Writer Mustafa Balbay, also in pre-trial detention in 2012, was sentenced in August 2013 to 34 years and eight months in prison, then freed in December 2013 while his appeal against his conviction continues. New trials have been initiated, including against writers and journalists accused of defamation. The result today is that politically-based trials against writers and journalists have not significantly decreased.

ANTI-TERROR LAW

NOVEMBER 2012

“The majority of [...] writers, publishers and journalists have been or are being prosecuted under the Anti-Terror Law, which defines offences too broadly, is applied inconsistently across jurisdictions and has been used against writers, publishers and journalists who have not supported, plotted, or carried out acts of terrorism or violence.

“[...] a lack of clarity surrounding judicial proceedings, the absence of public evidence and the widely varying interpretations of the Anti-Terror Law create the conditions in which security laws may be used to penalize activity that is clearly protected by Turkey’s national laws and by international laws guaranteeing freedom of expression.”

SEPTEMBER 2014

Despite judicial reforms ostensibly aimed at addressing concerns around the ATL, which were implemented under the 4th Judicial Reform Package in July 2012 and the 5th Judicial Reform Package in February 2014, laws still can be broadly interpreted and fears remain that they still can be applied against journalists, writers, activists and human rights defenders in the legitimate practice of their work. continues. New trials have been initiated, including against writers and journalists accused of defamation. The result today is that politically-based trials against writers and journalists have not significantly decreased.

REPRESSION OF KURDISH WRITERS

NOVEMBER 2012

“Seventy percent of those jailed are of Kurdish origin or are writers, publishers, journalists and intellectuals who support Kurdish political and cultural rights. This includes at least 36 journalists who are in prison in connection with the case against supporters of the KCK, under which more than 1,000 people are currently on trial.”

SEPTEMBER 2014

By mid-2014, all Kurdish writers in prison, as well as non-Kurdish writers also detained with them in the KCK case, had benefitted from a series of releases, including all 36 journalists. However, their trials, and other KCK trials, continue. Several positive developments occurred during this period that led to easing of restrictions on Kurdish language, including allowing defendants to use Kurdish in courts, and on political campaigning, and gave greater access to Kurdish language education as elective courses. Yet ambiguities still present in anti-terror legislation could continue to impact on those who engage in promotion of Kurdish rights; some interviewees remain concerned that commentary on Kurdish issues still can be construed as support for terrorism.

OTHER LEGISLATION

NOVEMBER 2012

“In addition to the Anti-Terror Law, freedom of expression is suppressed under other laws as well. These include legal prohibitions on obscenity, praising offenders or offences and incitement to ethnic or religious hatred. While some of these laws predate this government, and convictions under these laws have decreased in recent years, regulations such as Article 301, which criminalizes “denigrating the Turkish Nation, the State of the Turkish Republic and Organs of the State”, remain on the books, creating the potential for continuing abuse. Freedom of expression is also threatened by recent legislation targeting digital media.”

SEPTEMBER 2014

Laws prohibiting obscenity remain unchanged, with new cases opened since 2012, such as the reopening of the case against Sel Publishing House for its Turkish translation of Apollinaire’s *Exploits of a Young Don Juan* in August 2013. Article 301 is also still in place, with new cases being considered for prosecution, such as that against the board of PEN Turkey for comments made on the centre’s website. Penal code articles targeting “praise of offenders or offences” (usually referring to terrorist groups) and incitement to religious and ethnic hatred were amended under the Judicial Reform Packages but remain, and their interpretation continues to be problematic, posing potential threats to free speech.

The introduction of increasingly draconian Internet laws have come with a sharp escalation of restrictions on the Internet and an increase in the blocking of websites, including the temporary closures of Twitter and YouTube and trials against social media users. This is particularly problematic in a media situation that is circumscribed by government control over most major media outlets, making independent commentary and analysis difficult.

SUSPENDED SENTENCES — ‘DAMOCLES’ SWORD’

NOVEMBER 2012

“Under the July 2012 Third Judicial Reform Act,²⁴ [...] judges can now offer non-custodial sentences and suspend trials and prosecutions against writers, journalists and publishers accused for their writings and publications in cases that carry penalties of up to five years in prison.”

SEPTEMBER 2014

The suspended sentences handed down in the Sel Publishing House obscenity and the Metis Publishing House religious defamation cases, both cited by PEN to illustrate the problem of the ‘Damocles Sword’ law, will expire in 2015. Only then will its effect be known. Several of those given similar restrictions, including the Sel Publishing House, have continued to publish the same type of works that led them to the courts earlier. New suspended sentences continue to be given, such as that against Erol Özkoray, sentenced in September 2014 to 11 months in prison for “insult” to President Erdoğan, suspended for five years.

LENGTHY SENTENCES AND TRIALS

NOVEMBER 2012

“The Turkish legal system imposes extremely long periods of pre-trial detention on suspects. PEN is currently following cases of writers, publishers and journalists who have served up to four years in prison and still have not been convicted of any crimes.

“Even in cases without pre-trial detention, writers, publishers and journalists in Turkey face lengthy trials that may last for years.”

SEPTEMBER 2014

A positive development came with the February 2014 5th Judicial Reform Package that reduced to five years the maximum time a person can be held in pre-trial detention, leading to the release of a number of prisoners. Among them was Muharrem Erbey, who was freed in April after more than five years in prison to continue trial outside of prison, and journalist Füsün Erdoğan, freed in May despite having been sentenced to life imprisonment just weeks before; she had been in prison since 2006. In 2012, PEN saw long prison terms as providing conditions that, *“...create an atmosphere of intimidation for writers and journalists, who risk lengthy spells in prison when they publish controversial but legitimate comment, even if they are eventually cleared of any crime.”* Legislation still allows pre-trial detention of up to five years, and the fact that trials themselves can drag on even longer means that, in 2014, this is still a source of restraint on the right to free expression.

SELF-CENSORSHIP

NOVEMBER 2012

“Many writers, publishers and journalists in Turkey have expressed concern to PEN International about a climate of intimidation and fear that is fostering widespread self-censorship. Many dread publishing controversial but completely legitimate opinions and ideas that are protected under national and international free expression guarantees. This climate is clearly at odds with, and a threat to, the emergence of stronger, more diverse and more accountable democratic institutions in Turkey.”

SEPTEMBER 2014

As many of the interviewees for this report explained, self-censorship continues to be a real problem for writers and others in Turkey in 2014, and fear and intimidation are ever present.

HATE SPEECH

SEPTEMBER 2014

A key concern for many of those interviewed in early 2014, that was not a primary focus of the PEN International delegation in 2012, was hate speech. Many saw hate speech as widespread and deeply rooted in Turkey, and that targets were from across communities: minorities, LGBTI, secularists against Muslims, Muslims against secularists. Organisations such as the [Hrant Dink Foundation](#) have monitored and campaigned on this phenomenon. So a welcome development is that the 5th Judicial Reform Package, enacted in February 2014, for the first time introduced hate crime as an offence in law.

APPENDIX I

PEN INTERNATIONAL STATEMENT: FREEDOM OF EXPRESSION IN TURKEY

NOVEMBER 2012

Turkey has an extraordinarily high number of writers and journalists in prison, and many other writers, journalists and publishers are currently on trial or facing trial. Most have been prosecuted or face prosecution because of their alleged affiliation with or support for organisations that advocate violence. However, PEN International believes that a significant number of the writers, publishers and journalists who are in prison or on trial in Turkey have been targeted for what they have written or published, and that Turkey's broadly framed anti-terror laws are empowering overzealous state prosecutors to pursue cases where no material links to terrorism exist. The number of cases PEN International is monitoring in Turkey has increased alarmingly in the past year: more than 70 writers and journalists are currently in prison, and at least 60 other writers, publishers and journalists, are on trial, ensnared in legal processes that can last years.

This recent surge in prosecutions of writers, publishers and journalists in Turkey is reminiscent of the situation in Turkey in the 1990s, when PEN International protested the use by previous governments of overly-broad anti-terror laws to suppress writers and freedom of expression.

Since then, Turkey has gone through a period of significant political and economic development that has included increasing democratization, growing civilian authority over the military and, until recently, a steadily diminishing number of individual writers, publishers and journalists in prison or on trial for their work.

But the current increase in prosecutions of writers, publishers and journalists threatens to overshadow and undercut these achievements. PEN International is specifically concerned that:

- **The majority of these writers, publishers and journalists have been or are being prosecuted under the Anti-Terror Law** which defines offences too broadly, is applied inconsistently across jurisdictions and has been used against writers, publishers and journalists who have not supported, plotted, or carried out acts of terrorism or violence.
- **Seventy percent of those jailed are of Kurdish origin or are writers, publishers, journalists and intellectuals who support Kurdish political and cultural rights.** This includes at least 36 journalists who are in prison in connection with the case against supporters of the Union of Communities in Kurdistan (KCK), under which more than 1,000 people are currently on trial.
- **The Anti-Terror Law has also been used to prosecute journalists in the Ergenekon case**, including some who had merely reported on the police and the judiciary.

PEN International recognizes that among the anti-terror cases there may be some that demand judicial scrutiny. However, a lack of clarity surrounding judicial proceedings, the absence of public evidence and the widely varying interpretations of the Anti-Terror Law create the conditions in which security laws may be used to penalize activity that is clearly protected by Turkey's national laws and by international laws guaranteeing freedom of expression.

In addition to the Anti-Terror Law, freedom of expression is suppressed under other laws as well. These include legal prohibitions on obscenity, praising offenders or offences, and incitement to ethnic or religious hatred. While some of these laws predate this government, and convictions under these laws have decreased in recent years, regulations such as Article 301—which criminalizes “denigrating the Turkish Nation, the State of the Turkish Republic and Organs of the State”—remain on the books, creating the potential for continuing abuse. Freedom of expression is also threatened by recent legislation targeting digital media.

A series of legal reforms over the past decade has brought modest improvements in protections for freedom of expression.

Under the July 2012 Third Judicial Reform Act, for example, judges can now offer non-custodial sentences and suspend trials and prosecutions against writers, journalists and publishers accused for their writings and publications in cases that carry penalties of up to five years in prison.

The impact of these reforms remains limited, however, because journalists continue to receive prison sentences under the Anti-Terror Law, and few media crimes cases have been suspended.

At the same time, structural and procedural practices remain in place that contribute to the high numbers of writers, publishers and journalists in prison or facing trial.

PEN INTERNATIONAL IS ESPECIALLY CONCERNED THAT:

- **The Turkish legal system imposes extremely long periods of pre-trial detention on suspects.** PEN International is currently following cases of writers, publishers and journalists who have served up to four years in prison and still have not been convicted of any crimes. These conditions create an atmosphere of intimidation for writers and journalists, who risk lengthy spells in prison when they publish controversial but legitimate comment even if they are eventually cleared of any crime.
- **Even in cases without pre-trial detention, writers, publishers and journalists in Turkey face lengthy trials that may last for years.** Many cases end with acquittals or minor fines, suggesting that the original basis for prosecution was weak under Turkish law. Instead, those who bring these cases do so to harass and intimidate the authors (who face draining, debilitating defences that can drag on for months or years) and thereby to send warnings to others.

The large number of writers, publishers and journalists who are in prison or are on trial under broadly framed and inconsistently applied laws, often in obscure proceedings, affects all who wish to exercise their right to freedom of expression.

Many writers, publishers and journalists in Turkey have expressed concern to PEN International about a climate of intimidation and fear that is fostering widespread self-censorship. Many dread publishing controversial but completely legitimate opinions and ideas that are protected under national and international free expression guarantees. This climate is clearly at odds with, and a threat to, the emergence of stronger, more diverse and more accountable democratic institutions in Turkey.

PEN INTERNATIONAL THEREFORE REQUESTS THAT THE GOVERNMENT OF TURKEY TAKE THE FOLLOWING ACTIONS:

- Undertake an immediate review of all cases of writers, publishers and journalists to ensure that none is being penalized for the legitimate practice of his or her right to peaceful freedom of expression and association.
- Release all those currently detained, imprisoned or facing prosecution in violation of their right to freedom of expression.
- Anti-Terror Law to protect freedom of expression, especially Articles 6 and 7, which are often misused to prosecute writers, publishers and journalists. The Act remains the most serious threat to freedom of expression in Turkey.
- Revise the Penal Code Articles that have been used to launch court cases over legitimate political comment or speech.
- Ensure that changes to both the Anti-Terror Law and the Penal Code make “a clear distinction between incitement to violence and the expression of non-violent ideas,” as recently suggested by the European Commission.
- Revise the Law on the Internet, which limits freedom of expression and restricts citizens’ right to access to information, again as recently suggested by the European Commission.
- Improve on the reforms of the Third Judicial Reform Package by eliminating unnecessary pre-trial detention and debilitating lengthy trials; introduce stringent means of vetting cases before trial so that weak indictments are not used to imprison, harass or intimidate writers, publishers and journalists.

APPENDIX II

PEN PRESS RELEASE

TURKISH PRESIDENT TELLS PEN INTERNATIONAL FREE SPEECH VIOLATIONS CAST SHADOW OVER TURKEY’S PROGRESS

ANKARA 13 NOVEMBER, 2012: In a meeting today with a delegation from PEN International, President Abdullah Gül expressed his personal commitment to free speech. Responding to PEN’s concerns over a rising number of writers, journalists and publishers in prison or on trial in Turkey, the president assured the delegation that he has been following the cases closely.

“There are many good things unfolding in Turkey, but these concerns cast a shadow over the progress we are achieving,” the president told PEN. “They also have international repercussions. These developments deeply sadden me, and as President, I more than anyone else want to see that they are resolved and no longer on the country’s agenda.”

Underlining the significant democratic progress in Turkey the last 10 years, President Gul continued:

“Thanks to these reforms, there has been a liberalization in the public sphere, and many issues which were formerly taboos are now freely discussed. Hand in hand, economic and democratic reforms have brought wealth and freedoms, and transformed Turkish society immensely. There may of course be some problematic practices, as in any democracy; however, I would not want any concerns to cast a shadow on this important accomplishment.”

The president added that such criticisms, when voiced without appreciation of reforms, become unfair.

The PEN delegation presented the president with an outline of PEN’s concerns, including key cases of writers, journalists, and publishers who are either in prison or on trial in Turkey. PEN requested that the government immediately review all such cases to ensure that no one is being penalized for the legitimate exercise of the right to peaceful freedom of expression, and release all those currently detained, imprisoned, or facing prosecution in violation of this right.

The delegation conveyed to the president PEN's specific concerns about Turkey's Anti-Terror Law, which defines offenses too broadly and is applied inconsistently and often against those who have not supported, plotted, or carried out acts of terrorism or violence.

President Gül reiterated his belief that the best way to combat and isolate terrorism is to raise the standards of democracy, and argued that "terrorist groups are uneasy about democratic reforms in Turkey, and that they increase terrorist acts to undermine this process."

"President Gül's recognition of the negative impact of free speech violations on Turkey's future is important. We were particularly encouraged by his personal commitment to freedom of expression and to the promotion of fundamental rights as the best, most effective tool against terrorism," PEN International president John Ralston Saul said after the meeting. "As for our colleagues who are in prison in Turkey, we hope that today's meeting will help speed their release."

"This meeting will contribute to democratization in Turkey," said Tarik Günersel, President of PEN Turkey and one of 20 representatives from around the PEN world who are in Turkey this week to raise PEN's concerns. "President Gül understands and supports our concerns regarding freedom of expression and human rights in Turkey."

The PEN International delegation is in Turkey for meetings with officials, politicians, members of the diplomatic community in Ankara, and with writers and publishers in Istanbul. On 15th November, the international delegation will join with our Turkish colleagues for a commemoration of PEN's Day of the Imprisoned Writer. On November 17-18, PEN will host panel discussions at the Istanbul Book Fair.

The delegation will hold a news conference in Istanbul on November 15, 2012 at 11:00 a.m. at Cezayir Restaurant, Hayriye Caddesi, Galatasaray, Beyoglu.

The statement PEN presented President Gül is available here: <http://www.pen-international.org/newsitems/pen-international-calls-for-releases-and-reform-of-laws-restricting-turkey's-writers-publishers-and-journalists/>

APPENDIX III

INTERVIEW QUESTIONS

GENERAL

How would you assess the state of free expression in Turkey today?

What does freedom of expression mean to you?

Can you comment on reports that Turkey has a high number of writers and journalists in jail?

Have you yourself been prosecuted or suffered retaliation for your writings or political activities?

How does the situation for free expression today compare with that of ten years ago?

Do you think the Gezi protests had an impact on freedom of expression in Turkey? If so, how did they impact, and do you see any changes as a result?

Referring to your responses above, how would you assess the state of free expression in Turkey today? on a scale from 1 – 10 (10 being the most positive).

QUESTIONS RELATING TO LAW AND THE JUDICIARY

Please comment on the laws that regulate freedom of expression today.

Can you comment on the recent decision to bring the courts under the control of the Ministry of Justice?

Have you ever engaged in self-censorship by not writing, or considering not writing, about a particular topic because of the presence of these laws?

Are there any writings or speech that that you think could reasonably be banned or penalized for any reason? If yes, please describe.

MEDIA

What is your view on the impact, if any, of the dismissals and resignations of editors and journalists from their jobs in recent months?

What is your assessment of the relations between the media and pro-government business?

Where do you yourself turn to for independent commentary?

MINORITIES & RELIGION

What is your opinion on the treatment of ethnic and/or religious minority writers?

What is your opinion on the treatment of members of the LGBTI community and other groups in Turkey who do not conform?

Can you comment on the extent of suppression of reporting on LGBTI issues in Turkey, if any?

Do you find that hate speech is a problem in Turkey today? If so, which groups are especially targeted?

Is the influence of conservative Islam a significant element of suppression of free speech in Turkey?

SOCIAL MEDIA

What is your opinion of the new law on the Internet that was recently approved in the government proposal to pass a new law regulating the Internet and social media?

What is your assessment of the role of social media in disclosing corruption and other government malpractice?

CLOSING QUESTIONS

What is your opinion of the influence and involvement of international bodies, such as the EU, in supporting free expression in Turkey?

Who do you see are the most important drivers of possible and positive change in Turkey?

How do you see the state of free expression in 5 years' time?

ENDNOTES

1. See Appendix II for Press Release issued by PEN International on 13 November, 2012, giving details of the meeting with President Gül.
2. http://en.wikipedia.org/wiki/Group_of_Communities_in_Kurdistan
3. "Ergenekon" is the codename said to be used by the alleged coup conspirators, and refers to the legend of a mythical valley where ancient Turks took refuge and were trapped for several centuries, before finding freedom, led by a grey wolf.
4. Both Erbey and Berktaş have since been released.
5. Fazıl Say, a well-known classical pianist, was sentenced in April 2013 to 10 months in prison on charges of blasphemy for comments on his Twitter account. The sentence was upheld in September 2013. As of September 2014, there was still no news on the progress of the investigation into the PEN Turkey board members or on whether they will be brought to trial.
6. At the time of the interview in March 2014, there were around 50 journalists in prison.
7. Journalist and writer Ahmet Şık was imprisoned for a year from March 2011 for his book, *The Imam's Army*, which suggested a link between the Gülen movement and the police. He remained on trial as of July 2014.
8. Adnan Menderes, Turkish prime minister from May 1950 until his execution by military coup leaders in May 1960. He was known for being more tolerant towards traditional values and Islamic ways of life than his predecessors.
9. This comment is tempered by the high number of criminal defamation trials, notably those initiated by Prime Minister Erdoğan, some of which are against humourists. Satire is indeed rampant on social, print and broadcast media and in comic books and the arts, but with the threat of possible repercussions present.
10. <http://www.amnesty.org/en/library/asset/EUR44/022/2013/en/0ba8c4cc-b059-4b88-9c52-8fbd652c6766/eur440222013en.pdf>
11. During the Gezi demonstrations, pro-government and mainstream media came under criticism because they were seen not to be broadcasting the Gezi protests fairly, or at all. There were instances where vehicles belonging to those media were attacked and set alight by the protesters.
12. Büşra Ersanlı, freed in July 2012, was another focus case for the PEN International delegation.
13. Tulin Daloglu, "Turkey's Top Court Upholds Separation of Powers", <http://www.al-monitor.com/pulse/originals/2014/04/turkey-courts-power-separation-justice-akp-erdogan.html>
14. <http://www.theguardian.com/world/2014/sep/01/turkey-police-detained>
15. http://www.turkishreview.org/newsDetail_openPrintPage.action?newsId=223579
16. Changing allegiances makes this figure difficult to verify. Another source suggests the figure is closer to 50%.
17. The Council of State is the highest administrative court in Turkey.
18. The Center for Public Integrity and Pro Publica are US-based non-profit news organisations.
19. Zaman has one of Turkey's highest circulation figures and is affiliated to the Gülen movement.
20. While a number of people have been convicted for the death of Hrant Dink, including the shooter Ogün Samast, aged 17 at the time of the murder, Dink's family continues to campaign for prosecution of the intellectual authors of the crime, including police officials.
21. Official government statement on Law 6529: http://global.tbmm.gov.tr/index.php/EN/yd/haber_detay/407

