PEN INTERNATIONAL CASES OF CONCERN – TURKEY

MARCH 2014

The state of freedom of expression in Turkey has been a longstanding source of concern for PEN. During a high-level visit to the country in November 2012, PEN delivered a list of concerns to the President of the Republic of Turkey, touching on issues relating to:

- Excessive pre-trial detention;
- The use of the draconian Anti-Terror Law to imprison writers and journalists (particularly those covering the Kurdish issue) with no material links to terrorism or the plotting of violent acts;
- The continuing criminalisation of defamation and its abuse in intimidating government critics;
- The use of religious defamation legislation to stifle contrarian religious views; and
- The high volume of obscenity trials against publishers of literature in translation.

Despite a number of democratisation and reform initiatives by the government in the intervening 15 months, all of the above issues continue to plague freedom of expression in Turkey. In the aftermath of a brutal government crackdown on dissent during the Gezi Park protests, PEN has prepared a report highlighting some of the issues raised by the nationwide protest movement, including:

- Human rights violations committed during the protests against peaceful protesters;
- Attacks by authorities on field reporters attempting to carry out their duty to inform the public of events going on during the protests;
- Self-censorship and its causes in the mainstream media;
- Judicial harassment against protesters, writers and journalists for their peaceful exercise of their rights to freedom of expression and freedom of assembly; and
- Restrictions of the right to freedom of expression online, with particular relevance to social media and the new internet law.

PEN has highlighted a number of key cases of concern – some of them involving individuals directly affected by Gezi, others pre-dating the Gezi Park protests – with regard to freedom of expression in Turkey.

İHSAN ELİAŞIK – CRIMINAL DEFAMATION

İhsan Eliaçık is a writer, theologian and publisher and the ideological leader of a group of socialist Muslims who strongly oppose the synthesis of capitalism and Islam on moral grounds. An outspoken critic of the incumbent AKP administration and Turkey’s Directorate of Religious Affairs, Eliaçık and his group were present throughout the Gezi Park protests. Eliaçık’s Anti-Capitalist Muslim movement was unique amongst the myriad factions that participated in the Gezi Park protests because of its ability to marry Islamic ethics with criticism of Prime Minister Recep Tayyip Erdoğan, who often uses Islamic rhetoric to appeal to a conservative base.
On 21 June 2013, a petition against Eliaçık was filed in an Ankara court by Erdoğan’s legal representatives; the court accepted a defamation suit against Eliaçık for 12 tweets, nine of which concern Erdoğan directly. On 30 January 2014, Erdoğan was awarded $900 (2,000 TL) in damages at the conclusion of the civil suit. The criminal trial against Eliaçık continues.

Click here to read PEN’s report on The Gezi Park Protests: the impact on freedom of expression in Turkey, which features an interview with İhsan Eliaçık on his case on pages 25 and 26.

İSMAIL SAYMAZ – INTIMIDATION

Radikal investigative journalist and writer İsmail Saymaz was threatened by the governor of Eskişehir, Güngör Azim Tuna on 2 October 2013. The governor sent Saymaz an email in the early hours of the morning following a report in which he detailed the governor’s office’s efforts to move the trial against the alleged assailants in the murder of protester Ali İsmail Korkmaz to another city.

Having expressed his displeasure at Saymaz’s choice of quotes from the governor’s office, Tuna went on to tell Saymaz, ‘Life imprisonment wouldn’t suffice for you. If you continue covering this issue by making comments like this then you are a dishonourable low-life. Don’t forget, there’s six feet under as well; eventually we’ll see each other there.’ The governor has admitted that he had sent the email, but denied that his comments were threatening in nature.

Click here to read PEN’s report on The Gezi Park Protests: the impact on freedom of expression in Turkey, which discusses threats made against Saymaz on page 15.

AHMET ŞİK – JOURNALIST UNDER ATTACK/ANTI-TERROR LAW

Ahmet Şık was arrested in March 2011 along with a group of broadcast and print journalists mainly associated with the online news outlet OdaTV, alleged to be the media arm of the Ergenekon organisation (an alleged militarist conspiracy to topple the Turkish government). He was accused of ‘knowingly and willingly aiding and abetting an illegal organisation’ under Article 220/7 of the Turkish Penal Code, of ‘membership of an armed organisation’ under Article 314 of the Turkish Penal Code, and faces an increased sentence under Article 5 of the Turkish Anti-Terror Law.

Facing up to 15 years’ imprisonment, Şık was placed in pre-trial detention and sent to Silivri Prison. He was released pending trial by the Istanbul 16th High Criminal Court on 12 March 2012, having spent more than a year behind bars.

Upon his release, Şık gave a statement to the press calling for those investigating him to be brought to account for unjustly persecuting him. New charges were brought against him following these comments, accusing Şık of ‘defaming a public official for the performance of their duty’ under Article 215/1-3a of the Turkish Penal Code. He is currently free pending trial.

Şık was also injured by the police on three separate occasions during the Gezi Park protests, highlighting the difficult circumstances under which field reporters had to work during demonstrations in Turkey.

Click here to read more about the case against Ahmet Şık

MUHARREM ERBEY – ANTI-TERROR LAW

Human rights lawyer and writer Muharrem Erbey was arrested on 24 December 2009. Over four years on, he is still being held under pre-trial detention in Diyarbakır D Type Prison.
Erbey is one of scores of lawyers, politicians, writers, journalists, publishers, trade unionists and academics detained as part of a wide-reaching anti-terror probe into pro-Kurdish intellectuals, political activists and civil society organisations in Turkey. He was among 80 people across the region to be arrested in connection with the Koma Civakê Kurdistan (KCK) (Union of Communities in Kurdistan), the alleged political front for the outlawed Kurdistan Workers’ Party (PKK).

Erbey has since been charged under Article 314/2 of the Turkish Penal Code (‘membership of an armed organisation’) and the Anti-Terror Law. The indictment against him refers to the work he did as President of the Diyarbakır branch of the Human Rights Organisation, where he researched and compiled reports on disappearances, torture and extra-judicial killings committed during the armed conflict between the Turkish army and the Kurdistan Workers’ Party (PKK). His next hearing will be heard on 14 April 2014.

PEN is gravely concerned that the charges against Muharrem Erbey are politically motivated, and that he is being held because of his alleged affiliation with Kurdish political parties. We are therefore calling for his immediate and unconditional release from prison, in accordance with his right to freedom of expression and association, as guaranteed by the International Covenant on Civil and Political Rights and the European Convention on Human and Democratic Rights, to which Turkey is a signatory.

Click here to read more about the case against Muharrem Erbey

AHMET ALTAN – CRIMINAL DEFAMATION

Ahmet Altan is an acclaimed Turkish novelist, essayist and journalist. He has written nine novels in a career spanning 30 years, and from November 2007 until December 2012 he was editor-in-chief of liberal Turkish daily newspaper Taraf.

In February 2012, Altan was charged with defamation under Article 125 of the Turkish Penal Code for a 19 January 2012 editorial piece printed in Taraf entitled ‘Morality and Enabling the State’. In the piece, Altan confronted Turkish Prime Minister Recep Tayyip Erdoğan about his defence of and refusal to apologise for the Uludere Massacre, during which 34 Kurds crossing the border from Iraq to Turkey lost their lives as a result of an airstrike by Turkish warplanes.

The case was brought against Altan by Prime Minister Erdoğan’s lawyers on the grounds that he had ‘attacked [Erdoğan’s] honour, reputation and respectability’, with a heavier sentence sought because Altan had allegedly committed the offence ‘against a public official for carrying out his duty’.

FAZIL SAY – RELIGIOUS DEFAMATION

Fazıl Say is an internationally renowned classical composer, concert pianist and writer, whose orchestral pieces have been performed by the New York Philharmonic and the Berlin Symphony Orchestra, among others. A prolific composer, Say has penned a great number of orchestral works, oratorios, concertos and chamber music in a career spanning over 20 years. He has also written three books on his life and music.

In 2012 Say, an outspoken critic of Prime Minister Erdoğan, was charged with religious defamation under Article 216/3 of the Turkish Penal Code in response to a series of messages posted on Twitter. Say, who denied the charges, faced up to 18 months in prison if found guilty.

The claimant who brought the case against Say has argued that the tweets publicly degraded the holy values of three major religions – Judaism, Christianity and Islam. Say’s lawyer Meltem Akyol denied that his tweets were degrading to religious values, highlighting the fact that one of those included in the indictment was not only a re-tweet, but a direct quotation from a verse written by Omar Khayyam. Another simply stated ‘I am an atheist and I am proud to be able to say this so comfortably’.
On 15 April 2013, Fazil Say received a ten-month suspended jail sentence for his comments. He is currently appealing the ruling.

Click here to read more about Fazil Say, who was selected as a focus case for PEN International’s Day of the Imprisoned Writer 2013.