

# CRACKING DOWN ON CREATIVE VOICES



TURKEY'S SILENCING OF WRITERS, INTELLECTUALS,  
AND ARTISTS FIVE YEARS AFTER THE FAILED COUP

## INTRODUCTION

In the late evening hours of July 15, 2016, then-Prime Minister of the Turkish Republic, Binali Yıldırım, a member of the ruling Islamist Justice and Development (AKP) party, announced that an “attempt to overthrow the government was underway.”<sup>1</sup> That night, fighting between forces loyal to the government and participants in the military coup resulted in over 250 people killed and over 2,000 wounded.<sup>2</sup>

The next day, the people of Turkey woke up to a new reality: the coup had failed, but the government’s response to the coup would play a major role in dictating the political trajectory of the country, accelerating and enabling the government’s turn towards an increasingly authoritarian mode of governance under the leadership of President Recep Tayyip Erdoğan. The Turkish writer Aslı Erdoğan (no relation), who has been relentlessly persecuted by the Erdoğan regime, recalls walking back to her home after being on the street the

night of the coup attempt, experiencing “the feeling of coming back from a war or a battlefield, and realizing that the war was just starting.”<sup>3</sup>

The government’s repressive, society-wide response began immediately. President Erdoğan blamed a former ally, the now-U.S.-based religious leader Fetullah Gülen, for the coup attempt, and moved aggressively to purge those he deemed to be a supporter or sympathizer.<sup>4</sup> Days after the attempt, Erdoğan declared a state of emergency, essentially suspending parliamentary democracy and granting himself sweeping executive powers.<sup>5</sup> Officials would end up using their new powers under this state of emergency to implement a wide-ranging, systematic crackdown in the weeks and months after the coup attempt, including:

- Purging over 130,000 public sector workers from their posts—including academics, teachers, police officers, and judges.<sup>6</sup>

<sup>1</sup> “Turkey’s coup attempt: What you need to know,” BBC, July 17, 2016, [bbc.com/news/world-europe-36816045](https://www.bbc.com/news/world-europe-36816045)

<sup>2</sup> “Turkey coup: Court hands 17 top generals 141 life terms,” *Al Jazeera*, June 20, 2019, [aljazeera.com/news/2019/6/20/turkey-coup-court-hands-17-top-generals-141-life-terms](https://www.aljazeera.com/news/2019/6/20/turkey-coup-court-hands-17-top-generals-141-life-terms)

<sup>3</sup> Interview with Aslı Erdoğan, Writer and Human Rights activist, April 2021

<sup>4</sup> See e.g. Dexter Filkins, “Turkey’s Thirty-Year Coup,” *The New Yorker*, October 10, 2016, [newyorker.com/magazine/2016/10/17/turkeys-thirty-year-coup](https://www.newyorker.com/magazine/2016/10/17/turkeys-thirty-year-coup)

<sup>5</sup> Barçın Yınanç, “State of emergency enables Turkish gov’t to rule ‘by decree without control mechanisms,’” *Hurriyet Daily News*, July 25, 2016, [hurriyetdailynews.com/state-of-emergency-enables-turkish-govt-to-rule-by-decree-without-control-mechanisms-102029](https://www.hurriyetdailynews.com/state-of-emergency-enables-turkish-govt-to-rule-by-decree-without-control-mechanisms-102029)

<sup>6</sup> “Almost 130,000 purged public sector workers still awaiting justice,” *Amnesty International*, October 25, 2018, [amnesty.org/en/latest/news/2018/10/almost-130000-purged-sector-workers-still-awaiting-justice-in-turkey/](https://www.amnesty.org/en/latest/news/2018/10/almost-130000-purged-sector-workers-still-awaiting-justice-in-turkey/)

- Detaining and arresting tens of thousands of people, including journalists,<sup>7</sup> writers, publishers,<sup>8</sup> and academics, who the government accused of supporting Gülen, or of otherwise supporting groups the government had deemed illegitimate.<sup>9</sup> This included a reported 20,000 members of the Halkların Demokratik Partisi, or People’s Democratic Party (HDP), a leftist pro-minority party which represents one of the AKP’s most significant political opponents, according to the HDP’s own estimates.<sup>10</sup>
- Unilaterally canceling passports and imposing travel bans—including a systemic ban on academics traveling abroad.<sup>11</sup> By December 2017, according to the Ministry of Interior’s own figures, the government had invalidated more than two hundred thousand passports.<sup>12</sup> Further, post-coup presidential decrees imposed travel bans on anyone facing criminal investigation or prosecution.<sup>13</sup>
- Shutting over 100 (by one estimate, at least 168)<sup>14</sup> media outlets, including news agencies, television channels, and radio stations.<sup>15</sup>

These emergency powers would, in fact, never go away: many of them would be incorporated into executive powers under Turkey’s new constitution the following year, and others would be incorporated into new laws aimed at further entrenching Erdoğan’s power. Similarly, the purges would not cease—the AKP has continued to arrest hundreds or even thousands of people at a time, accusing them of links to Gülenism or other outlawed groups.<sup>16</sup>

In short, Erdoğan and the AKP responded to the 2016 coup attempt by ruthlessly cracking down, undermining democratic norms, and seizing new levers of power. They have aggressively used these powers to target dissent on a society-wide scale.

<sup>7</sup> “Turkey: Journalism is Not a Crime”, *Amnesty International*, accessed June 17, 2021, [amnesty.org/en/latest/campaigns/2017/02/free-turkey-media/](https://www.amnesty.org/en/latest/campaigns/2017/02/free-turkey-media/); Ceylan Yeginsu and Tim Arango, “Turkey Cracks Down on Journalists, Its Next Target After Crushing Coup,” *The New York Times*, July 25, 2016, [nytimes.com/2016/07/26/world/europe/turkey-cracks-down-on-journalists-its-next-target-after-failed-coup.html?action=click&module=RelatedCoverage&pgtype=Article&region=Footer](https://www.nytimes.com/2016/07/26/world/europe/turkey-cracks-down-on-journalists-its-next-target-after-failed-coup.html?action=click&module=RelatedCoverage&pgtype=Article&region=Footer)

<sup>8</sup> Emma Graham-Harrison, “Young, old, conservative, liberal: Turkey in shock over journalists’ arrest,” *The Guardian*, July 30, 2016, [theguardian.com/world/2016/jul/30/turkey-journalists-arrest-nation-shock-coup](https://www.theguardian.com/world/2016/jul/30/turkey-journalists-arrest-nation-shock-coup)

<sup>9</sup> “A look at Turkey’s post-coup crackdown”, *Associated Press*, August 30, 2018, [apnews.com/article/dbb5fa7d8f8c4d0d99f297601c83a164](https://apnews.com/article/dbb5fa7d8f8c4d0d99f297601c83a164)

<sup>10</sup> “There is no solution to the Kurdish question with repression’ HDP Co-chair Salim Kaplan says,” *Medya News*, January 31, 2021, [medyanews.net/there-is-no-solution-to-the-kurdish-question-with-repression-hdp-co-chair-salim-kaplan-says/](https://www.medyanews.net/there-is-no-solution-to-the-kurdish-question-with-repression-hdp-co-chair-salim-kaplan-says/)

<sup>11</sup> “Turkish ban on academics traveling abroad a temporary step: official says,” *Reuters*, July 20, 2016, [reuters.com/article/us-turkey-security-education/turkish-ban-on-academics-traveling-abroad-a-temporary-step-official-says-idUSKCN1000ND](https://www.reuters.com/article/us-turkey-security-education/turkish-ban-on-academics-traveling-abroad-a-temporary-step-official-says-idUSKCN1000ND)

<sup>12</sup> “FETO statement from Minister Soylu: ‘The more you open it, the more it keeps coming out,’” *CNN Turk*, December 12, 2017, [cnnturk.com/turkiye/bakan-soyludan-feto-aciklamasi-actikca-icinden-cikmaya-devam-ediyor](https://www.cnnturk.com/turkiye/bakan-soyludan-feto-aciklamasi-actikca-icinden-cikmaya-devam-ediyor)

<sup>13</sup> “Joint Report on Passport Cancellations & Related Violations for the United Nations’ Universal Periodic Review of Turkey,” *Office of the United Nations High Commissioner for Human Rights*, January 2020, [uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=7235&file=EnglishTranslation](https://www.uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=7235&file=EnglishTranslation)

<sup>14</sup> “Turkish Government shuts down 15 Kurdish media outlets,” *European Federation of Journalists*, October 30, 2016, [europeanjournalists.org/blog/2016/10/30/turkish-government-shuts-down-15-kurdish-media-outlets/](https://www.europeanjournalists.org/blog/2016/10/30/turkish-government-shuts-down-15-kurdish-media-outlets/); Constanze Letsch, “Turkey shuts down 15 media outlets and arrests opposition editor,” *The Guardian*, October 31, 2016, [theguardian.com/world/2016/oct/30/turkey-shuts-media-outlets-terrorist-links-civil-servants-press-freedom](https://www.theguardian.com/world/2016/oct/30/turkey-shuts-media-outlets-terrorist-links-civil-servants-press-freedom)

<sup>15</sup> Ceylan Yeginsu, “Turkey Expands Purge, Shutting Down News Media Outlets,” *The New York Times*, July 27, 2016, [nytimes.com/2016/07/28/world/europe/turkey-media-newspapers-shut.html](https://www.nytimes.com/2016/07/28/world/europe/turkey-media-newspapers-shut.html); “Turkish Government shuts down 15 Kurdish media outlets,” *European Federation of Journalists*, October 30, 2016, [europeanjournalists.org/blog/2016/10/30/turkish-government-shuts-down-15-kurdish-media-outlets/](https://www.europeanjournalists.org/blog/2016/10/30/turkish-government-shuts-down-15-kurdish-media-outlets/)

<sup>16</sup> “Turkey arrests 1,000 in raids targeting Gulen suspects”, *BBC*, April 26, 2017, [bbc.com/news/world-europe-39716631](https://www.bbc.com/news/world-europe-39716631); “Turkey seeks arrest of over 500 coup suspects: Anadolu,” *DW News*, accessed June 17, 2021, [dw.com/en/turkey-seeks-arrest-of-over-500-coup-suspects-anadolu/a-57334596](https://www.dw.com/en/turkey-seeks-arrest-of-over-500-coup-suspects-anadolu/a-57334596)

# THE TARGETING OF WRITERS, CREATIVES, AND INTELLECTUALS

This silencing of dissent extends to the cultural, intellectual, and literary spheres. In the five years since the coup attempt, dozens of writers, artists, and other creatives have been targeted, prosecuted, and jailed by Turkish authorities.<sup>17</sup> Twenty-nine publishing houses have been closed, and over 135,000 books have been banned from Turkish public libraries.<sup>18</sup> By May 2018, authorities had dismissed more than 5,800 academics from their posts.<sup>19</sup> Hundreds of the dismissed academics had signed a January 2016 petition criticizing the government's military operations in the Kurdish-majority southeast of the country. Erdoğan responded to the petition by accusing its signatories of treason<sup>20</sup> and their dismissal sent a stark signal that the government would treat peaceful disagreement with its policies as an act of disloyalty to the state.

In the face of this systemic crackdown, many writers and academics have fled the country. Others have been jailed—including the 25 writers and public intellectuals that PEN America documented in the 2020 Freedom to Write Index, making Turkey the third-worst jailer of writers globally last year.<sup>21</sup> Those that have stayed do so in the face of increasing pressure to either self-censor or risk facing legal consequences or

other restrictions, including protracted trials and travel bans, if their work offends the government.

Artist Zehra Doğan, speaking to PEN America, was quick to note that while creatives and intellectuals are not the only ones who have suffered from Turkish governmental repression, “as is the case with every dictator, Erdoğan’s hatred of artists and intellectuals is strong, since they create the peoples’ memory, build its archives, come from the people and stand in their ranks and—by using art and literature as means of expression—can reach every layer of the people.”<sup>22</sup>

Today, this repressive climate has left writers and others in Turkey’s cultural sector feeling embattled and targeted, unsure of what they can say or write without falling into their government’s crosshairs. Exiled Turkish writer Aslı Erdoğan described the government’s targeting of creatives as part of a “systematic approach towards cutting the vocal cords of society.” “How do you cut the vocal cords?” she asked rhetorically. “You start with journalists, because they know the sins of the system. And then comes the turn of the columnists, the writers, artists, professionals, academics. It is actually quite a well-planned act, silencing an entire society. And it has worked, so far.”<sup>23</sup>

In the past several months, PEN America has spoken with over a dozen members of the liter-

<sup>17</sup> See “Writers at Risk Database”, *PEN America*, accessed June 17, 2021, [https://pen.org/writers-at-risk-database/?pen\\_country=turkey](https://pen.org/writers-at-risk-database/?pen_country=turkey)

<sup>18</sup> Elif Shafak, “Police officers demanded to see my books’: Elif Shafak on Turkey’s War on Free Speech,” *The Guardian*, July 15, 2019, [theguardian.com/books/2019/jul/15/elif-shafak-books-writers-academics-women-hostility-erdogan-turkey](https://www.theguardian.com/books/2019/jul/15/elif-shafak-books-writers-academics-women-hostility-erdogan-turkey)

<sup>19</sup> “Turkey: Government Targeting Academics”, *Human Rights Watch*, May 14, 2018, [hrw.org/news/2018/05/14/turkey-government-targeting-academics](https://www.hrw.org/news/2018/05/14/turkey-government-targeting-academics)

<sup>20</sup> Mark Lowen, “Turkey brain drain: Crackdown pushes intellectuals out,” *BBC*, December 28, 2017, [bbc.com/news/world-europe-42433668](https://www.bbc.com/news/world-europe-42433668)

<sup>21</sup> “Freedom to Write Index 2020,” *PEN America*, April 21, 2021, [pen.org/report/freedom-to-write-index-2020/](https://pen.org/report/freedom-to-write-index-2020/)

<sup>22</sup> Interview with Zehra Doğan, Artist and Journalist, responses received via email May 2021

<sup>23</sup> Interview with Aslı Erdoğan, Writer and Human Rights activist, April 2021

ary, artistic, and human rights communities in Turkey to better understand how this society-wide crackdown has affected freedom of expression within the country's cultural, artistic, intellectual, and literary communities.

There are many facets to the Turkish government's crackdown on dissent. This briefing paper focuses primarily on one aspect of this repression: the expanded use of criminal provisions to target and punish expressions of dissent, aided by Erdoğan's co-option of the judiciary, and the ways in which these provisions have been wielded against the creative and intellectual communities, in particular. We also include some of the most significant cases of writers, cultural workers, and others targeted in the past five years. The goal of this briefer is to shine a light on the devastating impact of the crackdown and to urge the international community to respond in appropriate measure to the Turkish government's campaign of repression of freedom of expression.

## JULY 2016 AS A FLASHPOINT FOR HUMAN RIGHTS IN TURKEY

The July 2016 coup attempt, and the subsequent crackdown, occurred after nearly fifteen years of rule under Erdoğan and his Justice and Develop-

ment Party (Adalet ve Kalkınma Partisi, or AKP). When Erdoğan first became Prime Minister in 2003 he portrayed himself as a reformer promising to modernize some of the more repressive aspects of Turkey's governance.<sup>24</sup> In those early years, the AKP spearheaded several initiatives that seemed to promise a greater respect for human rights. In 2004, Turkey passed a reform bill that abolished the death penalty and de-criminalized the Kurdish language.<sup>25</sup> In 2005, the government formally began the accession process to the European Union, which required Turkey to commit to the EU's human rights guarantees. In 2009, after years of renewed conflict with the Kurdistan Workers' Party (PKK), a Kurdish leftist militant separatist organization, the government began secret talks with the PKK in Oslo to resolve the conflict.<sup>26</sup>

Yet these early, promising signs gave way to a more authoritarian style of governance.<sup>27</sup> One major flashpoint came in 2013, when police violently suppressed a small group of peaceful demonstrators at Istanbul's Gezi Park, kicking off a national wave of protest against Erdoğan's rule and triggering a violent police response which resulted in the deaths of 11 people and thousands injured.<sup>28</sup> In the aftermath of the Gezi Park demonstrations, Erdoğan and the AKP did not reverse course, but decided instead to double down on an increasingly-authoritarian style of governance. The government treated the protests as a direct threat to its power rather than

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<sup>24</sup> Bethan McKernan, "From reformer to 'New Sultan,'" *The Guardian*, March 11, 2019, [theguardian.com/world/2019/mar/11/from-reformer-to-new-sultan-erdogans-populist-evolution](https://www.theguardian.com/world/2019/mar/11/from-reformer-to-new-sultan-erdogans-populist-evolution)

<sup>25</sup> "Turkey to Abolish the Death Penalty", *DW News*, accessed June 17, 2021, [dw.com/en/turkey-to-abolish-the-death-penalty/a-603163](https://www.dw.com/en/turkey-to-abolish-the-death-penalty/a-603163)

<sup>26</sup> "Who are Kurdistan Workers' Party (PKK) rebels?" *BBC*, accessed June 17, 2021 [bbc.com/news/world-europe-20971100](https://www.bbc.com/news/world-europe-20971100)

<sup>27</sup> Bethan McKernan, "From reformer to 'New Sultan,'" *The Guardian*, March 11, 2019, [theguardian.com/world/2019/mar/11/from-reformer-to-new-sultan-erdogans-populist-evolution](https://www.theguardian.com/world/2019/mar/11/from-reformer-to-new-sultan-erdogans-populist-evolution)

<sup>28</sup> "Three years on in Turkey, no justice for victims of Gezi Park protests," *DW News*, accessed June 17, 2021, [dw.com/en/three-years-on-in-turkey-no-justice-for-victims-of-gezi-park-protests/a-19294078](https://www.dw.com/en/three-years-on-in-turkey-no-justice-for-victims-of-gezi-park-protests/a-19294078)

as an expression of dissent it could peacefully accommodate.<sup>29</sup> Authorities would go on to target those who spoke out in support of or shared information about the protests, even years later,<sup>30</sup> portraying the protests as illegitimate and sponsored by foreign powers.<sup>31</sup> Another flash-point came in 2015, when Erdoğan scrapped peace talks with the PKK and launched a military offensive against the group, kicking off a years-long war in which thousands have died.<sup>32</sup>

By the time of the July 2016 coup attempt, Erdoğan's moves to consolidate power were well underway. In fact, several of those PEN America interviewed took pains to emphasize that the coup attempt must be seen as part of a larger turn towards authoritarianism. Yet there is little question the government seized the opportunity offered by the attempted coup to claim broad new powers—including control over the judiciary, which has enabled the government's repression to reach new levels.<sup>33</sup>

## WIELDING THE LAW AS A WEAPON

In the aftermath of the coup attempt, judges and prosecutors were among the primary targets of Erdoğan's country-wide purge. In April 2017, nine months after the government declared a state of emergency, the Turkish public approved a constitutional referendum that abolished the position of the prime minister and dramatically expanded the president's powers, including over the country's judiciary.<sup>34</sup> These powers went into effect in 2018; that same year, the Turkish legislature passed an anti-terrorism law giving the president the power to unilaterally dismiss any public official—including judges.<sup>35</sup> A 2020 European Commission report estimated that almost 4,400 judges and prosecutors had been dismissed from their positions since the coup attempt—almost a third of the overall number.<sup>36</sup> Many of these judges and prosecutors have been replaced not by career jurists, but by rookie civil servants chosen for their loyalty to the AKP rather than their judicial expertise.<sup>37</sup>

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<sup>29</sup> Selin Bengi Gümrükçü, "The Aftermath of the Gezi Park Protests: Rising Populism and Mobilization for Autocracy," *Jadaliyya*, June 16, 2021, [jadaliyya.com/Details/42978](https://jadaliyya.com/Details/42978)

<sup>30</sup> E.g. "Prof. Dr. Financi on trial for insulting President Erdogan: I Revealed Torture," *Sessiz Kalma*, November 21, 2019, [sessizkalma.org/en/prof-dr-fincanci-on-trial-for-insulting-president-erdogan-i-revealed-torture/](https://sessizkalma.org/en/prof-dr-fincanci-on-trial-for-insulting-president-erdogan-i-revealed-torture/); "Turkish writer Erol Ozkoray convicted for 'insulting' Erdogan," *Alarabiya News*, September 24, 2014, [english.alarabiya.net/News/2014/09/24/Turkish-writer-convicted-for-insulting-Erdogan-](https://english.alarabiya.net/News/2014/09/24/Turkish-writer-convicted-for-insulting-Erdogan-)

<sup>31</sup> "Turkish prime minister vows to increase police force," *Hurriyet Daily News*, June 18, 2013, [hurriyetdailynews.com/turkish-prime-minister-vows-to-increase-police-force-49006](https://hurriyetdailynews.com/turkish-prime-minister-vows-to-increase-police-force-49006)

<sup>32</sup> "Turkey's PKK Conflict: A Visual Explainer", *International Crisis Group*, accessed June 17, 2021, [crisisgroup.org/content/turkeys-pkk-conflict-visual-explainer](https://crisisgroup.org/content/turkeys-pkk-conflict-visual-explainer); Joe Parkinson, "Turkish President Says Can't Continue Peace Talks with Kurds," *The Wall Street Journal*, July 28, 2015, [wsj.com/articles/turkish-president-halts-talks-with-kurds-1438084113](https://www.wsj.com/articles/turkish-president-halts-talks-with-kurds-1438084113)

<sup>33</sup> There is, in fact, ongoing speculation over whether the government itself either staged the coup or allowed it to occur, as a pretext for the subsequent crackdown. See e.g. David L. Phillips, "Was Turkey's coup for real?" *Huffington Post*, July 17, 2017, [https://www.huffpost.com/entry/was-turkeys-coup-for-real\\_b\\_596cbc9ee4b06a2c8edb4815](https://www.huffpost.com/entry/was-turkeys-coup-for-real_b_596cbc9ee4b06a2c8edb4815); Selcuk Gultasil and Andrew Rettman, "Leaked document sheds light on Turkey's 'controlled coup,'" *EU Observer*, March 11, 2019, <https://euobserver.com/foreign/144366>

<sup>34</sup> Sinam Ekin and Kemal Kirişçi, "The Turkish constitutional referendum, explained," *Brookings Institution*, April 13, 2017, [brookings.edu/blog/order-from-chaos/2017/04/13/the-turkish-constitutional-referendum-explained/](https://www.brookings.edu/blog/order-from-chaos/2017/04/13/the-turkish-constitutional-referendum-explained/)

<sup>35</sup> "Turkey: Normalizing the State of Emergency," *Human Rights Watch*, July 20, 2018, [hrw.org/news/2018/07/20/turkey-normalizing-state-emergency](https://www.hrw.org/news/2018/07/20/turkey-normalizing-state-emergency)

<sup>36</sup> "Turkey 2020 Report," *European Commission*, June 10, 2020, [ec.europa.eu/neighbourhood-enlargement/sites/near/files/turkey\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/turkey_report_2020.pdf), p. 21, 23 (declaring that "In total, 4,399 judges and prosecutors have been dismissed since the attempted coup," and describing the negative impacts of "the dismissal and forced removal of 30% of Turkish judges and prosecutor[sic]").

<sup>37</sup> "How Turkey's courts turned on Erdogan's foes," *Reuters*, May 4, 2020, [reuters.com/investigates/special-report/turkey-judges/](https://www.reuters.com/investigates/special-report/turkey-judges/)

This system-wide shakeup has resulted in a judicial system that does not operate as a check on executive power, but rather as an instrument in Erdoğan's repression.<sup>38</sup> Turkish journalist Erol Önderoğlu, speaking to PEN America, drew a direct line between the captured state of the judiciary and the ongoing state of repression, saying "As long as the Turkish judiciary is not completely independent, as long as the rule of law is not respected, all independent human rights-minded actors and critical circles will continue to face the most arbitrary punishment."<sup>39</sup> Writer Aslı Erdoğan similarly described this expansion of President Erdoğan's control as "really a systematic change . . . He took control of the judicial system and the police system, and turned that control into a deadly weapon . . . if you control the judges you control everything."<sup>40</sup>

This control over the judiciary has paved the way for an ever-more-aggressive criminalization of speech in Turkey. In a pattern that can be commonly witnessed within states led by autocrats or illiberal leaders, Erdoğan and his allies have commonly turned to criminal legal provisions that provide wide discretion for the government to target its critics. These laws include several provisions within the Turkish Penal Code as well as its anti-terrorism law.

## PENAL CODE PROVISIONS THAT CRIMINALIZE SPEECH

Turkey's 2004 Penal Code includes a number of provisions that—either as written or as they have been implemented—serve to criminalize wide categories of peaceful speech and expression. Erdoğan and his allies have not hesitated to wield these provisions as tools to silence dissenters. These provisions include:

- **Article 125**, which criminalizes attacking someone's "honour, dignity, or prestige", operating as a criminal provision for defamation.<sup>41</sup> Conviction is punishable by up to two years imprisonment, with mandatory minimums if the offending speech is aimed at an officer or at a person's religious beliefs.<sup>42</sup> Article 125 poses obvious inconsistencies with international law, and according to the government's own figures, hundreds of thousands of people have been sentenced under its provisions.<sup>43</sup>
- **Article 216**, which criminalizes "publicly degrad[ing] the religious values of a section of the public," as well as publicly provoking hatred or hostility" based on religion or sect. "Degrading religious values" carries a potential punishment of up to a year in prison, while "publicly provoking hatred" carries a potential punish-

<sup>38</sup> See e.g. "Turkey 2020 Report," *European Commission*, June 10, 2020, [ec.europa.eu/neighbourhood-enlargement/sites/near/files/turkey\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/turkey_report_2020.pdf), p. 24 [verfassungsblog.de/the-curious-case-of-article-299-of-the-turkish-penal-code-insulting-the-turkish-president/](https://www.verfassungsblog.de/the-curious-case-of-article-299-of-the-turkish-penal-code-insulting-the-turkish-president/) (including an analysis of how the Turkish Constitutional Court has responded to the coup with an increased "judicial self-restraint" and unwillingness to challenge the executive).

<sup>39</sup> Interview with Erol Önderoğlu, journalist and Turkey representative for Reporters Without Borders (RSF), June 2021

<sup>40</sup> Interview with Aslı Erdoğan, Writer and Human Rights activist, April 2021

<sup>41</sup> "Penal Code of Turkey," *Legislation Online*, February 15, 2016, [legislationline.org/download/id/6453/file/Turkey\\_CC\\_2004\\_am2016\\_en.pdf](https://legislationline.org/download/id/6453/file/Turkey_CC_2004_am2016_en.pdf)

<sup>42</sup> "Penal Code of Turkey," *Legislation Online*, February 15, 2016, [legislationline.org/download/id/6453/file/Turkey\\_CC\\_2004\\_am2016\\_en.pdf](https://legislationline.org/download/id/6453/file/Turkey_CC_2004_am2016_en.pdf)

<sup>43</sup> Justice Statistics Publication Archive," *Judicial Registry and Statistics Headquarters*, accessed June 22nd, 2019, [adlisicil.adalet.gov.tr/Home/SayfaDetay/adalet-istatistikleri-yayin-arsivi](https://adlisicil.adalet.gov.tr/Home/SayfaDetay/adalet-istatistikleri-yayin-arsivi)



ment of up to three years.<sup>44</sup> The Erdoğan administration has used this article as a cudgel against LGBTQ+ people,<sup>45</sup> non-Muslims,<sup>46</sup> and others—including writers and artists—who express views deemed anti-religious.<sup>47</sup>

- **Article 299**, which criminalizes “insulting the president.” Under this provision, even an insult made in private—such as around the family dinner table—carries a potential four-year sentence.<sup>48</sup> Article 299 is, on its face, flatly inconsistent with international guarantees of freedom of expression, and is an obvious tool of repression. The European Court of Human Rights has explicitly held that affording special protection to heads of state for “insult” crimes contravenes the European Convention on Human Rights;<sup>49</sup> yet, despite this, Turkey’s Constitutional Court upheld in 2016 the legality of the law in a ruling that made no reference to the country’s obligations under the European Convention, to which it is a party.<sup>50</sup>

- **Article 301**, which criminalizes “publicly degrad[ing] the Turkish Nation, State of the Turkish Republic, Turkish Grand National Assembly, the Government of the Republic of Turkey and the judicial bodies of the State” as well as the military and security apparatus, carries a prison sentence of up to two years.<sup>51</sup> Article 301 is squarely inconsistent with human rights law—specifically the International Covenant on Civil and Political Rights, which Turkey has ratified. Article 301 has been at the center of some of Turkey’s highest-profile cases against writers—including Orhan Pamuk, Elif Safak, and Hrant Dink, the last of whom was assassinated by a Turkish nationalist after the writer’s trial.<sup>52</sup>
- **Article 309**, which criminalizes attempting to violently overthrow “the constitutional order,” carries a potential sentence of life imprisonment.<sup>53</sup> Turkish authorities have routinely used the provision to punish peaceful activities or advocacy that it deems subversive. In recent years, authorities have pursued Article

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<sup>44</sup> “Penal Code of Turkey,” *Legislation Online*, February 15, 2016, [legislationline.org/download/id/6453/file/Turkey\\_CC\\_2004\\_am2016\\_en.pdf](https://legislationline.org/download/id/6453/file/Turkey_CC_2004_am2016_en.pdf)

<sup>45</sup> “Turkey: Hundreds of arrests and LGBTQ+ students targeted in crackdown on Boğaziçi University protests,” *ifex*, February 18, 2021, [ifex.org/turkey-hundreds-of-arrests-and-lgbtqi-students-targeted-in-crackdown-on-bogazici-university-protests/](https://ifex.org/turkey-hundreds-of-arrests-and-lgbtqi-students-targeted-in-crackdown-on-bogazici-university-protests/)

<sup>46</sup> “Turkey blocks website of its first atheist association,” *Hurriyet Daily News*, March 4, 2015, [hurriyetdailynews.com/turkey-blocks-website-of-its-first-atheist-association-79163](https://hurriyetdailynews.com/turkey-blocks-website-of-its-first-atheist-association-79163)

<sup>47</sup> See e.g. Alison Flood, “Pamuk ‘insult to Turkishness’ claims return to court,” *The Guardian*, May 15, 2009, [theguardian.com/books/2009/may/15/pamut-insult-turkishness-court](https://theguardian.com/books/2009/may/15/pamut-insult-turkishness-court); “Turkey: PEN talks to writer Sevan Nişanyan,” *PEN International*, February 5, 2015, [pen-international.org/es/noticias/turkey-pen-talks-to-writer-and-intellectual-sevan-nisanyan-who-is-facing-imprisonment-for-denigrating-religious-values](https://pen-international.org/es/noticias/turkey-pen-talks-to-writer-and-intellectual-sevan-nisanyan-who-is-facing-imprisonment-for-denigrating-religious-values); Mustafa Akyol, “Blasphemy in Turkey—And the Fazil Say Affair,” *Al-Monitor*, April 21, 2013, [www.al-monitor.com/originals/2013/04/fazil-say-blasphemy-poet-turkey.html](http://www.al-monitor.com/originals/2013/04/fazil-say-blasphemy-poet-turkey.html)

<sup>48</sup> “Penal Code of Turkey,” *Legislation Online*, February 15, 2016, [legislationline.org/download/id/6453/file/Turkey\\_CC\\_2004\\_am2016\\_en.pdf](https://legislationline.org/download/id/6453/file/Turkey_CC_2004_am2016_en.pdf); see also Cem Tecimer, “The Curious Case of Article 299 of the Turkish Penal Code: Insulting the Turkish President,” *Verfassungsblog*, July 20, 2018, [verfassungsblog.de/the-curious-case-of-article-299-of-the-turkish-penal-code-insulting-the-turkish-president/](https://verfassungsblog.de/the-curious-case-of-article-299-of-the-turkish-penal-code-insulting-the-turkish-president/)

<sup>49</sup> *Colombani et al v. France, Pakdemiri v. Turkey, Otegi Mondragon v. Spain*; see also Cem Tecimer, “The Curious Case of Article 299 of the Turkish Penal Code: Insulting the Turkish President,” *Verfassungsblog*, July 20, 2018, [verfassungsblog.de/the-curious-case-of-article-299-of-the-turkish-penal-code-insulting-the-turkish-president/](https://verfassungsblog.de/the-curious-case-of-article-299-of-the-turkish-penal-code-insulting-the-turkish-president/)

<sup>50</sup> “Annual Report 2016,” The Constitutional Court of the Republic of Turkey, 2016, [ayam.anayasa.gov.tr/media/2742/annualreport2016.pdf](https://ayam.anayasa.gov.tr/media/2742/annualreport2016.pdf), p. 109-112; Ümit Kardeş, “Insulting the Turkish President: Article 299 and why Europe says its illegal,” *Ahval News*, November 16, 2018, [ahvalnews.com/turkey-democracy/insulting-turkish-president-article-299-and-why-europe-says-its-illegal](https://ahvalnews.com/turkey-democracy/insulting-turkish-president-article-299-and-why-europe-says-its-illegal); see also Cem Tecimer, “The Curious Case of Article 299 of the Turkish Penal Code: Insulting the Turkish President,” *Verfassungsblog*, July 20, 2018 [verfassungsblog.de/the-curious-case-of-article-299-of-the-turkish-penal-code-insulting-the-turkish-president/](https://verfassungsblog.de/the-curious-case-of-article-299-of-the-turkish-penal-code-insulting-the-turkish-president/)

<sup>51</sup> “Penal Code of Turkey,” *Legislation Online*, February 15, 2016, [legislationline.org/download/id/6453/file/Turkey\\_CC\\_2004\\_am2016\\_en.pdf](https://legislationline.org/download/id/6453/file/Turkey_CC_2004_am2016_en.pdf)

<sup>52</sup> Orhan Kemal Cengiz, “Turkey resurrects deadly Article 301 against dissent,” *Al-Monitor*, October 24, 2019, [al-monitor.com/originals/2019/10/turkey-nationalism-killer-penal-code-article-has-come-back.html](https://al-monitor.com/originals/2019/10/turkey-nationalism-killer-penal-code-article-has-come-back.html)

<sup>53</sup> “Penal Code of Turkey,” *Legislation Online*, February 15, 2016, [legislationline.org/download/id/6453/file/Turkey\\_CC\\_2004\\_am2016\\_en.pdf](https://legislationline.org/download/id/6453/file/Turkey_CC_2004_am2016_en.pdf)

309 charges against writers and other cultural figures including philanthropist Osman Kavala,<sup>54</sup> academic and author Mehmet Altan, and journalist and author Ahmet Altan,<sup>55</sup> each of whose cases are further discussed below.

Since the attempted coup, Erdoğan, government prosecutors, and his allies outside the government have pursued thousands of criminal complaints alleging such charges. And while prosecutors are not obligated to act on a criminal complaint, prosecutions under these provisions have skyrocketed in the aftermath of the failed coup. The government's own figures from 2011-2019, from the Turkish Ministry of Justice, demonstrate this reality, and paint a startling picture.<sup>56</sup> Among these figures:

- Article 299 complaints and convictions shot up after the coup attempt. In 2014, there were 110 criminal complaints filed and 40 convictions.<sup>57</sup> In 2019, that number reached 11,371 filings and 3,831 convictions—of which more than 1,000 resulted in jail time.<sup>58</sup> In contrast, during the entire seven years preceding President Abdul-

lah Gül's term in office, from 2007 to 2014, only 1,359 lawsuits were filed, with only 545 prosecutions.<sup>59</sup> Overall, between 2014 and 2019, according to public reports, nearly 129,000 people had been investigated for insulting the president and legal proceedings had begun against 27,717 citizens.<sup>60</sup>

- Article 301 filings rose steadily over the decade of AKP rule, as did convictions. In 2011, there were 92 cases of Article 301 charges filed against an individual; by 2019, that number was 1,610. Similarly, there were only 14 convictions in 2011, rising to 342 in 2019.<sup>61</sup>
- Both criminal filings and convictions for Article 309 have grown exponentially: from 36 criminal filings and 20 convictions in 2014, to a shocking 20,388 new criminal filings in 2017, and 5,288 convictions—of which 1,974 received jail time—in 2018.<sup>62</sup>

While these figures show that the repression is society-wide, members of the artistic and literary communities—who make a living through their

<sup>54</sup> "Summary of the 3.5 Years: Crime Not Found," *bianet*, May 17, 2021, [m.bianet.org/english/law/244178-summary-of-the-3-5-years-crime-not-found](http://m.bianet.org/english/law/244178-summary-of-the-3-5-years-crime-not-found); see also the Judicial Process Timeline at *FreeOsmanKavala.org*, at [osmankavala.org/en/judicial-process](http://osmankavala.org/en/judicial-process)

<sup>55</sup> "Ahmet and Mehmet Altan," *PEN America*, accessed June 23, 2021, [pen.org/advocacy-case/ahmet-mehmet-altan/](http://pen.org/advocacy-case/ahmet-mehmet-altan/); "Ahmet Altan," *Expression Interrupted*, [expressioninterrupted.com/ahmet-altan/](http://expressioninterrupted.com/ahmet-altan/)

<sup>56</sup> "Justice Statistics Publication Archive," *Judicial Registry and Statistics Headquarters*, accessed June 22nd, 2019, [adlisicil.adalet.gov.tr/Home/SayfaDetay/adalet-istatistikleri-yayin-arsivi](http://adlisicil.adalet.gov.tr/Home/SayfaDetay/adalet-istatistikleri-yayin-arsivi)

<sup>57</sup> "Judicial Statistics 2014," *Judicial Registry and Statistics Headquarters*, accessed June 24, 2021, [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/2082019114148Adalet\\_ist\\_2014.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/2082019114148Adalet_ist_2014.pdf), p. 60, 111

<sup>58</sup> "Judicial Statistics 2019," *Judicial Registry and Statistics Headquarters*, accessed June 24, 2021, [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1092020162733adalet\\_ist-2019.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1092020162733adalet_ist-2019.pdf), p. 60, 111, 120

<sup>59</sup> "Opinion on Articles 216, 299, 301, and 314 of the Turkish Penal Code," *European Commission for Democracy Through Law*, March 15, 2016, [venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)002-e](http://venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)002-e)

<sup>60</sup> "Nearly 129,000 people probed for 'insulting' Erdoğan in 5 years," *Duvar English*, March 29, 2021, [duvarenglish.com/nearly-129000-people-probed-for-insulting-erdogan-in-5-years-news-56834](http://duvarenglish.com/nearly-129000-people-probed-for-insulting-erdogan-in-5-years-news-56834)

<sup>61</sup> "Judicial Statistics 2011," *Judicial Registry and Statistics Headquarters*, accessed June 24, 2021, [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/2082019114148Adalet\\_ist\\_2011.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/2082019114148Adalet_ist_2011.pdf), p. 74, 126; "Judicial Statistics 2019," *Judicial Registry and Statistics Headquarters*, accessed June 24, 2021, [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1092020162733adalet\\_ist-2019.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1092020162733adalet_ist-2019.pdf), p. 60, 111

<sup>62</sup> "Judicial Statistics 2014," *Judicial Registry and Statistics Headquarters*, accessed June 24, 2021, [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/2082019114148Adalet\\_ist\\_2014.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/2082019114148Adalet_ist_2014.pdf), p. 61, 111; "Judicial Statistics 2017," *Judicial Registry and Statistics Headquarters*, accessed June 24, 2021, [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/20820191141010Adalet\\_ist\\_2017.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/20820191141010Adalet_ist_2017.pdf), p. 61; "Judicial Statistics 2018," *Judicial Registry and Statistics Headquarters*, accessed June 24, 2021, [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1792019103654adalet\\_ist\\_2018.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1792019103654adalet_ist_2018.pdf), p. 111, 120



public creative expression—are particularly likely to find themselves in the crosshairs. Examples include:

- In 2021, Emre Günsal, a comedian, was sentenced to 3 years and 5 months in prison for a 20-minute comedy set in which he made jokes about the founder of modern Turkey, Kemal Atatürk.<sup>63</sup>
- In 2020, authorities employed Article 216 against student artists who participated in protests at Boğaziçi University, in a de facto criminalization of their artwork. After a protest exhibition at Boğaziçi included the display of a piece depicting the Turkish folkloric figure Shahmaran superimposed over the Kaaba, framed by LGBTQ+ Pride flags, police arrested and charged two students involved in the exhibition, and put two others under house arrest.<sup>64</sup>
- In 2019, Erdoğan’s lawyers filed a criminal complaint against Ahmet Sever, the press chief for Turkey’s former president Abdullah Gül, who published a memoir in 2019 about his time working for the previous president. The complaint alleged that passages criticizing Erdoğan “exceeded the limits of freedom of expression and press.” Sever’s case is ongoing, and he faces up to eleven years in prison.<sup>65</sup>
- In 2018, Mehmet Altan, an economics professor, and Ahmet Altan, a prominent novelist and journalist, were both sentenced to life imprisonment for attempting to overthrow the constitutional order by supposedly sending “subliminal messages” in 2016 in support of the attempted coup (the brothers had been detained in September 2016). Eventually, both men were released, but only after grueling legal battles in which government prosecutors fought to keep them imprisoned.<sup>66</sup>
- In 2018, the President’s lawyer filed a complaint against four students who held up a caricature of Erdoğan alongside the caption “Now it’s ....Kingdom of the Tayyips” (a reference to Erdoğan), and against the printer who printed the caricature. Although the charges were later dropped, the students spent almost a month in pre-trial detention.<sup>67</sup> Erdoğan’s lawyers also pursued charges against 72 opposition parliamentarians who shared the image on social media while urging Erdoğan not to criminalize satire, even though members of Parliament are immune from criminal prosecution.<sup>68</sup>

Ayşe Berktaş, an author, scholar, and cultural and women’s rights activist, shared her opinion that the government’s targeting of high-profile figures, including cultural or intellectual figures, served an additional role: sending a signal throughout society that dissent will not be tolerated. “This

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<sup>63</sup> “Comedian Emre Günsal sentenced to prison: ‘62 days for each minute I stayed on the stage,’” *Susma24*, February 1, 2021, [susma24.com/en/comedian-emre-gunsal-sentenced-to-prison-62-days-for-each-minute-i-stayed-on-the-stage/](https://susma24.com/en/comedian-emre-gunsal-sentenced-to-prison-62-days-for-each-minute-i-stayed-on-the-stage/)

<sup>64</sup> “Two Boğaziçi University students arrested, two placed under house arrest,” *bianet*, January 31, 2021, [bianet.org/english/lgbti/238446-two-bogazici-university-students-arrested-two-placed-under-house-arrest](https://bianet.org/english/lgbti/238446-two-bogazici-university-students-arrested-two-placed-under-house-arrest)

<sup>65</sup> “Ahmet Sever,” *Free Turkey Journalists*, March 23, 2021, [freeturkeyjournalists.ipi.media/trials-calendar/ahmet-sever-2/](https://freeturkeyjournalists.ipi.media/trials-calendar/ahmet-sever-2/)

<sup>66</sup> “Ahmet and Mehmet Altan,” *PEN America*, accessed June 24, 2021, [pen.org/advocacy-case/ahmet-mehmet-altan/](https://pen.org/advocacy-case/ahmet-mehmet-altan/)

<sup>67</sup> “Turkey: End Prosecutions for ‘Insulting President,’” *Human Rights Watch*, October 17, 2018, [hrw.org/news/2018/10/17/turkey-end-prosecutions-insulting-president](https://hrw.org/news/2018/10/17/turkey-end-prosecutions-insulting-president)

<sup>68</sup> “Turkey: End Prosecutions for ‘Insulting President,’” *Human Rights Watch*, October 17, 2018, [hrw.org/news/2018/10/17/turkey-end-prosecutions-insulting-president](https://hrw.org/news/2018/10/17/turkey-end-prosecutions-insulting-president)

shutting down or silencing of people who are known to the public makes us examples of what the government is capable of. It sends a threat to the public at large: ‘See, I can do this even to people who are well known.’<sup>69</sup>

The sheer number of court cases also has a chilling effect. As Asena Günel, a veteran in Turkey’s editorial and cultural communities and the director of embattled Turkish cultural organization Anadolu Kültür, described to PEN America, “There are thousands of court cases regarding the insulting of the President. So you have to be careful, you cannot say something openly critical of Erdoğan.”<sup>70</sup>

## THE CASE OF OSMAN KAVALA AND ANADOLU KÜLTÜR

One particularly prominent case demonstrating how Erdoğan’s repression of dissent inevitably impacts the cultural sector is that of Osman Kavala, a prominent philanthropist, publisher, and activist who has supported or led multiple cul-

tural programs in Turkey.<sup>71</sup> This includes Anadolu Kültür, a cultural organization Kavala founded in 2002, which supports artistic and creative initiatives throughout Turkey, including those that spur dialogue between Turkey’s various ethnic groups and those that encourage cultural diversity and human rights.<sup>72</sup>

In October 2017, Kavala was detained, with authorities alleging that he had helped plan the 2013 Gezi Park Protests.<sup>73</sup> Authorities in November 2017 charged Kavala under both Article 309 and Article 312 (criminalizing “the use of force or violence” against the government) of the Penal Code.<sup>74</sup>

In February 2020, Kavala was acquitted of these charges, but prosecutors were undeterred—they not only appealed the acquittal, but immediately re-arrested Kavala under additional charges of “international conspiracy” and “espionage” in relation to the coup attempt of 2016.<sup>75</sup> Kavala remains in detention<sup>76</sup> and is also being re-tried on charges related to the Gezi Park protests,<sup>77</sup> which have been merged with the more recent charges.<sup>78</sup> The trial for this second round of

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<sup>69</sup> Interview with Ayşe Berktaş, Writer, Translator, and Activist, April 2021

<sup>70</sup> Interview with Asena Günel, General Manager of Anadolu Kültür, April 2021

<sup>71</sup> Kate Brown, “Despite International Outcry, the Controversial Retrial of Philanthropist and Art Patron Osman Kavala Has Begun in Turkey,” *Artnet News*, May 26, 2021, [news.artnet.com/art-world/osman-kavala-retrial-turkey-1973270](https://news.artnet.com/art-world/osman-kavala-retrial-turkey-1973270)

<sup>72</sup> “About Us,” *Anadolu Kültür*, accessed June 23, 2021, [anadolukultur.org/EN/33-about-us/](https://anadolukultur.org/EN/33-about-us/); see also “Anadolu Kültür girişimi neden odakta?” *DW News* (Turkish), November 17, 2018, [dw.com/tr/anadolu-kültür-girişimi-neden-odakta/a-46340738](https://www.dw.com/tr/anadolu-kültür-girişimi-neden-odakta/a-46340738)

<sup>73</sup> “ECtHR Ruling on Kavala: His Pre-Trial Detention Not Based on Reasonable Suspicion,” *bianet*, December 13, 2019, [bianet.org/english/human-rights/217091-ecthr-ruling-on-kavala-his-pre-trial-detention-not-based-on-reasonable-suspicion](https://bianet.org/english/human-rights/217091-ecthr-ruling-on-kavala-his-pre-trial-detention-not-based-on-reasonable-suspicion)

<sup>74</sup> “Summary of the 3.5 Years: Crime Not Found,” *bianet*, May 17, 2021, [m.bianet.org/english/law/244178-summary-of-the-3-5-years-crime-not-found](https://m.bianet.org/english/law/244178-summary-of-the-3-5-years-crime-not-found)

<sup>75</sup> “Turkey: Osman Kavala re-arrested hours after acquittal,” *Al Jazeera*, February 18, 2020, [aljazeera.com/news/2020/2/18/turkey-osman-kavala-re-arrested-hours-after-acquittal](https://www.aljazeera.com/news/2020/2/18/turkey-osman-kavala-re-arrested-hours-after-acquittal)

<sup>76</sup> “International Lawyers Association Calls for Kavala’s Release,” *Ahval*, June 17, 2021, [ahvalnews.com/osman-kavala/international-lawyers-association-calls-kavalas-release](https://ahvalnews.com/osman-kavala/international-lawyers-association-calls-kavalas-release)

<sup>77</sup> “Gezi Davası: Osman Kavala’nın tutukluluğunun devamına karar verildi, bir sonraki duruşma 6 Ağustos’ta,” *BBC* (Turkish), May 21, 2021, [bbc.com/turkce/haberler-turkiye-57195098](https://www.bbc.com/turkce/haberler-turkiye-57195098)

<sup>78</sup> Cansu Piskin, “‘Coup’ case against Osman Kavala merged with Gezi Park Trial,” *Expression Interrupted*, [expressioninterrupted.com/coup-case-against-osman-kavala-merged-with-gezi-park-trial/](https://expressioninterrupted.com/coup-case-against-osman-kavala-merged-with-gezi-park-trial/)

charges began in May 2021, and is ongoing, with the next hearing to be held on August 6, 2021.<sup>79</sup> Due to these never-ending charges, Kavala has spent the past almost four years in prison, despite the fact he has not been convicted of any crime.<sup>80</sup>

The European Court of Human Rights has concluded that authorities have aggressively targeted Kavala in pursuit of “an ulterior purpose, namely to silence him and dissuade other human rights defenders.”<sup>81</sup> This point was reiterated by several of those PEN America spoke with. “All the articles from the criminal code, the accusations, the arrests and re-arrests . . . it is obvious that all these are part of a play, in which [the authorities] simply try to keep Kavala in prison one way or another. From this story, we understand how the judiciary is abused by the political powers to suppress an important civil society figure,” said Asena Günel, the current director of Anadolu Kültür.<sup>82</sup> Yet the Turkish government has ignored the European Court of Human Rights’s ruling, made in December 2019, that Kavala’s ongoing detention is unlawful<sup>83</sup>—this, despite the fact that such rulings are legally binding.

Anadolu Kültür was also targeted as an institution. Thirteen other individuals whom the government alleged to be affiliated with Anadolu Kültür were detained on November 16, 2018, accused of helping Osman Kavala to “deepen and spread the Gezi protests.”<sup>84</sup> Twelve of the 13 arrested were later released.<sup>85</sup>

“It was a dawn raid,” Günel recalled. “They call it that because [the police] come at 5:30. They rush into your house and they take your electronics, and they take you to the police station and put you in a cell. They interrogated us, and I was asked questions about what activities [Anadolu Kültür] realized in 2013. They had listened to all our telephone conversations. There were talks I had with Osman Kavala about the content of exhibitions, and [the police] asked me about these exhibitions as if they were evidence of a crime.”<sup>86</sup>

Since then, Anadolu Kültür has faced additional pressures from the state. In February 2021, the Turkish Trade Ministry moved to dissolve the organization under Article 210 of the Turkish Commercial Code, which permits the Ministry to dissolve companies that operate outside their “object of activity.”<sup>87</sup> The Ministry is arguing that, because

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<sup>79</sup> “Gezi Davası: Osman Kavala’nın tutukluluğunun devamına karar verildi, bir sonraki duruşma 6 Ağustos’ta,” *BBC (Turkish)*, May 21, 2021, [bbc.com/turkce/haberler-turkiye-57195098](https://www.bbc.com/turkce/haberler-turkiye-57195098); see also “Turkish court keeps Kavala in jail, combines charges from separate cases,” *Reuters*, February 5, 2021, [https://news.trust.org/item/20210205123303-oxu1v](https://www.reuters.com/trust.org/item/20210205123303-oxu1v)

<sup>80</sup> “Day of the Imprisoned Writer 2020: Take Action for Osman Kavala,” *PEN International*, November 9, 2020, [pen-international.org/news/day-of-the-imprisoned-writer-2020-take-action-for-osman-kavala](https://pen-international.org/news/day-of-the-imprisoned-writer-2020-take-action-for-osman-kavala); Pelin Ünker, “Turkish rights activist Osman Kavala to remain in prison,” *Deutsche Welle*, December 18, 2020, <https://www.dw.com/en/turkish-rights-activist-osman-kavala-to-remain-in-prison/a-55986515>

<sup>81</sup> H46-38 Mergen and Others (Application No. 44062/09) and Kavala (Application No. 28749/18) v. Turkey, [search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016809f62cd](https://www.echr.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016809f62cd)

<sup>82</sup> Interview with Asena Günel, General Manager of Anadolu Kültür, April 2021

<sup>83</sup> European Court of Human Rights, Second Section, Case of Kavala v. Turkey, (Application no. 28749/18), Decision December 10, 2019, Final Ruling 11/05/2020, <http://hudoc.echr.ce.int/eng?i=001-199515>

<sup>84</sup> “Anadolu Kültür Operasyonu hakkında neler biliniyor?” *BBC (Turkish)*, November 16, 2018, [bbc.com/turkce/haberler-turkiye-46240823](https://www.bbc.com/turkce/haberler-turkiye-46240823)

<sup>85</sup> “Anadolu Kültür operasyonu: Prof. Dr. Turgut Tarhanlı ve Prof. Betül Tanbay dahil 12 kişi serbest bırakıldı,” *BBC (Turkish)*, November 18, 2018, [bbc.com/turkce/haberler-dunya-46253247](https://www.bbc.com/turkce/haberler-dunya-46253247)

<sup>86</sup> Interview with Asena Günel, General Manager of Anadolu Kültür, April 2021

<sup>87</sup> “Turkey targets jailed activist’s cultural organization,” *Arab News*, February 17, 2021, [arabnews.com/node/1811061/middle-east](https://www.arabnews.com/node/1811061/middle-east); Berna Tepe, “New Procedural Rules of the Turkish Commercial Code,” 2014, [dergipark.org.tr/tr/download/article-file/7097](https://www.dergipark.org.tr/tr/download/article-file/7097)

Anadolu Kültür's operations seem more like the operations of an NGO rather than a commercial enterprise, the organization should be shuttered.<sup>88</sup> This continuing persecution of Anadolu Kültür demonstrates how the government wields additional levers of power, not just criminal charges, against voices it wishes to silence.

## THE ANTI-TERROR LAW

Another of the most powerful legal mechanisms employed by President Erdoğan and the AKP to silence dissent in the five years since the coup attempt has been Turkey's 1991 Anti-Terror Law.<sup>89</sup> The law lays out a distressingly broad definition of "terrorism," and includes provisions that criminalize publishing the statements of terrorist organizations, as well as—in Article 7— "propagandizing" for a terrorist organization.<sup>90</sup> Those convicted of such "propagandizing" face up to five years imprisonment; if the alleged propaganda is published in a mass media outlet, the sentence may be increased by up to 2.5 years.<sup>91</sup> PEN America has previously noted that invocations of "national security" are the most common justification that governments utilize to imprison writers, and Turkey is no exception—using these provisions to brand critical voices

as enemies of the state.<sup>92</sup>

Authorities have particularly employed the law to criminalize peaceful expressions of sympathy for Turkey's Kurdish community or criticism of the government's policy towards its Kurdish minority.<sup>93</sup> Since the beginning of the war in Turkey's Kurdish regions, and especially since the coup attempt of 2016, the anti-terror law has been used to target hundreds of writers, creatives, and academics.<sup>94</sup> In PEN America's Writers at Risk database alone, we have tracked 47 cases of individuals who have been tried, detained, or targeted under Turkey's Anti-Terror Law, 36 of whom were arrested or targeted after the 2016 failed coup.<sup>95</sup>

Examples of members of the creative community specifically targeted under this law since 2016 include:

- In 2019, filmmakers Ertuğrul Mavioglu and Çayan Demirel were sentenced to nearly five years in prison for "terrorist propaganda" for screening their film *Bakur*, which was filmed during the Turkish-Kurdish peace process and included depictions of PKK training camps.<sup>96</sup>

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<sup>88</sup> "Turkey targets jailed activist's cultural organization," *Arab News*, February 17, 2021, [arabnews.com/node/1811061/middle-east](https://arabnews.com/node/1811061/middle-east)

<sup>89</sup> SCF, "Turkey Uses Terrorism Law to Silence Journalists: RSF," Stockholm Center for Freedom, April 6, 2021, [stockholmcf.org/turkey-uses-terrorism-law-to-silence-journalists-rsf/](https://stockholmcf.org/turkey-uses-terrorism-law-to-silence-journalists-rsf/)

<sup>90</sup> "Law on Fight Against Terrorism of Turkey," *Legislation Online*, accessed June 24, 2021, [legislationline.org/download/id/3727/file/Turkey\\_anti\\_terr\\_1991\\_am2010\\_en.pdf](https://legislationline.org/download/id/3727/file/Turkey_anti_terr_1991_am2010_en.pdf)

<sup>91</sup> "Law on Fight Against Terrorism of Turkey," *Legislation Online*, accessed June 24, 2021, [legislationline.org/download/id/3727/file/Turkey\\_anti\\_terr\\_1991\\_am2010\\_en.pdf](https://legislationline.org/download/id/3727/file/Turkey_anti_terr_1991_am2010_en.pdf)

<sup>92</sup> "Freedom to Write Index 2019," *PEN America*, May 19, 2020, [pen.org/report/freedom-to-write-index-2019/](https://pen.org/report/freedom-to-write-index-2019/)

<sup>93</sup> "Spate of trials in Turkey on 'terrorist propaganda' charges," *Reporters Without Borders*, September 6, 2018, [rsf.org/en/news/spate-trials-turkey-terrorist-propaganda-charges](https://rsf.org/en/news/spate-trials-turkey-terrorist-propaganda-charges)

<sup>94</sup> "Turkey: First academic to go to prison for signing peace petition in a flagrant breach of freedom of expression," *Amnesty International*, April 30, 2019, [amnesty.org/download/Documents/EUR4402902019ENGLISH.pdf](https://www.amnesty.org/download/Documents/EUR4402902019ENGLISH.pdf); Council of Europe, Human Rights Comment, "Misuses of anti-terror legislation threatens freedom of expression," December 4, 2018, [https://www.coe.int/en/web/commissioner/blog/-/asset\\_publisher/xZ32OPEoxOkq/content/misuse-of-anti-terror-legislation-threatens-freedom-of-expression/pop\\_up?\\_101\\_INSTANCE\\_xZ32OPEoxOkq\\_viewMode=print&\\_101\\_INSTANCE\\_xZ32OPEoxOkq\\_languageId=en\\_GB](https://www.coe.int/en/web/commissioner/blog/-/asset_publisher/xZ32OPEoxOkq/content/misuse-of-anti-terror-legislation-threatens-freedom-of-expression/pop_up?_101_INSTANCE_xZ32OPEoxOkq_viewMode=print&_101_INSTANCE_xZ32OPEoxOkq_languageId=en_GB)

<sup>95</sup> "Writers at Risk Database," *PEN America*, accessed June 17, 2021, [pen.org/writers-at-risk-database/](https://pen.org/writers-at-risk-database/)

<sup>96</sup> "Çayan Demirel and Ertuğrul Mavioglu," *PEN America*, accessed June 18, 2021, [pen.org/advocacy-case/cayan-demirel-and-ertugrul-mavioglu/](https://pen.org/advocacy-case/cayan-demirel-and-ertugrul-mavioglu/)

- Artist Zehra Doğan was arrested for “spreading terrorist propaganda” in July 2016, days after the coup attempt, after she painted a depiction of the city of Nusaybin being bombarded by Turkish security forces after the end of the peace process. She spent over 600 days in prison and was released in February 2019.<sup>97</sup>
- Members of the music group *Grup Yorum*, which vocally opposes Erdoğan’s government, have been repeatedly detained and tried on terrorism charges; since the coup attempt, over 30 members of the group have been detained and six are on Turkey’s most wanted list. Two of the group’s members, Helin Bölek and İbrahim Gökçek, died in 2020 after going on a prolonged hunger strike which they began while imprisoned.<sup>98</sup>
- Kurdish writer Gulgeş Deryaspî was detained in July 2019 during raids across eastern Turkey. In December 2020, she was sentenced to six years and three months in prison on charges of “membership in a terrorist organization,” charges that PEN International has determined are related to her writing on Kurdish language and culture.<sup>99</sup>

The government’s targets under the Anti-Terrorism Law have also included cultural figures who may be better known for their political stature. One major

example is Selahattin Demirtaş, a Kurdish author and former leader of the People’s Democratic Party (HDP). Demirtaş helped lead the HDP to a sizeable parliamentary victory in 2015, which denied the AKP a parliamentary majority. The next year, after the attempted coup, Demirtaş was arrested on terrorism charges. He remains imprisoned to this day, despite rulings by the European Court of Human Rights and Turkish Constitutional Court stating that this prolonged detention has violated his rights, with the European Court explicitly calling on authorities to secure his release.<sup>100</sup>

Anthropologist Banu Karaca is the co-founder of Siyah Bant, an organization dedicated to documenting censorship in Turkey’s art sector. She observed that, after 2015, “everything seemed to hinge more and more on Turkey’s very vague terrorism legislation,” making work in both the cultural and human rights spheres “extremely difficult.”<sup>101</sup>

## KURDISH CULTURAL AND POLITICAL EXPRESSION AS INHERENTLY “TERRORIST”

The Anti-Terror Law is also wielded as part of a larger rubric of government suppression of

<sup>97</sup> “Writers at Risk Database,” *PEN America*, April 20, 2021, [pen.org/writers-at-risk-database/?ajax\\_s=Zehra%20Doğan/](https://pen.org/writers-at-risk-database/?ajax_s=Zehra%20Doğan/)

<sup>98</sup> Revantika Gupta, “Grup Yorum,” *Artists at Risk Connection*, accessed June 18th, 2021, [artistsatriskconnection.org/story/grup-yorum/](https://artistsatriskconnection.org/story/grup-yorum/); “Second member of banned Turkish folk group dies after hunger strike,” *The Guardian*, May 7, 2020, [theguardian.com/world/2020/may/07/second-member-banned-turkish-folk-group-grup-yorum-dies-hunger-strike-ibrahim-gokcek/](https://theguardian.com/world/2020/may/07/second-member-banned-turkish-folk-group-grup-yorum-dies-hunger-strike-ibrahim-gokcek/); “Member of banned Turkish folk group dies after hunger strike,” *The Guardian*, April 3, 2020, [theguardian.com/world/2020/apr/03/banned-turkish-folk-group-member-dies-following-hunger-strike](https://theguardian.com/world/2020/apr/03/banned-turkish-folk-group-member-dies-following-hunger-strike)

<sup>99</sup> “Conviction of Kurdish writer Gulgeş Deryaspî must be overturned: PEN International,” *Stockholm Center for Freedom*, April 22, 2021, [stockholmcfr.org/conviction-of-kurdish-writer-gulges-deryaspi-must-be-overturned-pen-international/](https://stockholmcfr.org/conviction-of-kurdish-writer-gulges-deryaspi-must-be-overturned-pen-international/)

<sup>100</sup> “Turkey: Release Unlawfully Jailed Opposition Politician,” *Human Rights Watch*, December 22, 2020, [hrw.org/news/2020/12/22/turkey-release-unlawfully-jailed-opposition-politician](https://www.hrw.org/news/2020/12/22/turkey-release-unlawfully-jailed-opposition-politician); Daren Butler, “Turkish Court Rules Kurdish Leader’s Jailing Violated Rights,” *Reuters*, June 19, 2020, [reuters.com/article/us-turkey-rights-demirtas-idUSKBN23QoT7.https://www.hrw.org/news/2020/12/22/turkey-release-unlawfully-jailed-opposition-politician#](https://www.reuters.com/article/us-turkey-rights-demirtas-idUSKBN23QoT7.https://www.hrw.org/news/2020/12/22/turkey-release-unlawfully-jailed-opposition-politician#)

<sup>101</sup> Interview with Banu Karaca, Anthropologist at ICI Berlin and co-founder of Siyah Bant, April 2021

Kurdish expression. Turkish authorities have long viewed Kurdish cultural expression as a handmaiden to separatist sentiment—a sentiment that predates Erdoğan’s administration, and one that has ensured a long-standing set of censorship policies that fixate specifically on Kurds. Under the guise of countering the PKK, the government has targeted Kurdish media outlets,<sup>102</sup> Kurdish theater,<sup>103</sup> writers who cover Kurdish issues,<sup>104</sup> NGOs that work in the Kurdish regions of Turkey,<sup>105</sup> and even Kurdish poetry for alleged links to or support for terrorism groups.<sup>106</sup>

One Kurdish interviewee we spoke to, journalist and artist Zehra Doğan, noted that the repression of the Kurdish community began well before the attempted coup, even if it has drawn more attention since then, saying: “For me and other activists living in Kurdistan, we are in the thick of it...no matter who leads the country, ever since the beginning of Turkey’s history, despite the fact people claim it has changed since the arrival of Erdoğan...Perhaps this problem has become more visible because the situation now affects opponents in the Western part of Turkey.”<sup>107</sup>

The government’s decision to abandon the peace process in 2015 and return to hostilities against the non-state armed group the PKK has creat-

ed a particularly dangerous climate for creative expression from Kurdish creatives and intellectuals and their allies. Banu Karaca recalls coming to the sober conclusion, in 2015, that “under the conditions of war, freedom of expression cannot really be attained” in Turkey.<sup>108</sup> Asena Günel remembers seeing a shift in the “psychology” of both artists and cultural institutions after hostilities resumed in 2015, saying “they all feel insecure. It became hard to talk about even [the idea of] peace itself.”<sup>109</sup>

Recently, a new law rushed through the Turkish Parliament in December 2020 extends the government’s ability to weaponize the charge of ‘terrorism’ as a tool against civil society. The law, titled “Preventing Financing of Proliferation of Weapons of Mass Destruction,” permits the Turkish government to replace board members of organizations or altogether halt their operations if a board member is tried on terrorism charges.<sup>110</sup> Given how the government wields terrorism charges as a political tool, the law poses a potentially existential threat to any organization—including those operating in the cultural, literary, or academic sphere—whose members may criticize the state.

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<sup>102</sup> Sahar Halaimzai, “Turkey: The Repression of Kurdish Language and Culture Must Stop,” PEN International, February 21, 2018, [pen-international.org/news/turkey-the-repression-of-kurdish-language-and-culture-must-stop](https://pen-international.org/news/turkey-the-repression-of-kurdish-language-and-culture-must-stop)

<sup>103</sup> Elif İnce and Siyah Bant, “Turkey’s state of emergency puts Kurdish theatre in a chokehold,” *ifex*, January 5, 2017, [ifex.org/turkeys-state-of-emergency-puts-kurdish-theatre-in-a-chokehold/](https://ifex.org/turkeys-state-of-emergency-puts-kurdish-theatre-in-a-chokehold/)

<sup>104</sup> “Aslı Erdoğan,” *PEN America*, accessed June 18, 2021, [pen.org/advocacy-case/Asli-erdogan/](https://pen.org/advocacy-case/Asli-erdogan/)

<sup>105</sup> “Turkey targets jailed activist’s cultural organization,” *Arab News*, February 17, 2021, [arabnews.com/node/1811061/middle-east](https://arabnews.com/node/1811061/middle-east)

<sup>106</sup> Uzey Bulut, “Turkey: A History of Banning Poetry and Targeting Poets,” *The Armenian Weekly*, May 9, 2017, [armenianweekly.com/2017/05/09/turkey-a-history-of-banning-poetry-targeting-poets/](https://armenianweekly.com/2017/05/09/turkey-a-history-of-banning-poetry-targeting-poets/)

<sup>107</sup> Interview with Zehra Doğan, Artist and Journalist, responses received via email May 2021

<sup>108</sup> Interview with Banu Karaca, Anthropologist at ICI Berlin and co-founder of Siyah Bant, April 2021

<sup>109</sup> Interview with Asena Günel, General Manager of Anadolu Kültür, April 2021

<sup>110</sup> Pelin Ünker, “Turkey tightens control over NGOs to ‘combat terrorism’”, *DW News*, December 12, 2020, [dw.com/en/turkey-tightens-control-over-ngos-to-combat-terrorism/a-56088205](https://www.dw.com/en/turkey-tightens-control-over-ngos-to-combat-terrorism/a-56088205)



# THE ÖZGÜR GÜNDEM CASE— PEACEFUL CRITICISM AS “TERRORIST PROPAGANDA”

Perhaps the most infamous criminal case under Turkey’s Anti-Terror Law has been the prosecutions of staffers, contributors, and other affiliated writers and editors at *Özgür Gündem*, an Istanbul-based Turkish daily newspaper with a wide Kurdish readership. Since its formation in 1992, the paper had made a name for itself covering the Kurdish-Turkish conflict, much to the ire of authorities, who had repeatedly targeted the outlet even prior to the 2016 failed coup.<sup>111</sup> In August 2016, shortly after the 2016 coup attempt, officials moved to shut down the paper.<sup>112</sup> Alongside the closure, police initiated criminal investigations against writers and editors affiliated with the paper—including the paper’s advisory board as well as 49 journalists who participated in a solidarity campaign with

the outlet as one-day guest “editors-in-chief on watch”.<sup>113</sup> Those eventually charged include such internationally-recognized writers as Asli Erdoğan,<sup>114</sup> Ayşe Berktaş,<sup>115</sup> Necmiye Alpay,<sup>116</sup> and Ahmet Nesin,<sup>117</sup> among others. Prosecutors argued before the court that their burden of proof for the case was minimal—that since the government considered *Özgür Gündem* a propaganda vehicle for the PKK, being affiliated with the paper was in itself evidence of terrorism.<sup>118</sup>

Many of the trials have dragged on for years—including various cases where authorities have reopened cases against writers who had previously been acquitted. In February of this year, for example, four editors and executives—including former editor-in-chief Eren Keskin—were convicted under the Anti-Terror Law, receiving prison sentences between one and seven years.<sup>119</sup> In February 2021, cases were reopened against three affiliated or guest writers and editors, Ahmet Nesin, Şebnem Korur Fincancı, and Erol Önderoğlu, despite their being acquitted in 2019.<sup>120</sup> Further, though she was acquitted of terror charges in February 2020, Asli Erdoğan’s acquittal was reversed in June 2021,

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<sup>111</sup> Volga Kuşçuoğlu, “Years after *Özgür Gündem*’s closure, dozens of journalists still on trial,” *bianet*, February 23, 2021, [bianet.org/english/freedom-of-expression/239770-years-after-ozgur-gundem-s-closure-dozens-of-journalists-still-on-trial](https://bianet.org/english/freedom-of-expression/239770-years-after-ozgur-gundem-s-closure-dozens-of-journalists-still-on-trial)

<sup>112</sup> “Pro-Kurdish *Özgür Gündem* newspaper shut down,” *D8 News*, August 16, 2018, [d8news.com/pro-kurdish-ozgur-gundem-newspaper-shut-1353](https://d8news.com/pro-kurdish-ozgur-gundem-newspaper-shut-1353)

<sup>113</sup> “Four Sentenced to Prison in *Özgür Gündem* Newspaper Case,” *bianet*, February 15, 2021, [bianet.org/english/media/239282-four-sentenced-to-prison-in-ozgur-gundem-newspaper-case](https://bianet.org/english/media/239282-four-sentenced-to-prison-in-ozgur-gundem-newspaper-case)

<sup>114</sup> “Turkish Writer Asli Erdogan Acquitted of Terrorism Charges,” *DW*, February 14, 2020, [dw.com/en/turkish-writer-asli-erdogan-acquitted-of-terrorism-charges/a-52377559](https://dw.com/en/turkish-writer-asli-erdogan-acquitted-of-terrorism-charges/a-52377559)

<sup>115</sup> Özgür Öğret, “Turkey Crackdown Chronicle: Week of May 19, 2019,” Committee to Protect Journalists, May 23, 2019, [cpj.org/2019/05/turkey-ozgur-gundem-sentence-ahmet-altan-court/](https://cpj.org/2019/05/turkey-ozgur-gundem-sentence-ahmet-altan-court/)

<sup>116</sup> Kareem Shaheen and Maeve Shearlaw, “‘Sometimes I Laugh at This Farce’: Six Writers on Life behind Bars in Turkey,” *The Guardian*, March 23, 2017, [theguardian.com/world/2017/mar/23/words-from-behind-bars-turkey-persecuted-writers-journalists](https://theguardian.com/world/2017/mar/23/words-from-behind-bars-turkey-persecuted-writers-journalists).

<sup>117</sup> “Turkey to Begin Retrial of RSF Representative, Other Press Freedom Advocates on Terrorism Charges,” Committee to Protect Journalists, February 1, 2021, [cpj.org/2021/02/turkey-to-begin-retrial-of-rsf-representative-other-press-freedom-advocates-on-terrorism-charges/](https://cpj.org/2021/02/turkey-to-begin-retrial-of-rsf-representative-other-press-freedom-advocates-on-terrorism-charges/)

<sup>118</sup> “Four sentenced to prison in *Özgür Gündem* newspaper case,” *bianet*, February 15, 2021, [bianet.org/english/media/239282-four-sentenced-to-prison-in-ozgur-gundem-newspaper-case](https://bianet.org/english/media/239282-four-sentenced-to-prison-in-ozgur-gundem-newspaper-case)

<sup>119</sup> “Four sentenced to prison in *Özgür Gündem* newspaper case,” *bianet*, February 15, 2021, [bianet.org/english/media/239282-four-sentenced-to-prison-in-ozgur-gundem-newspaper-case](https://bianet.org/english/media/239282-four-sentenced-to-prison-in-ozgur-gundem-newspaper-case)

<sup>120</sup> Hikmet Adal, “Local court doesn’t defy reversal of acquittals in *Özgür Gündem* trial,” *bianet*, February 3, 2021, [bianet.org/english/law/238668-local-court-doesn-t-defy-reversal-of-acquittals-in-ozgur-gundem-trial](https://bianet.org/english/law/238668-local-court-doesn-t-defy-reversal-of-acquittals-in-ozgur-gundem-trial); see also “Turkey: PEN welcomes acquittal in *Özgür Gündem* case,” *English PEN*, July 17, 2019, [englishpen.org/posts/news/turkey-pen-welcomes-acquittal-in-ozgur-gundem-case/](https://englishpen.org/posts/news/turkey-pen-welcomes-acquittal-in-ozgur-gundem-case/)

and she is now being re-tried, facing up to nine years in prison.<sup>121</sup> Twenty-seven of the paper’s “editors-in-chief on watch” have received criminal sentences.<sup>122</sup> Scores of other reporters for the paper have been intermittently detained and released over the years,<sup>123</sup> and others face ongoing legal proceedings in absentia, or have been subject to travel bans while legal proceedings have been ongoing.

## THE IMPACT ON CULTURAL AND INTELLECTUAL COMMUNITIES

Today, Turkey’s accelerating turn toward authoritarianism<sup>124</sup> has constructed a climate of fear for creatives and intellectuals who worry that their work or opinions will trigger retaliation from the government or those aligned with it. Many have left Turkey—some because they have no longer been able to find a job after being smeared as a Gülenist or a terrorist, others to escape the climate of censorship and self-censorship, and still others who fear they will eventually be arrested if they remain. According to Aslı Erdoğan, the Turkish “intellectual scene” is “dying out, because half the intellectuals have run away...and these are irreplaceable.” Lamenting the cost of this exodus, she

continued: “Speaking of the intellectual circles [in Turkey], I think they have lost a lot of blood. The cultural scene of Turkey will suffer. These things have a price.”<sup>125</sup>

“In terms of people writing, and the ability to express your feelings and thoughts, the space for that has gotten smaller and smaller in the past five years. Our breathing space has narrowed down,” Ayşe Berktaş shared. “It is so easy for the ruling coalition to put a target on someone...It is a whole operation of silencing voices, silencing information, silencing dissent of all sorts, and silencing questions of all sorts.”<sup>126</sup>

One important theme that many highlighted in their interviews with PEN America was the arbitrariness or unpredictability of what the government will react to, which has created a culture of widespread fear. People censor themselves because they don’t know what, from one day to the next, could be considered an “insult to the president” or “attempting to overthrow the Turkish republic.” Banu Karaca shared that “we have always said that Turkey’s censorship took much of its power from its arbitrariness. One knew that, potentially, something one said could be a problem. But one didn’t know if they would be within that nine out of 10 [chance] where the authorities do not take action against you, or if one would fall within that one out of 10 [chance] where they do. That was the risk one was taking.”<sup>127</sup>

<sup>121</sup> “Turkish Writer Asli Erdogan Acquitted of Terrorism Charges.” *Deutsche Welle*, 14 Feb. 2020, [www.dw.com/en/turkish-writer-asli-erdogan-acquitted-of-terrorism-charges/a-52377559](http://www.dw.com/en/turkish-writer-asli-erdogan-acquitted-of-terrorism-charges/a-52377559); “Türkiye’de Basın Ve İfade Özgürlüğü - 316 [Freedom of Press and Expression in Turkey - 316].” *Expression Interrupted*, 18 June 2021, [expressioninterrupted.com/tr/turkiye-de-basin-ve-ifade-ozgurlugu-316/](http://expressioninterrupted.com/tr/turkiye-de-basin-ve-ifade-ozgurlugu-316/)

<sup>122</sup> “Solidarity with Özgür Gündem Case,” *Sessiz Kalma*, March 2, 2021, [sessizkalma.org/en/defender/solidarity-with-ozgur-gundem-case/](http://sessizkalma.org/en/defender/solidarity-with-ozgur-gundem-case/)

<sup>123</sup> Hikmet Adal, “Local court doesn’t defy reversal of acquittals in Özgür Gündem trial,” *bianet*, February 3, 2021, [bianet.org/english/law/238668-local-court-doesn-t-defy-reversal-of-acquittals-in-ozgur-gundem-trial](http://bianet.org/english/law/238668-local-court-doesn-t-defy-reversal-of-acquittals-in-ozgur-gundem-trial)

<sup>124</sup> Begüm Burak, “Turkey’s Authoritarian Slide and Political Decay,” *International Policy Digest*, February 14, 2021, <https://intpolicdigest.org/turkey-s-authoritarian-slide-and-political-decay/>

<sup>125</sup> Interview with Aslı Erdoğan, Writer and Human Rights activist, April 2021

<sup>126</sup> Interview with Ayşe Berktaş, Writer, Translator, and Activist, April 2021

<sup>127</sup> Interview with Banu Karaca, Anthropologist at ICI Berlin and co-founder of Siyah Bant, April 2021

Even so, several interviewees took pains to emphasize that they had not given into despair. As Berktaş put it, “Obviously, this repression has obstructed creativity and intellectual production, but in a way it also helps stimulate new ways of thinking...I think that people who have not despaired, they are seeking and finding more effective ways to influence and impact what’s happening. The way that things will change is through getting together, through building the bridges that [the government] has tried to burn by polarizing society.”<sup>128</sup>

## GALVANIZING THE INTERNATIONAL COMMUNITY

Those PEN America interviewed for this briefing paper universally emphasized that the people of Turkey are primarily responsible for demanding the reversal of Turkey’s descent into authoritarianism. Even so, the international community has a critical role to play in pushing back against the Turkish government’s repression. In fact, the international community’s response to Turkey’s backsliding has been muted. Both the United States and the EU have failed to take significant action to hold the Turkish government accountable for its human rights abuses, as geopolitical

and security matters continue to dominate relationships with the country. Turkey’s long-standing membership in NATO, as well as its role as host to millions of refugees from the Syrian civil war<sup>129</sup> both contribute to views among some Western policymakers that the country is too “strategically important” to criticize.<sup>130</sup> At the same time, however, Turkey’s membership in NATO and the Council of Europe includes commitments to both human rights and democratic values, commitments the government is clearly failing to uphold.

The worst of Turkey’s backsliding took place after the 2016 failed coup and during the Trump Administration, which largely failed to react.<sup>131</sup> The Trump Administration’s willingness to tolerate Erdoğan’s human rights abuses infamously extended to American soil; when Erdoğan visited the White House in 2017, his security forces attacked protesters outside the Turkish Ambassador’s residence, something which the White House failed to condemn.<sup>132</sup> The only notable exception to this permissive attitude was the enactment of sanctions on two Turkish officials in 2018, in an effort to gain the release of imprisoned US pastor Andrew Brunson.<sup>133</sup>

In 2019, then-presidential candidate Joe Biden called Erdoğan an “autocrat”, and upon taking office refused to call the Turkish president for

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<sup>128</sup> Interview with Ayşe Berktaş, Writer, Translator, and Activist, April 2021

<sup>129</sup> Shelley Inglis, “Syrian refugees in Turkey are there to stay, at least for now,” *The Conversation*, October 23, 2019, [theconversation.com/syrian-refugees-in-turkey-are-there-to-stay-at-least-for-now-125176](https://theconversation.com/syrian-refugees-in-turkey-are-there-to-stay-at-least-for-now-125176)

<sup>130</sup> Steven Erlanger, “Turkish aggression is NATO’s ‘elephant in the room,’” *The New York Times*, August 5, 2020, [nytimes.com/2020/08/03/world/europe/turkey-nato.html](https://nytimes.com/2020/08/03/world/europe/turkey-nato.html)

<sup>131</sup> See e.g. Ishaan Tharoor, “Trump says U.S. shouldn’t criticize Turkey’s Erdogan over post-coup purge,” *The Washington Post*, July 21, 2016, [washingtonpost.com/news/worldviews/wp/2016/07/21/donald-trump-says-u-s-shouldnt-criticize-turkeys-erdogan-over-post-coup-purge/](https://washingtonpost.com/news/worldviews/wp/2016/07/21/donald-trump-says-u-s-shouldnt-criticize-turkeys-erdogan-over-post-coup-purge/)

<sup>132</sup> Don Peck, “Presidential silence after an attack on American soil,” *The Atlantic*, January 13, 2019, [theatlantic.com/politics/archive/2019/01/trump-stands-by-while-erdogan-orders-attack-protesters/580093/](https://theatlantic.com/politics/archive/2019/01/trump-stands-by-while-erdogan-orders-attack-protesters/580093/)

<sup>133</sup> “Treasury sanctions Turkish officials with leading roles in unjust detention of U.S. pastor Andrew Brunson,” United States Department of the Treasury, August 1, 2018, [home.treasury.gov/news/press-releases/sm453](https://home.treasury.gov/news/press-releases/sm453)

months.<sup>134</sup> Since then, the US State Department's 2020 Human Rights report's section on Turkey cited "severe restrictions on freedom of expression", including the "arbitrary arrest and continued detention of tens of thousands of people for purported ties to "terrorist" groups or peaceful legitimate speech."<sup>135</sup> Biden also notably recognized the Armenian genocide, something recent presidents have avoided knowing it could harm relations with Turkey.<sup>136</sup> Yet the administration has yet to take any accountability measures to discourage Turkey's ongoing abuses. Most recently, Biden's meeting with Erdoğan on the side of the NATO summit was a missed opportunity to publicly raise human rights concerns.

Similarly, the European Union's (EU) approach to Turkey's deplorable human rights record can be characterized as more talk than action. EU leaders have expressed concern at certain points in time, but failed to address the sheer scale of the problem, or advance meaningful consequences on Turkey for its human rights violations—choosing instead to prioritize the geo-political disputes with Greece and Cyprus, and the issue of refugees and migrants. For example, the Council of Europe has yet to trigger infringement proceedings for Turkey's failure to uphold the European Court of Human Rights' December 2019 and December 2020 rulings on Osman Kavala and Selahattin Demirtaş, respectively. In April 2021, top EU officials visited Turkey in an official visit,

an act that critics argued represented "a blind eye to democratic backsliding and human rights violations, effectively letting Erdoğan get away with it."<sup>137</sup>

The weak response from these actors, in PEN America's view, has enabled Turkey's slide into authoritarianism. Today, Erdoğan's need for a restart with both Europe and the United States presents an important opportunity for the US and EU to use their strategic relationship with Turkey to redirect the country towards renewed respect for human rights and rule of law. To that end, PEN America offers the following recommendations to U.S. and European policymakers.

## RECOMMENDATIONS

- Given Turkey's membership in NATO and the Council of Europe, the United States and EU should coordinate closely on policy responses to Turkey's human rights violations.
- The United States and EU should increase high-level public diplomacy on individual cases, including the cases of writers, journalists, creatives, and dissidents targeted by the Turkish government.
- In its September session, the Council of Europe should trigger infringement proceedings against Turkey for failing to implement the Eu-

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<sup>134</sup> Selcan Hacaoglu, "U.S. faults NATO ally Turkey with range of human rights issues," *Bloomberg*, March 31, 2021, [bloomberg.com/news/articles/2021-03-31/u-s-faults-nato-ally-turkey-with-range-of-human-rights-issues](https://www.bloomberg.com/news/articles/2021-03-31/u-s-faults-nato-ally-turkey-with-range-of-human-rights-issues); Danielle Haynes, "Biden speaks to Turkey's Erdogan by phone, prepares to recognize Armenian genocide," *United Press International*, April 23, 2021, [upi.com/Top\\_News/US/2021/04/23/President-Joe-Biden-Recep-Tayyip-Erdogan-Armenian-genocide/5061619205804/](https://www.upi.com/Top_News/US/2021/04/23/President-Joe-Biden-Recep-Tayyip-Erdogan-Armenian-genocide/5061619205804/)

<sup>135</sup> Bureau of Democracy, Human Rights, and Labor, "2020 Country Reports on Human Rights Practices: Turkey," *United States Department of State*, [state.gov/reports/2020-country-reports-on-human-rights-practices/turkey/](https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/turkey/); see also Selcan Hacaoglu, "U.S. faults NATO ally Turkey with range of human rights issues," *Bloomberg*, March 31, 2021, [bloomberg.com/news/articles/2021-03-31/u-s-faults-nato-ally-turkey-with-range-of-human-rights-issues](https://www.bloomberg.com/news/articles/2021-03-31/u-s-faults-nato-ally-turkey-with-range-of-human-rights-issues)

<sup>136</sup> Benjamin Din, "Biden Recognizes Armenian Genocide," *Politico*, April 24, 2021, [politico.com/news/2021/04/24/biden-recognizes-armenian-genocide-484539](https://www.politico.com/news/2021/04/24/biden-recognizes-armenian-genocide-484539)

<sup>137</sup> William Gourlay, "EU engagement gives Turkey a free pass on human rights violations," *The Strategist*, April 20, 2021, [aspistrategist.org.au/eu-engagement-gives-turkey-a-free-pass-on-human-rights-violations/](https://aspistrategist.org.au/eu-engagement-gives-turkey-a-free-pass-on-human-rights-violations/)

ropean Court of Human Rights' rulings regarding Osman Kavala and Selahattin Demirtaş.

- The United States and EU should utilize authorities under the Global Magnitsky Human Rights Accountability Act and the Global Human Rights Sanctions Regime, respectively, to sanction individuals involved in serious human right abuses in Turkey.
  - The US Congress should pass legislation tying respect for human rights with any development and military aid to the Turkish government, and ensuring that any such aid or assistance is consistent with the Arms Export Control Act and Section 620M of the Foreign Assistance Act.
  - In furtherance of this recommendation, PEN America supports the Turkey Human Rights Promotion Act of 2021,<sup>138</sup> currently before the Senate, which would call upon the President and his Cabinet to:
    - impose relevant Global Magnitsky sanctions;
    - confirm that U.S. security assistance to Turkey complies with human rights mandates;
    - instruct U.S. financial officials to oppose any loan determined to enable Turkey's violation of human rights;
    - impose visa restrictions on individuals believed to be involved in "counter-dissident" activities; and
    - assist civil society organizations in Turkey that work to secure the release of prisoners of conscience.
- PEN America considers the Act to be a logical starting point for a more human rights-centered approach toward U.S.-Turkey relations.
  - The United States should increase support for Voice of America's Turkish Service and Kurdish Service and consider new Turkey-focused programming through Radio Free Europe/Radio Liberty.
  - The United States should increase funding for freedom of expression, independent media and press freedom, and cultural programming, including literary, artistic, and other creative initiatives in Turkey, as well as international cultural and academic exchange.

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<sup>138</sup> The text of the Act can be found at [markey.senate.gov/imo/media/doc/turkey\\_human\\_rights\\_bill.pdf](https://markey.senate.gov/imo/media/doc/turkey_human_rights_bill.pdf); see also Joyce Karam, "US senators push bill to impose sanctions on Turkey over human rights record," *The National News*, May 1, 2021, [thenationalnews.com/world/the-americas/us-senators-push-bill-to-impose-sanctions-on-turkey-over-human-rights-record-1.1214360](https://thenationalnews.com/world/the-americas/us-senators-push-bill-to-impose-sanctions-on-turkey-over-human-rights-record-1.1214360)

