



Mechanisms of Control: How Turkey is Criminalizing Dissent and Muzzling the Press

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Task Force Co-Chairs

Ambassador Morton Abramowitz

Former U.S. Ambassador to Turkey

Ambassador Eric Edelman

Former U.S. Ambassador to Turkey

Task Force Members

Henri Barkey

Bernard L. and Bertha F. Cohen Professor of Internal Relations, Lehigh University

Svante Cornell

Director, Central Asia-Caucasus Institute and Silk Road Studies Program

Ambassador Paula Dobriansky

Former Under Secretary of State for Global Affairs

John Hannah

Former Assistant for National Security Affairs to the Vice President

Halil Karaveli

Senior Fellow, Central Asia-Caucasus Institute and Silk Road Studies Program

Aaron Lobel

Founder and President, America Abroad Media

Alan Makovsky

Former Senior Professional Staff Member, House Foreign Affairs Committee

Admiral (ret.) Gregory Johnson

Former Commander of U.S. Naval Forces, Europe; Senior Advisor, Bipartisan Policy Center

General (ret.) Charles Wald

Former Deputy Commander, U.S. European Command; Bipartisan Policy Center Board Member

National Security Program Staff

Blaise Misztal

Director of National Security

Nicholas Danforth

Senior Policy Analyst

Jessica Michek

Project Assistant

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Executive Summary



Through its mounting campaign of arrests, financial pressure, online censorship, outright seizure, and violent intimidation, Turkey's ruling Justice and Development Party (AKP), has been increasingly successful in muzzling Turkey's outspoken press. This assault on media freedom has been most visible over the course of the last two years, during which Turkey held four elections. But the AKP's attempts to control the press cannot simply be chalked up to heavy-handed electoral tactics. The Bipartisan Policy Center's analysis of the mechanisms—both legal and extralegal—that the AKP regime has used to control the media shows an interest in controlling the press going back to at least 2008. Furthermore, it shows how the government has perfected new, increasingly aggressive means to pressure the press, with a chilling effect on the willingness of both Turkish media and society to dissent from the official government line.

Turkish government attacks on the media are part of a larger strategy of dismantling any institutions—the military, the judiciary, and now the media—capable of acting as a check on the AKP's power. With its increasingly tight grip on the formerly independent institutions of the state and the media, Turkish President Recep Tayyip Erdoğan and the AKP are creating an autocratic society—but they are not buying stability. Biased reporting—and, in some cases, deliberate misinformation—are used to build support for Turkey's destabilizing civil war with the Kurdistan Workers' Party (PKK) in Turkey's southeast, as well as a Syria policy increasingly at odds with U.S. interests. Indeed, in recent years U.S.-Turkish disagreement over confronting ISIS reached the point where an exasperated Vice President Joe Biden declared, "Our biggest problem is our allies."¹

American policymakers concerned about the direction of Turkish foreign policy must pay greater attention to the health of Turkey's democracy and, in particular, the state of its media. A change in Turkish policy cannot come absent the expression of dissatisfaction at the country's current direction from a majority of voters. But how are they to know what is happening inside Turkey, let alone on its periphery, if the government is preventing the media from reporting on sensitive subjects and silencing any voice that is critical of its policies? Also troubling is recent evidence that Turkey's approach to managing its own media—by peddling disinformation through cowed and compliant channels—has spilled over into its diplomatic relations with the United States, corroding much needed trust between the two countries.

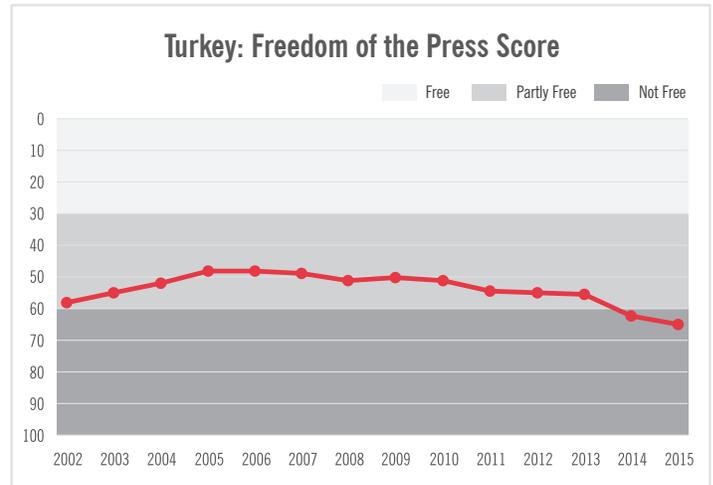
"If you do not have the ability to express your own opinion, to criticize policy, offer competing ideas without fear of intimidation or retribution," as Biden put it on a January 2016 visit to Turkey, "then your country is being robbed of opportunity."² And if the United States does not express its opinions about the suppression of media freedom in Turkey, it is robbing itself of the opportunity to repair what once was, and should again be, a close alliance and productive partnership.

The State of Turkey's Media

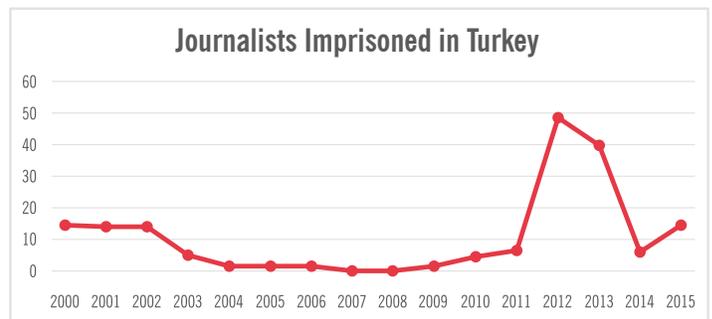
While the AKP's early years in power were marked by slowly improving press freedom, as shown by Freedom House's yearly Freedom of the Press rankings, press freedom began to drop precipitously after 2008, until Turkey's press was demoted from "partly free" to "not free" in 2014.

When the AKP began its tenure in 2002, it released journalists imprisoned by Turkey's previous rulers, consistent with the image the AKP promoted of itself as liberal, democratic reformers intent on European Union membership and integration with the West. However, the legal framework used by Turkey's past leaders to imprison journalists was not dismantled, only temporarily unused. Intent on transforming Turkish society as part of what he calls the

"New Turkey" project, Erdoğan and the AKP began to abandon their image as reformers, and to use these repressive laws to prosecute their opponents, instead of reforming or repealing them. The numbers are startling: in 2012 and 2013, the Committee to Protect Journalists (CPJ) ranked Turkey as the world's worst jailer of journalists.



The number of journalists released in 2014 and 2015 are not an indication, however, that Turkey has abandoned this practice. Legal changes in 2014 reduced the maximum period of pretrial detention for terrorism-related crimes from ten years to five years, necessitating the release of many journalists previously held in detention.³ It also shows that, even without scores of journalists behind bars, the government has achieved its goal: widespread intimidation of the press and self-censorship among its ranks. Additionally, estimates of the number of journalists imprisoned vary. While CPJ counted 14 journalists in jail as of December 2015, other estimates place the total closer to 30.⁴ In January 2016, an AKP deputy prime minister said 67 journalists were imprisoned, but he disputed that they were imprisoned for their journalistic activities.⁵



Today, much of the media landscape in the country is dominated by the government's "allied" media, which function as propaganda organs for the AKP. Ongoing government attacks, meanwhile, are geared toward curbing the country's remaining independent news and commentary outlets. The AKP has been largely successful in creating a widespread attitude of fear and self-censorship among journalists, in which once-independent publications now appear eager to accommodate the government's demands.

Tools of Control

Despite having won a major victory in the November 2015 general election, the AKP has shown little evidence of relaxing its antagonistic stance toward the media. Indeed, Turkey appears likely to head to the polls again in 2016, either for yet another parliamentary election or for a referendum on a new constitution. The AKP's hold on the media has been, and will continue to be, an essential part of its electoral strategy: denying citizens the unbiased information necessary to make informed decisions at the voting booth and preventing the opposition from disseminating their messages and competing in the marketplace of ideas.

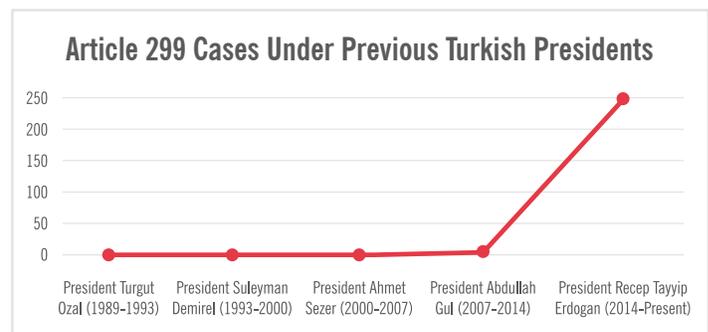
The AKP government relies on a diverse set of legal and extralegal methods to control the press. These include laws that criminalize "Denigrating Turkishness," "Inflaming Hatred and Hostility," "Membership in a Criminal Organization," "Civil and Criminal Defamation," "Promoting Terrorism," and "Insulting the President of the Turkish Republic." Of the legal mechanisms examined in this report, only two—laws regulating Internet content and allowing the government to appoint trustees to take over a company's business—were passed by the AKP. The vast majority has existed, in various forms, prior to the AKP's ascension to power in 2002. However, while most of these mechanisms were not invented by the AKP, the AKP government has applied them aggressively.

The tactics employed by the government to silence its critics have evolved during the AKP's tenure: shifting from retaliatory measures against individual journalists to attacks on the very institution of

journalism. The Turkish government now regularly imposes media blackouts on topics that might paint it in a bad light and, even more alarmingly, has shown a new willingness to take over entire news outlets, seizing them outright and transforming them into pro-government mouthpieces almost overnight. This practice was best displayed in early March 2016, when the AKP government seized control of one of Turkey's highest circulated daily newspapers, *Zaman*, as well as other media outlets owned by the Feza Media Group, on the grounds that the media outlets supported terrorism based on their affiliation with the AKP's enemy, the Fethullah Gülen Movement.

In addition to using the vast legal tools at its disposal, the AKP government has also used financial pressure, intimidation, and physical violence against media offices and individual journalists.

The best example of the severity of the government's recent crackdown on critical speech is the application of one particular law, Article 299 of the Turkish Penal Code, which criminalizes insulting the president of the Turkish Republic.



According to data compiled by a Turkish daily, Article 299 was not used at all by the three presidents prior to the AKP's capture of the post—and only once under AKP President Abdullah Gül. Under Erdoğan, however, use of Article 299 has skyrocketed, targeting journalists, authors, academics, students, and others for offenses from tweets deemed offensive to the president to mocking Facebook posts.

A free press is an essential component of a functioning democracy: it informs the public of crucial issues, promotes debate of politics and policies, and holds leaders to account for their decisions. Widely deployed, the tools of censorship create a culture of obedience, facilitating repeated electoral victories for the AKP and a broader transformation of Turkish society. Indeed, obedience to Erdoğan and persecution of his critics has been so internalized by at least some segments of Turkish society that a husband recently sued his own wife for expressing doubts about the president within the privacy of her own home.⁶

Alarming, many of the AKP's attacks on the press enjoy considerable support from the Turkish public. Indeed, in arresting opposition journalists, the government has reinforced the idea that its critics are criminals, motivated not by honest disagreement but by support for terrorism or military coups. But even if the number of legal cases against the press should subside or Turkish prisons be emptied of the journalists they currently contain, significant damage will already have been done to Turkey's freedom of press and expression that will be difficult to undo.

Ultimately, the persistence of an un-free press corrodes public trust, and the lack of reliable news prevents critical thought. In the absence of both of these, democracy becomes unworkable. And without democracy, Turkey's trajectory is unlikely to change.

Introduction



“Nowhere in the world is the press freer than it is in Turkey,” Turkish President Recep Tayyip Erdoğan declared in a televised address in December 2014.⁷ Two weeks earlier, his government arrested the editor-in-chief of an opposition paper, the chairman of an affiliated TV station, and a number of other journalists.

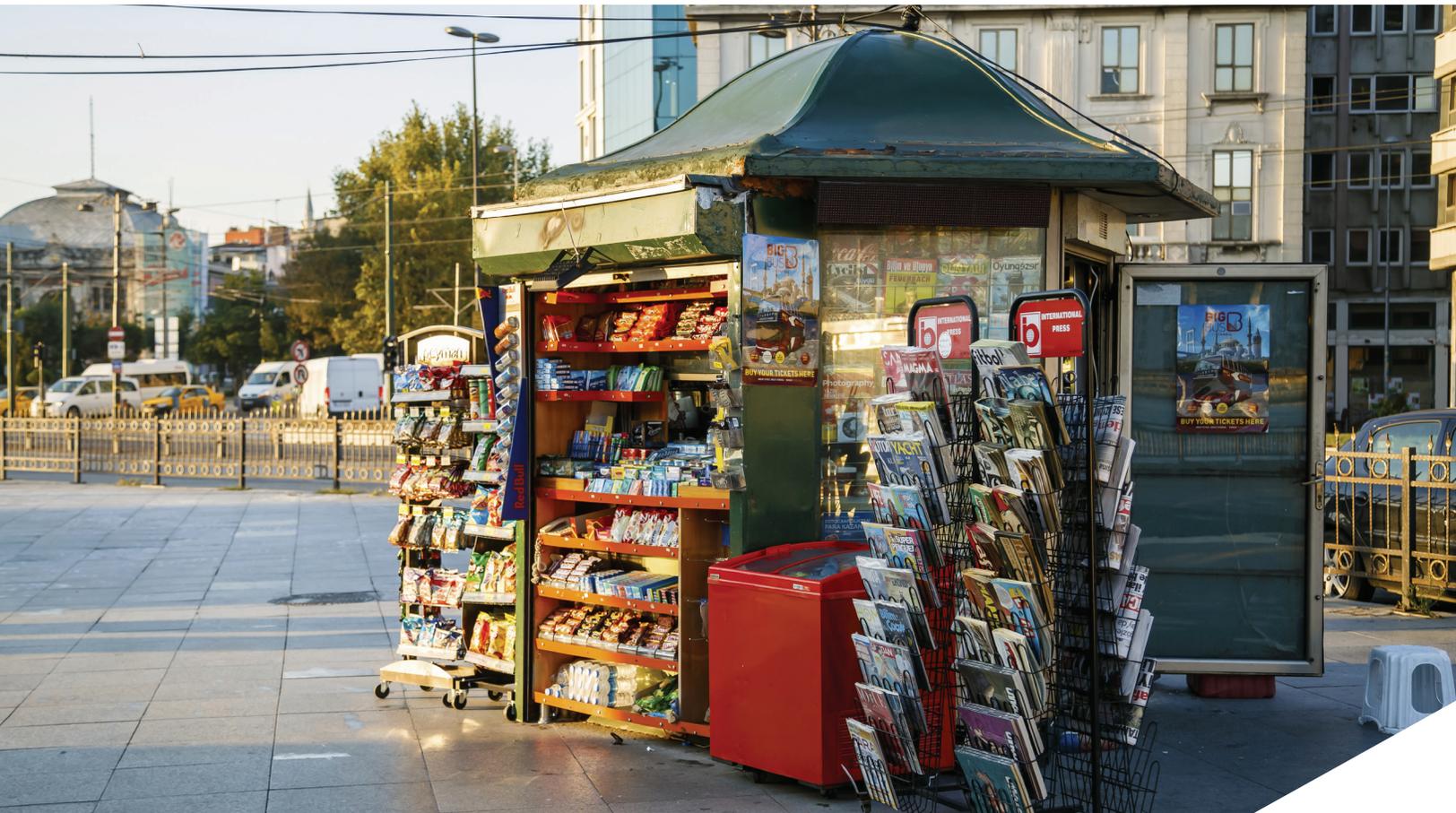
The perilous state of press freedom in Turkey is not news to anyone who has been following the country’s recent troubling political developments. Despite Erdoğan’s assertions, observers have noted a dramatic decline in press freedom in Turkey during the latter half of Erdoğan’s Justice and Development Party’s (AKP) decade-long tenure and especially during the recently completed 20-month-long electoral cycle, in which Turkey cast ballots in local, presidential, and two parliamentary contests.

Beyond recognizing this trend, though, it is important to better understand the mechanisms through which the Turkish government has been able to control the press, as well as the long-term

implications their success in this endeavor will have for Turkish politics. This report offers a thorough breakdown of the legal and extra-legal tools that the government uses to silence critical media. It details the array of specific laws the Turkish government has at its disposal, as well as how their application has developed to further the AKP government’s repressive goals.

This analysis also reveals how the AKP government has used these laws to create a climate of fear in which their actual application will become unnecessary and how the government maintains broad popular—though not universal—support for its attacks on the press. Only in this light is it possible to understand how Turkey’s increasingly successful regime of media censorship has enabled the AKP to control political debates in ways that will be detrimental both for Turkey’s stability and its relationship with Washington.

Overview: Turkey's Media Landscape



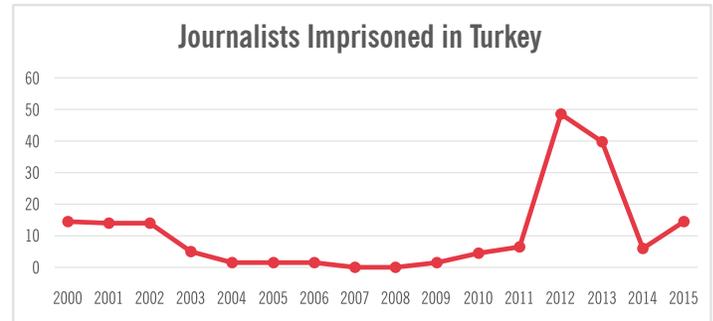
Through its mounting campaign of arrests, financial pressure, online censorship, and outright seizure, the AKP government has been increasingly successful in muzzling Turkey's once-outspoken press. Today, much of the media landscape in Turkey is dominated by the government's "allied" media, which, while sometimes allowing a hint of safe disagreement, essentially function as AKP propaganda organs. Ongoing government attacks on the media, meanwhile, have been geared toward curbing the country's remaining independent news and commentary outlets.

International observers have documented the marked decline in press freedom that has resulted from these efforts over the past several years: Freedom House, in its yearly evaluation of press freedom worldwide, demoted freedom of the press in Turkey from "partly free" to "not free" in 2014, following the government's

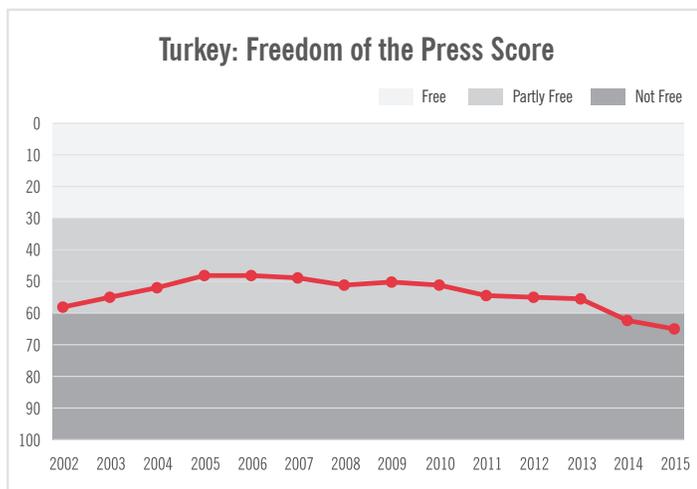
crackdown on reporting on the Gezi Park protests and other contentious topics, such as the December 2014 corruption scandal or the peace process with the Kurdistan Workers' Party (PKK).⁸ Freedom House noted that, after the AKP came to power in 2002, "Turkey's score first improved, then stagnated, and then worsened for the last several years" until it was demoted to "not free."⁹ Turkey has fallen in the Reporters Without Borders Press Freedom Index as well: Turkey was tied with Jordan in 99th place out of 139 nations in 2002, but its ranking began to slip dramatically after 2008. In 2015, Turkey placed 149th out of 180 countries, a ranking that put it alongside Mexico and the Democratic Republic of the Congo.¹⁰

Turkey has frequently been listed in the top tier of the Committee to Protect Journalists' (CPJ) yearly rankings of the worst jailers of journalists. In 2012 and 2013, it topped the list of countries with

the most journalists imprisoned, with more journalists behind bars than such countries as China and Iran.¹¹ In 2012, Turkey topped the list with 49 journalists imprisoned, ahead of Iran's 45 and China's 32. In 2013, Turkey once again led the world in journalists behind bars with 40, while Iran came in second with 35, and China followed with 32. In 2014, Turkey released significant numbers of journalists, bringing the total number of imprisoned journalists to seven at the time of CPJ's census—however, shortly afterward, Turkey undertook massive operations against the press, and its tally doubled to 14 in 2015, placing Turkey behind China, Egypt, Iran, and Eritrea for the year.¹²



At the same time, writers for left-wing and Kurdish newspapers, most notably Özgür Gündem, have faced regular arrest, particularly with the recent return to fighting in southeastern Turkey.



Meanwhile *Hürriyet* and *Milliyet*, which both enjoyed reputations as serious and independent papers, have both proved willing to fire writers and moderate their editorial stances in response to heavy government pressure.¹⁵ Secular-nationalist publications such as *Sözcü* and *Yeni Çağ* remain quite outspoken in their sometimes conspiratorial attacks on the government, maintaining a loyal nationalist readership. There are also a number of newer, independent, and often online publications that appeal to a self-styled liberal, progressive, or intellectual audience, including *Radikal*, *Everysel*, *BirGün*, *Bianet*, *P24*, and *Diken*.

While there are a number of local newspapers in Turkey, national newspapers dominate, accounting for approximately 80 percent of circulation. Popular pro-government newspapers include *Daily Sabah*, *The Daily Star*, and *Yeni Şafak*, as well as other lesser known papers such as *Yeni Akit*, *Akşam*, *Takvim*, and *Güneş*. The Turkish government's campaign against the faith-based Gülen Movement saw the *Bugün* and *Millet* dailies first seized by the government and then closed due to mismanagement by government-appointed trustees. In March 2016, the government expanded its pool of supporters by seizing the leading Gülenist paper *Zaman*, along with the English-language *Today's Zaman*.¹³ *Cumhuriyet*, long known for its outspoken criticism of the government from a secularist position, also saw its editor-in-chief, as well as one of its top journalists, arrested in 2015.¹⁴

News is also broadcast over television and radio, with television being the most widely consumed news medium. The state long held a monopoly over television and radio with state broadcaster Turkish Radio and Television (TRT), established in 1964, due to a law that prohibited private TV and radio channels. However, that changed with Star TV in 1980, which circumvented the law by broadcasting via satellite from Germany. With other independent television and radio channels likewise circumventing the law, the state's monopoly on media suffered a de facto ending, and in 1993, the ban on private broadcasting was lifted, allowing independent channels to flourish.

Still, a few national channels dominate television. In addition to the state-run TRT stations, pro-government channels include ATV, Show TV, Kanal 7, and Star TV. There are also more independent stations such as Kanal D and Fox TV, as well as the Gülen-affiliated

Samanyolu TV. KanalTürk, a formerly independent Gülenist channel owned by Koza İpek Holding, was seized by the government prior to the November 2015 election.

Media in Turkey is mainly owned by a few conglomerates, of which media outlets represent only a small portion of their holdings and profits. For example, one of Turkey's top conglomerates, the Doğan Group, owns the *Hürriyet*, *Radikal*, and *Posta* dailies and popular TV channels CNN Türk and Kanal D, in addition to its other holdings. Çalık Holding, led by Erdoğan's son-in-law Berat Albayrak, owns *Daily Sabah*, *Takvim*, *Yeni Aktüel*, and *Pas Fotomaç* newspapers and the ATV channel, in addition to holdings in textiles, energy, construction, and finance.

The financial interests of these conglomerates, and their dependence on the government for contracts in other areas, have long made them susceptible to government pressure. A harbinger for the lengths that Erdoğan would go to suppress critical media came as early as 2009, with government proceedings against the Doğan Group. The Doğan Media Group, which included national newspapers *Hürriyet*, *Milliyet*, *Vatan*, and TV channels, angered the Erdoğan government with its critical reporting, including its coverage of a German court case where the AKP stood accused of embezzling millions of dollars from a Turkish charity.¹⁶ Erdoğan personally called for a boycott of Doğan's media outlets but then, in 2009, went even further: he levied a \$2.5 billion fine against the company, allegedly for tax evasion, a staggering number that amounted to four-fifths of the company's value. To pay off the fine, Doğan was forced to reduce its media holdings, selling *Milliyet* and *Vatan* to a pro-government media group.

The current climate of fear and self-censorship created by the government's actions was dramatically illustrated recently when Beyazıt Öztürk, a popular and thoroughly apolitical entertainer, took a call on his talk show in which a woman claiming to be a teacher described the plight of civilians in southeastern Turkey. As the woman sought to draw attention to the unfolding tragedy,

she insisted that “children should not have to die.” Öztürk simply listened with an expression of moderate concern.¹⁷ As a result, he faced a barrage of attacks from those accusing him of providing a forum for PKK propaganda, and both he and the caller in question are reportedly under investigation. The station that aired his show, Kanal D, quickly issued an apology declaring that their channel was “on the side of the state,” and Öztürk went on CNN Türk to issue a personal apology as well.¹⁸ In short, by the time the possibility of an official investigation was even raised, several days later, most involved in this accidental moment of media freedom had performed their public self-denunciation. Pro-government radio host Cem Ceminay, however, was not so lucky. After reading a critical tweet on the air that referred to shoeboxes, a symbol of the December 2013 corruption scandal, he was fired by state-run TRT FM radio.¹⁹

Finally, it should be noted that many of these policies remain troublingly popular among segments of the Turkish public. AKP supporters frequently defend these efforts as being necessary to confront overly politicized or irresponsible behavior by the media and often echo AKP accusations that the media is conspiring to sabotage or even bring down the elected government. With the outbreak of renewed fighting between the government and the PKK, even many of the AKP's nationalist opponents have supported efforts to censor those who disagree with the government's handling of the war.

The government's very public attacks on the press serve a dual function. At the most basic level, they restrict the information and opinions available to ordinary citizens. But by prosecuting critical speech, the government also reinforces the message that critics are criminals and therefore not to be trusted. According to this logic, prosecutions are proof that the government's opponents are motivated not by honest disagreement with the government's policies, but instead motivated by more sinister goals—that is, prosecutions are “proof” that critical journalists are in league with terrorists or supporters of military coups.

Tools of Control: Legal Mechanisms for Persecuting Speech



Turkish law, including the penal code, separate anti-terrorism laws, and laws specifically governing the press, provides several mechanisms to suppress speech, whether by targeting individual journalists for the stories they write, by preventing reporting on certain topics, or—in drastic instances—by allowing the government to take over entire news outlets.

Mechanisms for Retaliation Against Critical Journalists

These laws, by design, target individuals, and are used to prosecute journalists after the fact for reporting that does

not toe the government line. Cumulatively, they have a chilling effect on speech. Though many cases against journalists using these laws don't often result in prison sentences, trials are long, expensive, and showy, and they deliberately position prominent journalists as examples to the rest, pillorying them in hopes of deterring further critical speech. The Turkish Press for Freedom Project reported that there were 77 cases filed against journalists between March and December 2014, and cases more than doubled in the first 11 months of 2015 to 157 cases filed.²⁰

As a result, self-censorship by media outlets and journalists is rampant in Turkish media, best demonstrated by the numbers

of journalists fired over the past several years: a soaring 500 in 2015, compared with approximately 330 in 2014, according to the Turkish Journalists' Association.²¹ The Republican People's Party (CHP) estimated in 2014 that a total of 1,863 journalists have been fired during the AKP's rule, and in early 2016, the CHP claimed 774 more had been fired during 2015.²²

Article 301: Denigrating Turkishness

Article 301, first included in Turkey's revised penal code in 2005, criminalizes "denigration of the Turkish Nation, the State of the Turkish Republic, or the Grand Assembly of Turkey and the judicial institutions of the State," and carries a prison sentence of six months to two years.²³ While the 2005 penal code was intended to provide greater protections for individual rights and freedoms, in line with Turkey's accession process to the European Union, Article 301 resembles Article 159 of the penal code it replaced—which had been in force in Turkey since 1926. Article 159 read: "Those who publicly insult or deride the moral character of Turkishness, the Republic, the Grand National Assembly, the Government, or the Ministries, the military or security forces of the State or the moral character of the judiciary, shall be punished by between one and six years of severe imprisonment."²⁴

The law has been heavily criticized both within Turkey and outside, and has been accused of being a tool used by Turkey's secularist "old guard" to punish journalists addressing sensitive topics such as the Armenian genocide and the partition of Cyprus or for criticizing the Turkish armed forces.

INSTANCES OF APPLICATION OF THE LAW

Armenian-Turkish journalist and human rights advocate Hrant Dink was prosecuted three times under Article 301 and served a six-month suspended prison sentence in July 2006. The government's repeated targeting of Dink for crimes against the Turkish state made him the target of ultra-nationalist groups: Dink was assassinated in January 2007.²⁵

Novelist and Nobel Prize winner Orhan Pamuk, who was indicted under Article 301 for comments made in a Swiss magazine in 2005 about the Armenian genocide and violence against Kurds, was outspoken on the role of the government and of Article 301 in Dink's murder. "In a sense, we are all responsible for his death," he said. "However, at the very forefront of this responsibility are those who still defend Article 301 of the Turkish Penal Code."²⁶

CHALLENGES AND CHANGES TO THE LAW

The law was amended in 2008 as part of a judicial package attempting to bring Turkish law in line with EU standards. However, reforms to the law were primarily cosmetic, changing the wording of some of the law's provisions: such as changing insulting "Turkishness" to insulting "the Turkish nation." Substantive revisions included reducing the maximum prison sentence from three years to two and requiring authorization from the Ministry of Justice before an investigation can be opened.

In the six months following the amendments, the Ministry of Justice reported, it examined more than 380 Article 301 cases and approved only 47 for court hearings.²⁷ One of the approved cases was against writer Temel Demirer, for his words following Dink's assassination, in which he said: "There is genocide in our history and its name is the Armenian genocide. Hrant showed this fact with his own life. I commit a crime and invite all to do the same. Those who don't commit crime against this killer government will share the guilt of Dink's killers."²⁸

While the use of Article 301 declined following the 2008 amendments, its usage did not stop entirely. In the case of *Altuğ Taner Akçam v. Turkey* in 2011, the European Court of Human Rights found that the law was still overbroad and that the 2008 amendments had done little to fix it. "Despite the replacement of the term 'Turkishness' by 'the Turkish Nation,' there seems to be no change or major difference in the interpretation of these concepts because they have been understood in the same manner by the Court of Cassation," the opinion read, finding that the law, in its current formation, still violated freedom of expression.²⁹

Although its application has been curtailed, the law still stands and was used to prosecute human rights lawyer Eren Keskin in January 2015 for comments she made in 2005; she was sentenced to ten months in prison.³⁰

Article 216: Inflaming Hatred and Hostility

Article 216 of Turkey's penal code criminalizes "inflaming hatred and hostility among peoples," and carries a prison sentence of six months to three years.³¹ While passed in its current form in 2005 as part of Turkey's new penal code, articles in Turkey's 1926 penal code served essentially the same purpose. The law has primarily been used to punish journalists who write about the Kurdish issue. The sentence is increased by half if the offense is carried out through the media. Historically, nationalist lawyers' groups, such as the Great Lawyers Union, have been behind the push for prosecution.

However, the law's application has been increased in recent years and has shifted from prosecuting journalists reporting on the Kurdish issue to journalists believed to be insulting Islam, under provisions of the law that state, "Any person who openly disrespects the religious belief of group is punished with imprisonment from six months to one year if such act causes potential risk for public peace."³²

INSTANCES OF APPLICATION OF THE LAW

In 2011, academic Ismail Beşikçi, who has written numerous publications on the Kurdish issue, was sentenced to 15 months in prison under Article 216 for an article titled "The Rights of the Nations to Self-Determination and the Kurds."³³

Amnesty International, in 2013, wrote, "In practice it has been used to prosecute criticism of dominant beliefs and power structures."³⁴ Under the AKP, the law was given new life and began to be used to prosecute those who were perceived to be against Islam—including both journalists and individual citizens.

In a widely condemned case, classical pianist Fazıl Say was given a ten-month suspended sentence in 2012 for Twitter posts deemed insulting to Islam. Among the tweets was a quotation of a poem written by Omar Khayyám in the 11th century.³⁵ In 2011, Cartoonist Bahadır Baruter was arrested and faced up to a year in jail for a cartoon in the satirical magazine *Penguen*, which depicted the words "There is no God, religion is a lie," on the wall of a mosque.³⁶

Article 314: Membership in a Criminal Organization

Article 314 of Turkey's penal code forbids membership in an armed organization, and is widely used against journalists associated with Kurdish and leftist movements, punishable by prison sentences between five and ten years. Passed in its current form as part of Turkey's 2005 penal code, it draws on similar provisions from Turkey's previous penal code prohibiting membership in militias and other armed organizations, arising from Turkey's conflict with the PKK in the 1980s.

Reporting on certain outlawed organizations has been conflated with membership in that organization, opening journalists up to prosecution under Article 314 for simply carrying out their journalistic duties.

INSTANCES OF APPLICATION OF LAW

Out of the 54 journalists imprisoned, awaiting trial, or recently released in Turkey in 2014, as compiled by the Organization for Security and Co-operation in Europe (OSCE), 46 of them were convicted under Article 314—and many of them were also found guilty of other, similar offenses under Turkey's broad anti-terrorism laws, which increased their sentences.³⁷

Among the arrested journalists were:

Faysal Tunç, a pro-Kurdish journalist, was convicted under Article 314 due to his participation in broadcasts on the pro-PKK ROJTV station in 2007 and was sentenced to six years and three months in prison, in addition to separate charges carrying additional sentences.

Seyithan Akyüz, correspondent from the Kurdish-language daily *Azadiya Welat*, was sentenced to 12 years in prison in 2009 on charges that included violating Article 314 for alleged membership in the outlawed Kurdistan Communities Union (KCK) and PKK. Evidence against Akyüz included banned newspapers in his home and his presence at a May Day demonstration in Izmir.

Kenan Karavil, editor-in-chief of a pro-Kurdish radio station, was found guilty in 2012 of membership in the KCK and the PKK, and sentenced to 13 years and six months in prison. Evidence against Karavil included meetings with pro-Kurdish politicians, wiretapped phone conversations, and his journalistic activities.

Anti-Terrorism Law

Turkey's anti-terror law was introduced in 1991 in response to the country's battle with the PKK. However, in practice, the law has been used wholesale against opponents of the government, from Kurds to leftists, as well as against students and journalists. One of the provisions of the anti-terrorism law applied most often to journalists is producing propaganda for an illegal organization, a charge that is often coupled with Article 314 of the Turkish penal code. Like Article 314, usage of the anti-terrorism law tends to conflate reporting on certain outlawed organizations, or publishing statements by such organizations, with membership in that organization.

Under the anti-terrorism law, individuals can be imprisoned for up to three years for disseminating statements and propaganda by a terrorist organization and up to five years for creating propaganda on behalf of a terrorist organization—with the sentence increased by one half if carried out through mass media.

INSTANCES OF APPLICATION OF THE LAW

As part of a larger crackdown on the KCK in 2011, 46 journalists and media workers were arrested and charged under the anti-terrorism law for membership in an illegal group. The arrested journalists, who worked for several Turkish news agencies and dailies, were accused of acting as the “press wing” of the KCK, mainly for engaging in ordinary journalistic activities, such as interviewing Kurdish

politician Selahattin Demirtaş and other Kurdish figures.³⁸ While many were released pending trial, the case is still ongoing. In 2012 alone, the Carnegie Endowment for International Peace reported that 71 journalists were charged under the anti-terrorism law, and the law has continued to be used over-broadly in the years since.³⁹

The government has also used anti-terror laws to prevent foreign journalists from reporting on its conflict with the PKK. In September 2015, Dutch journalist Fréderike Geerdink was detained and then deported on charges of conducting propaganda for a terrorist organization, using a law that allows regional authorities in Turkey to deport foreigners suspected of wrongdoing.⁴⁰ Geerdink had been targeted by the government earlier that year on similar charges: she was arrested in February 2015 for allegedly distributing terrorism propaganda through her journalism, most notably by interviewing PKK leader Cemil Bayık—charges she was acquitted of in April 2015. In August, two journalists from *Vice News* were arrested on terror-related charges—first accused of aiding ISIS, then the PKK. Both men were quickly released and deported while their translator, Mohammed Ismael Rasool, remained imprisoned for more than four months.⁴¹

In a case that captured Turkish and international attention: *Cumhuriyet* editor-in-chief Can Dündar and Ankara bureau chief Erdem Gül were arrested in November 2015 on charges that included creating propaganda on behalf of a terrorist organization, espionage, and revealing state secrets, based on stories they wrote in which Turkey's National Intelligence Agency appeared to be shipping weapons to Syria. “We are accused of ‘spying,’” said Dündar. “The president said [our action is] ‘treason.’ We are not traitors, spies, or heroes; we are journalists. What we have done here was an act of journalism.”⁴²

It was announced in early 2016 that prosecutors in the case against Gül and Dündar would seek life sentences. The severity of the charges and their accompanying punishment propelled the case into international consciousness, where it was widely denounced by international press freedom and human rights bodies. “These

life sentences, which are being sought, send a message to society that critical views will be silenced,” said the OSCE representative on freedom of the media.⁴³ Dündar and Gül, in detention for more than 90 days in a high-security prison, used a 2012 amendment to the Turkish constitution to allow them to appeal directly to Turkey’s Constitutional Court on the grounds that their personal freedoms had been violated.

Turkey’s Constitution Court, proving itself willing to rule in favor of press freedom and against the heavy-handed tactics of the government, ruled in favor of Gül and Dündar, asserting “freedom of press and expression, right to personal security have been violated, their imprisonment is unlawful.”⁴⁴ President Erdoğan railed against the decision, in which 12 of the 15-member body voted in favor of the journalists, saying “I do not obey it nor do I respect it.”⁴⁵ While Erdoğan has sought to bring the Turkish judiciary under the control of the executive, the Constitutional Court has so far remained outside of his reach and provided an important check on the government’s power in several instances related to freedom of expression and media freedom.

While Dündar and Gül were released following the Constitutional Court decision, they are still potentially facing life sentences: their trial will proceed with its first hearing in March.

Civil and Criminal Defamation

Laws governing civil defamation can be found in Articles 41 and 49 of the Turkish code of obligations, in force since 1926, which state: “a person who wrongfully harms another either intentionally, negligently, or imprudently, is under an obligation to compensate the other party for this harm,” and “a person whose personal rights have been unlawfully violated is entitled to bring a claim for monetary compensation for the non-pecuniary damages he has incurred.”⁴⁶

Turkey also has laws for criminal defamation, punishable by prison sentences, which afford even greater protection to public officials—which runs counter to the position of the European Court of

Human Rights, which states that the limits of acceptable criticism should be *wider* for public officials than for private individuals.⁴⁷

Defamation is criminalized in Turkey under Article 125 of the penal code, which states: “Any person who acts with the intention to harm the honor, reputation, or dignity of another person through concrete performance or giving impression of intent, is sentenced to imprisonment from three months to two years or imposed punitive fine.”⁴⁸ If the act is performed publicly, punishment is increased by one-sixth. If the act is published, then punishment increases by one-third. Defaming a public official for the commission of their duty carries a higher minimum sentence or fine than the defamation of a private citizen.

There also exists a separate and harsher law, Article 299 of the penal code, that specifically criminalizes insulting the president of the Turkish Republic—an offense punishable by one to four years of imprisonment.⁴⁹ Again, punishment is increased if the offense is carried out publicly or by the press.

INSTANCES OF APPLICATION OF THE LAW

The Turkish government has pursued defamation cases against a wide range of figures: including former U.S. Ambassador to Turkey Eric Edelman and Co-chair of the Bipartisan Policy Center’s Turkey Task Force for claims cited in leaked, classified diplomatic cables, signed but not written by Edelman, that Erdoğan had multiple Swiss bank accounts.⁵⁰

Erdoğan’s use of civil-defamation laws traces back to the early years of AKP rule: in 2005, two years into his tenure as prime minister, Erdoğan had taken 57 people to court over insulting him, netting him more than 700,000 Turkish liras in compensation.⁵¹

However, upon assuming the presidency, Erdoğan was afforded the protection of the harsher Article 299, which he began to regularly wield against his enemies. While Article 299 has been in place since 1926, it was rarely used—until Erdoğan was elected president.

BBC reported that in the first seven months of Erdoğan's presidency, 236 people were investigated for insulting him and 105 were formally indicted.⁵² According to Turkish daily *Sözcü*, as of November 2015, more than 250 people have been prosecuted for allegedly insulting President Erdoğan. This marks a dramatic departure from the presidents before him: during the tenures of presidents Turgut Özal, Süleyman Demirel, Ahmet Sezer, and Abdullah Gül, only one person was brought to trial using Article 299 (in Gül's presidency).⁵³

Leading Turkish intellectuals banded together to warn that the infamous Article 301 had been resurrected in the form of Article 299: "Now, the goal is not to protect 'Turkishness,' but to protect Erdoğan's 'One Man' project," they wrote.⁵⁴ Use of Article 299 has been widespread, targeting journalists, students, activists, scholars, artists—even a former Miss Turkey.

Defamation suits range from the straightforward to the ridiculous: in late 2015, a Turkish Internet user found himself in court over a post comparing Erdoğan's facial expressions to *Lord of the Rings* character Gollum, a post that investigators argued made up "part of an operation to tarnish the elected government's reputation."⁵⁵ A court-appointed council was assembled, including behavioral psychologists and *Lord of the Rings* experts to determine whether or not Gollum was a villain and, therefore, whether or not the man in question—a doctor who had already lost his job for the post—might face jail time for insulting Erdoğan. The case received international attention, and even *Lord of the Rings* movie director Peter Jackson and movie actor Elijah Wood weighed in on the ridiculousness of the case.

The pervasiveness of insult cases has spread into Turkish society, as well, where Turkish citizens have shown a new willingness to defend Erdoğan by policing each other's critical remarks. When opposition CHP leader Kemal Kılıçdaroğlu called Erdoğan a "sham dictator," he not only found himself sued by the president himself—seeking a reported 100,000 Turkish liras in compensation for the insult—but also the subject of more than 10,000 legal complaints.⁵⁶

But the phenomenon goes even more personal than that: most recently, a Turkish man reported his own wife for insulting the president, using voice recordings he had taken of her in their home.⁵⁷

CHALLENGES AND CHANGES TO THE LAW

The European Court of Human Rights has taken fault with the Turkish government's use of defamation laws. In the 2012 case of *Tuşalp v. Turkey*, which dealt with two defamation suits brought against journalist Erbil Tuşalp by then-Prime Minister Erdoğan, the court found that using civil-defamation laws to afford greater protection to public officials is a violation of Article 10 of the European Convention on Human Rights, which guarantees the right to freedom of expression.⁵⁸

Mechanisms to Restrict Reporting

While laws targeting individual journalists are often retaliatory, there are a separate set of laws that allow the government to target reporting itself, either by imposing entire media blackouts on certain subjects, by barring access to webpages that could contain content the government would not like seen, or by refusing accreditation to journalists known to be anti-government or affiliated with anti-government news outlets.

Law 5651: Restricting Online Content

In 2007, Turkey passed an Internet censorship law, "Regulation of Publications on the Internet and Suppression of Crimes Committed by Means of Such Publication," also referred to as Law 5651. Originally intended to protect children from harmful content, the law blocks eight categories of content: child abuse, drug use, substances dangerous to health, obscenity, prostitution, gambling, encouragement of suicide, and crimes committed against Mustafa Kemal Atatürk.⁵⁹ Orders to block websites can be issued by courts as well as the Telecommunications Communication Presidency (TIB), which is responsible for monitoring Internet content. In 2009, the last time TIB released statistics on Internet blocking, courts were

responsible for 21 percent of blocked websites in Turkey, while 79 percent were blocked by TIB without the involvement of a court.⁶⁰

INSTANCES OF APPLICATION OF THE LAW

“I am increasingly against the Internet every day,” Turkish President Erdoğan was quoted as saying in 2014.⁶¹ And, under Erdoğan and the AKP, over 100,000 websites were reportedly blocked in Turkey as of March 2016.⁶²

The Internet law has been used to block websites belonging to independent media, particularly pro-Kurdish new sources, such as *Atılım*, *Özgür Gündem*, *Azadiya Welat*, *Keditör*, *Günlük Gazetesi*, and Fırat News Agency.⁶³ It has also been used to block social media, such as Twitter, YouTube, Blogspot, WordPress, and others. Internet bans are often executed over-broadly: instead of blocking access to a YouTube channel, for example, the government will opt to block access to the site entirely. Indeed, access to the entirety of YouTube was blocked for more than two years, from May 2008 to October 2010, over ten videos considered to be insulting to Atatürk.

Website blocking tends to coincide with political crises, preventing the spread of crucial information. Facebook, Twitter, and YouTube were temporarily blocked in April 2015 during a hostage crisis in which members of the left-wing Revolutionary People’s Liberation Party-Front took a public prosecutor hostage.⁶⁴ The Turkish government, attempting to stop the viral spread of a photo showing the prosecutor with a gun to his head, banned access to 166 URLs that had published the photo, including news items, Twitter statuses and accounts, YouTube videos, and Facebook photos.

In March 2014, shortly before Turkey was to hold local elections, Erdoğan vowed to wage war against Twitter.⁶⁵ TIB issued an order to block the entire platform, on the grounds that Twitter had refused to comply with court orders demanding that certain content be removed. Soon afterward, access to YouTube was blocked as well, after a recording of top security officials allegedly planning a false flag attack to strengthen support for Turkish military intervention in Syria was leaked to the press.

CHALLENGES AND CHANGES TO THE LAW

Law 5651 has been the subject of multiple applications to the European Court of Human Rights. In the case of *Ahmet Yıldırım v. Turkey*, decided in 2012, the court found that blocking access to an entire online platform was a violation of Article 10 of the European Convention on Human Rights and that the process for blocking access to websites under law 5651 lacked significant protections against abuses.⁶⁶ The case was brought to the court by a Turkish national who hosted a website on Google Sites, only to have access to his website blocked due to a criminal case—for insulting the memory of Atatürk—against another site using the same platform. Due to complications in blocking only the offending site, TIB blocked access to Google Sites entirely.

In response to the 2012 ECtHR ruling, the process for blocking websites has gone through several amendments—though the result has been more blockings, not less. In February 2014, the Turkish government passed legal amendments that greatly expanded the powers of TIB. Under the new amendments, individuals and legal entities may apply directly to TIB to block content if they believe their privacy has been violated—a direct response to leaked recordings of government officials in December 2013. TIB is also permitted to preventatively block websites if it deems content to be “discriminating or insulting to certain members of society.”⁶⁷ TIB does not need court approval to issue a blocking order initially. Internet service providers must block access to a specific URL within four hours of receiving the order, but a court does not need to review the blocking order for 48 hours.

Part of these amendments were overturned by the Turkish Constitutional Court, but were reintroduced and passed in March 2015, thereby expanding the law to allow for blocking additional categories of content: the protection of life and private property, protection of national security and public order, prevention of crimes, and protection of public health.

Though the Constitutional Court was unable, in that instance, to check the government's overbroad Internet censorship, it has proved successful in others. Following the government's blanket bans on Twitter and YouTube in 2014, the Constitutional Court ruled that the bans were unlawful. Though Erdoğan initially grandstanded against the court's rulings, he eventually complied, and access was restored to both platforms: Twitter in early April and YouTube in early June.

On December 1, 2015, the European Court of Human Rights ruled that Turkey's two-year YouTube ban likewise violated freedom of expression. In the case of *Cengiz and Others v. Turkey*, three academics argued that the blanket ban on YouTube violated their right to receive and impart information and ideas.⁶⁸ The court reiterated its decision in *Yıldırım v. Turkey* that law 5651 did not authorize blocking access to an entire Internet platform due to one portion of its contents.

Media Blackouts

Article 3 of Turkey's press law stipulates that restrictions on reporting can be put in place if "public health and morals, national security, public order, public safety, and the unity of the land" are at stake.⁶⁹ Increasingly, media blackouts have been a tool of the Turkish government to prevent critical reporting, employed for purposes that seem to be less about protecting national security and more about protecting the Turkish government from embarrassment or accusations of misconduct.

Media blackouts can be imposed by a court, or issued by the government itself, and enforced by the state broadcasting regulator, the Turkish Supreme Board of Radio and Television (RTÜK), which can fine broadcast media that do not comply with the ban. Article 3 of Turkey's press law predates the current press law, passed in 2004, dating back to at least 1950. However, despite the longevity of the law, blanket bans on reporting are now being employed with greater frequency—and with more suspect premises.

INSTANCES OF APPLICATION OF THE LAW

Two notable media blackouts took place around military operations: in December 2011, after a Turkish military airstrike in Iraq accidentally resulted in the death of 34 civilians due to incorrect intelligence and after the May 2013 bombing of the Turkish border town of Reyhanlı. However, media blackouts did not become the go-to tool for the Turkish government until the December 2013 corruption scandal.

In December of 2013, four AKP ministers were implicated in widespread corruption accusations. A Turkish court banned coverage of the subsequent parliamentary investigation into the ministers, alleging that it was to prevent damage to their individual rights and to ensure that the ministers were given a fair trial.⁷⁰ Additionally, a gag order was placed on media coverage related to one of the other central figures in the graft scandal, businessman Reza Zarrab, at the request of Zarrab and his wife, a famous Turkish singer.

In 2014, media blackouts were used liberally for matters in addition to the corruption scandal. Restricted topics included the case of Turkish National Intelligence Organization trucks that were intercepted en route to Syria carrying weapons, which were suspected to be going to jihadi rebels; leaked recordings of a national security meeting in which high-level Turkish officials, including Prime Minister Ahmet Davutoğlu, suggested conducting a false flag attack on Turkish territory to justify Turkish military action in Syria; the deadliest mine accident in Turkish history, in which more than 300 miners died in a coal mine in Soma and the government was accused of negligence; and the abduction of 49 workers in Turkey's Mosul consulate by the Islamic State.

In 2015, following deadly bombings in Ankara, the Turkish government issued another media blackout. Deputy Prime Minister Yalçın Akdoğan sent a request to RTÜK for a ban on anything that could cause a "feeling of panic."⁷¹ A media ban was likewise put in place following the January 2016 suicide bombing in Istanbul with such immediacy that opposition CHP said, "They are imposing a broadcasting ban even before ambulances arrive on the scene."⁷²

Media blackouts, in addition to restricting information on specific topics, give the government another avenue to attack critical journalists, by pursuing legal action against individual journalists who violate the bans and report on issues of public concern. The Journalists' Syndicate of Turkey estimated that as of October 2015, more than 150 topics had been the subject of media blackouts over the previous five years.⁷³ The Turkish Justice Ministry, however, refused to provide an answer to a parliamentary question posed by the CHP in 2015 on the number of media blackouts, under the pretense that it does not keep documentation of media blackouts—despite the fact that it had answered a similar question the year before.⁷⁴

Discriminatory Accreditation

Instead of waiting until journalists publish something the government finds distasteful, the government can prevent news outlets from reporting on government events by denying them accreditation. This has been a frequent tactic of the AKP government.

Journalists receive accreditation through the Directorate General of Press and Information, a subsidiary of the Prime Minister's Office. Yellow press cards, available to journalists with one year of experience in an established media institution, are issued every three months and allow journalists to attend all events organized by the government and to use public transportation for free. Permanent press cards are available for journalists with more than 20 years of experience.

In 2014, the Press Card Commission came under fire when 94 veteran journalists from critical media outlets were denied permanent press cards, including the editor-in-chief of *Zaman*.⁷⁵

In August 2015, the Press Card Commission, whose structure had remained unchanged for 50 years, had its membership restructured, notably reducing representation from press unions.⁷⁶ Additionally, the decision to issue permanent press cards was removed from the commission and placed in the hands of the deputy prime minister

in charge of the Directorate General of Press and Information, putting the AKP directly in control of who is and who isn't allowed to conduct journalism.

In addition to discriminatory practices in issuing press cards, the Turkish government can also refuse to give journalists and news outlets special accreditation needed for specific events. This tactic has been employed since the AKP's fourth party Congress in 2012, when a grand total of seven veteran publications were denied the necessary accreditation to cover the event: *Cumhuriyet*, *Sözcü*, *BirGün*, *Evrensel*, *Aydınlık*, *Özgür Gündem*, and *Yeniçağ*.⁷⁷ The AKP continued this practice, denying critical media outlets access to its party congresses, meetings, and even official news conferences—forcing visiting foreign dignitaries to hold separate press conferences for those denied accreditation.

In 2015, the dismal state of media freedom in Turkey drew significant attention ahead of the G20 leaders' summit in Antalya, when journalists from *Zaman*, *Today's Zaman*, *Sözcü*, *Cihan*, and *Samanyolu TV* reported that they had not received accreditation for the summit, despite the fact that most other Turkish media outlets had been granted theirs a month earlier.⁷⁸

Government Takeover of Media

Article 133 of the Turkish Code on Criminal Procedure, which entered into force in 2005, states, "If there is evidence that a crime has been committed within the framework of activities of a company and it is a necessity to reveal the material truth during the stage of investigation and trial, the judge or court may appoint a trustee for the undertaking of the company's business."⁷⁹ This law represents the pinnacle of government interference in free media—and its usage appears, alarmingly, to be on the rise.

APPLICATION OF THE LAW

In 2004, the Turkish government's Savings Deposit Insurance Fund (TMSF) seized control of 200 companies owned by the Uzan Group,

including the channel Star TV—which was Turkey’s first private TV channel, broadcasting since 1990.⁸⁰ Uzan was accused of owing \$6 billion to the government stemming from embezzlement at its flagship bank, and its holdings were seized to sell to pay back its debts. However, the head of the Uzan Group, Cem Uzan, was the leader of a political party that had risen to challenge the AKP. The campaign against the Uzan Group and the seizure of his media assets seemed like direct government intervention to stop Uzan’s rise—especially considering that Star TV was sold to a media group that had good relations with the government, and its newspaper was transferred to a pro-AKP business group.

Since the Star seizure, Erdoğan continued to expand his control over media. In 2007, TMSF took control of *Daily Sabah*, citing improper legal procedures for the newspaper’s previous sale in 2001. The paper was bought by conglomerate Çalık Holding, whose CEO is Erdoğan’s son-in-law, in a controversial sale where Çalık was the sole bidder and the majority of its winning bid was funded by state-run banks.⁸¹ In 2013, the TMSF took control of several of Çukurova Holding’s media assets, including newspapers, TV channels, and radio stations, to settle a tax debt. TMSF then sold many of Çukurova’s media assets to a close associate of Erdoğan’s, Ethem Sancak, who also owned Star from 2004 to 2009.⁸²

Media seizures were not employed by the Erdoğan government again until 2015, when the government took over control of Koza İpek Holding and Kaynak Holding within two months of each other. The addition of the Gülen Movement—led by U.S.-based Turkish preacher Fethullah Gülen—to Turkey’s “Red Book,” a government list of Turkey’s domestic and foreign enemies, allowed the Turkish government to go after the movement, which owns or is affiliated with several media outlets, using Turkish laws dealing with terrorism or publishing propaganda for a terrorist group.

The Ankara 5th Penal Court of Peace ordered the seizure of Koza İpek in late October 2015. Opponents of the Koza İpek seizure decried it as illegal, as it took place without a trial, asserting that in the case of alleged criminal activity, Article 133 “requires a trial

and even a definitive judgment for a seizure to proceed. But here [in the Koza İpek case], no trial has taken place. The appointment of trustees under Article 133 requires concrete evidence.”⁸³ Additionally, the seizure seemed unnecessary: while Koza İpek was under investigation for suspected money laundering—like the Uzan Group—its executives opened its financial records to investigators, presenting no obstacle to the investigation that would justify a government seizure. And, when investigators found no evidence of financial wrongdoings in Koza İpek’s records, they asserted that their “unusual cleanliness” constituted evidence that Koza İpek was involved in a crime.⁸⁴ The crime, according to the judge that handed down the court’s decision, was “supporting terrorism”—or the Gülen Movement.

Upon seizure, pro-government figures were appointed as trustees of Koza İpek and its media group—including the *Bügun* and *Millet* dailies and TV channels *BügunTV* and *Kanaltürk*—which were overhauled, with more than 100 employees fired to make way for new pro-government hires.⁸⁵

Kaynak Holding, which consists of 23 companies, including Turkey’s largest publishing house, was seized in mid-November 2015 on the order of the Istanbul 10th Penal Court of Peace. Like Koza İpek, Kaynak was seized due to alleged money laundering, tax evasion, and terrorism financing, based on its connections to the Gülen Movement. After preliminary examinations of Kaynak’s records, the court appointed trustees to take over the holding’s operations, to “be able to collect the proof in a healthier manner and to prevent any destruction [of the] proof.”⁸⁶

The seizures of Koza İpek and Kaynak have much in common: the appointment of pro-government trustees and the firing of scores of employees. In addition, the appointed trustees receive exorbitant salaries, draining the seized companies of resources. And, in March 2016, politically-motivated mismanagement by government-appointed trustees led to the closure of the İpek Media Group. Circulation of the *Bügun* and *Millet* dailies had fallen drastically since the takeover: circulation of *Bügun* was reportedly 104,000

copies per day before the government seizure, and plummeted to 5,600 afterwards.⁸⁷ “İpek Media Group was one of the most valuable media outlets in Turkey. It was free, democratic. It had always respected human rights and freedom of speech. It was then cracked down and now will be closed. It could no longer survive with a leash around its neck anyway,” tweeted Koza İpek CEO Akın İpek after the announcement.⁸⁸

The closure of Koza İpek’s media group—only five months after its seizure—have raised fears that the bankruptcy of Koza İpek and elimination of its media assets was the government’s intent—and that the same fate may soon befall Kaynak, as well as the recently seized *Zaman*.

On March 4, a Turkish court ruled to appoint a trustee panel to take over the operations of the Feza Media Group, which includes *Zaman*, *Today’s Zaman*, Cihan News Agency, as well as a news magazine and TV channel. *Zaman*, which had previously come under attack by the Turkish government in December 2014, when its offices were raided and its previous editor-in-chief detained, was seized due to the same accusations that befell Koza İpek and Kaynak: its affiliation with the Gülen Movement.

Extralegal Mechanisms for Persecuting Speech



Beyond the legal mechanisms available to the government to prosecute journalists and restrict reporting, the government also employs several informal mechanisms to suppress speech: namely by leveraging its role in awarding tenders for public projects for favorable reporting and by using its platform of power to intimidate individual journalists or specific news outlets.

Relationship Between Media Owners and Government

In Turkey, the vast majority of media outlets are owned by large conglomerates, which have holdings in sectors from media, to construction, to transportation. These holding companies' reliance on government contracts makes them vulnerable to government pressure, transforming their media outlets into little more than pro-government mouthpieces, in hopes of receiving favorable treatment when bidding on government tenders.

The sway the government has over media companies was never more apparent than during the Gezi Park protests of 2013: while thousands of protesters gathered and were met with violence from the Turkish police, CNN Türk—owned in part by the Doğan Media Group and in part by Turner Broadcasting, which owns CNN, and is not affiliated with the Turkish government—did not provide any coverage of the demonstrations, instead airing a documentary on penguins.⁸⁹ This phenomenon was not restricted to CNN Türk: the Gezi protests went largely unreported on by mainstream Turkish media, leaving social media to fill in the gap.

Leaked recordings of then-Prime Minister Erdoğan in 2014 revealed the extent of the relationship between the Turkish government and media outlets. One recording showed Erdoğan calling the deputy chairman of the Ciner Media Group, which owns the *Habertürk* daily and television channel, to instruct him to remove a news ticker with a statement by the Nationalist Movement Party leader

about the Gezi Park protests.⁹⁰ In another recording, also a conversation between Erdoğan and the Ciner deputy chairman, Erdoğan demanded that a program on another Ciner Media Group channel be cut off immediately—Ciner complied.⁹¹

In leaked recordings between Erdoğan and the media boss who owns the *Milliyet* and *Vatan* dailies, Erdoğan threatened to exclude journalists from his official jet unless a journalist working for *Milliyet* revealed his sources for a document detailing the minutes of a meeting between the imprisoned leader of the PKK, Abdullah Öcalan, and three deputies from the pro-Kurdish Peoples' Democratic Party.⁹² In the recording, the media boss was apparently reduced to tears and promised to provide Erdoğan with the name of the source.

The most damning of the leaked recordings implied that Erdoğan personally orchestrated the acquisition of the Turkuvaz Media Group, which owns *Daily Sabah* and ATV channel, by his son-in-law Berat Albayrak, by ordering businessmen to contribute more than \$600 million to fund the purchase, in return for favorable treatment in government projects, including the construction of Istanbul's third airport.⁹³

Intimidation of Journalists

In several instances, Turkish government officials—including President Erdoğan personally—have used their positions to target and intimidate journalists.

At a campaign rally ahead of the 2014 presidential election, Erdoğan publicly branded veteran journalist and correspondent for *The Economist* Amberin Zaman, a “militant in the guise of a journalist” and told her to “know her place” in response to comments she had made in a televised debate.⁹⁴ Similar attacks were made against *New York Times* reporter Ceylan Yeğinsu, who wrote about ISIS recruitment in Turkey: Erdoğan declared her report “shameless, immoral treason,” and pro-government media outlets ran Yeğinsu's picture on their front pages and branded her a “traitor.”⁹⁵

These tactics were widely denounced by the international community. *The Economist* defended Zaman against Erdoğan's remarks, declaring: “We stand firmly by her and her reporting. The intimidation of journalists has no place in a democracy.”⁹⁶ “Singling out individual journalists endangers their safety and puts them at risk of retaliation,” said a U.S. State Department spokesperson when asked about the intimidation of Yeğinsu.⁹⁷ The OSCE, which sent a delegation to observe the 2014 presidential elections, expressed their concern about the personalized targeting of Zaman: “The widespread smear campaign against Amberin Zaman threatens her safety,” an OSCE representative stated.⁹⁸

The Turkish government's charged rhetoric concerning critical media has created a hostile environment for media and has, on several occasions, escalated to violence committed against news outlets and individual journalists.

In September 2015, *Hürriyet*'s offices came under attack by pro-AKP protesters, in two separate instances, throwing rocks at the building while chanting AKP slogans. Among the attackers was an AKP Istanbul member of parliament and head of the AKP's youth organization, who was filmed participating in the attack. He later publicly praised the protesters' efforts, saying they had effectively “lifted the immunity” of *Hürriyet* journalists and that “our mistake was that we never beat them in the past.”⁹⁹ Out of crowds of hundreds, 17 suspects were detained in the *Hürriyet* attacks—however, all were released.

Following the attack on *Hürriyet*'s offices, four men attacked Ahmet Hakan, one of the paper's best-known columnists, and his bodyguard while they were returning to Hakan's house late at night. The attack, in which Hakan suffered a broken nose and several broken ribs, followed comments from a pro-AKP journalist who had said of Hakan, “If we wanted, we could crush you like a fly; we've been merciful so far, and you are still alive.”¹⁰⁰

Implications



As the AKP has amply shown, these tools of censorship, and the culture they create, can be wielded against a diverse array of opponents and ideologies. The AKP government has been most consistent in using its arsenal of repressive measures to target its own critics. But these tools also serve to enforce moral norms concerning Islam and the nationalist ideology that underpins the government’s current war against the PKK.

As discussed in the Bipartisan Policy Center’s report *Turkey Transformed*, the AKP’s cultural project is closely intertwined with its political ambitions: “The political system that the leaders of the AKP are working to implement is distinctly illiberal and autocratic, treating public support for their rule as something to be engineered in elections that may be free but certainly not fair. This political system is to be undergirded by a cultural change,

a Turkey that the government is seeking to make solidly Islamic in its values and worldview.”¹⁰¹

As a result, the AKP has proudly used censorship to position itself as a defender of religious values, while also using it to marginalize stories that might call its religious legitimacy into question. In this context, supporters often view legal measures against those seen as disrespectful of prevailing religious belief as a positive part of the government’s political program. At the same time, when the Ministry of Religious Affairs faced criticism recently after issuing a fatwa that seemed to endorse incest, the AKP responded with a statement attacking the “perverse and twisted” misrepresentation of the story in certain media outlets, who it then promised would face legal consequences for smearing the ministry.¹⁰²

Censorship can also play a dangerous and destabilizing role in driving an overly militarized approach to Turkey's Kurdish issue. In the 1990s, the military and the state used censorship to control the national conversation about the Kurdish issue to the point where even calling it the "Kurdish issue" could be grounds for arrest. The AKP initially challenged this approach, quite literally allowing the conversation to expand beyond just condemning terrorism to encompass political solutions to Turkey's civil war as well. For the first time in decades, it became possible to publicly acknowledge that Kurds had legitimate demands and to discuss the steps that would be required to meet them.

Now, after abandoning its attempt to reach a negotiated settlement with the PKK, the AKP is once again using censorship to enforce the terms of debate in a way that only allows for a military solution. Today, when criticizing the motives or methods of the government's war is treated as a form of treason, it has again become impossible to discuss the effectiveness of trying to destroy the PKK militarily or to debate the long-term moral and political costs of killing civilians in pursuit of this goal. In short, the government's effective use of censorship has created both widespread public support for what will quite likely be a counter-effective policy, as well as an echo chamber in which even pro-government voices that might question this policy are silenced.

As the Turkish government's war against the PKK has begun to spill over into Syria and cause increased tension with the United States over the role of the Kurdish Democratic Union Party there, troubling evidence has emerged suggesting the government is trying to spin American diplomats in the same way it has become accustomed to manipulating the domestic press. After a February 17 bombing in Ankara, for example, the Turkish government presented American diplomats with subsequently debunked evidence linking the attack to Syrian Kurds, saying that the bombing was carried out by the PKK with assistance from a Syrian Kurd who had crossed into Turkey.

However, DNA testing revealed that the bomber was falsely identified and was indeed a Turkish Kurd.¹⁰³ The speed with which American officials dismissed Turkey's proffered evidence reveals the extent to which this approach has already damaged trust between Washington and Ankara.

The U.S. State Department has repeatedly voiced concerns over the erosion of media freedom in Turkey. In September, for example, following the attacks on the newspaper *Hürriyet*, U.S. Ambassador to Turkey John Bass visited the paper's offices. He spoke about the importance of the freedom of the press and the freedom of expression, adding, "I am here today in part to make sure that all of you know how important those rights are and how strongly we believe that they should be freely exercised in democratic societies."¹⁰⁴ Western ambassadors have also worked to challenge AKP claims that seek to present their actions as acceptable, even routine, in advanced democracies. U.S. Vice President Joseph Biden, too, spoke out against the AKP's repressive behaviors in a January 2016 visit to Turkey, saying, "If you don't have an ability to express your opinion, to criticize a policy, to offer competing ideas without fear of intimidation or retribution, the country is robbed of opportunity and the country is being robbed of possibilities."¹⁰⁵

It remains unclear, however, what additional steps the U.S. government is willing to take and, for that matter, what steps might be effective. Following another statement by the U.S. ambassador, a journalist seemed to express the frustrations of many by asking: "Do you think these concerns that you have been expressing make any difference? If no, then what is it good for, this expressing concerns."¹⁰⁶ While some were upset by how little impact the ambassador's statement had, another AKP official lashed out at him, demanding he apologize to Turkey and go back to his country. In other words, the AKP's approach has a built-in mechanism for marginalizing its critics, where even foreign ambassadors can be attacked and discredited with the same language used for opposition journalists. What is more,

while U.S. statements have usually followed high-profile infringements, the systematic self-censorship created by these individual acts of intimidation are harder to observe and respond to. The AKP almost certainly hopes that its control of the media will eventually become sufficient that high-profile arrests are no longer needed to maintain compliance.

Going forward, targets will almost certainly change. Consistency has never been one of Erdoğan's strong suits, and as has been frequently noted, authoritarian regimes are never more dependent on a compliant press than when trying to justify or gloss over contradictory policies. It is not out of the question that, if and when the government seeks to improve relations with the United States or bring its policies in line with U.S. interests, it will also use heavy-handed tactics to quiet the critics of this move as well. Ultimately, though, the persistence of an un-free press corrodes public trust, and the lack of reliable news fuels the suspicion behind Turkey's pervasive conspiracy culture. As the most popular target of Turkish conspiracies, American policymakers should view this development with concern.

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Notes

Notes



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