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ADDING INJUSTICE TO INJURY

ONE YEAR ON FROM THE GEZI PARK PROTESTS IN TURKEY

AMNESTY INTERNATIONAL

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AMNESTY INTERNATIONAL

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Cover photo: People light candles for the victims of the 2013 protests in Taksim Square, Istanbul.
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INTRODUCTION

On 16 June 2013 Berkin Elvan, a 14 year-old boy from the working class district of Okmeydanı in Istanbul fell into a coma after sustaining injuries at the scene of a Gezi Park protest. All the evidence suggests that Berkin was hit in the head by a gas canister fired at close range by a police officer. As he lay in a coma in an Istanbul hospital, Berkin became a symbol of the abuses that accompanied the crackdown on the Gezi Park protest movement. Frequent posts on social media sites urged him to "wake up". On 11 March these hopes were extinguished when Berkin Elvan became the fourth person to die as a direct result of abusive use of force by police at the Gezi Park protests. As of the end of April 2014, no progress had been made in identifying who fired the gas canister that killed Berkin Elvan.

On 12 March 2014, the day after Berkin Elvan's death, an estimated one million people took to the streets to attend Berkin's funeral in an unprecedented outpouring of anger at police violence, impunity and a government perceived to be protecting the perpetrators and condoning their violence. In an act of bitter irony, following the funeral, police used abusive force, including tear gas and water cannon to disperse those assembled following the funeral procession. A few days later the Prime Minister criticized Berkin Elvan's parents' statements during an election rally speech and said that Berkin had been influenced by a "terrorist organization" while his supporters cheered.

The events of summer 2013's Gezi Park protests remain fresh in Turkey's collective memory, for their supporters and opponents alike. The small protest against the destruction of the park as part of a development project in May 2013 had mushroomed by early June into the biggest anti-government protest movement seen in a generation in Turkey, with protests taking place across 79 of Turkey's 81 provinces. The police estimate that 3.5 million people took part.[1] The reaction of the authorities was brutal and uncompromising. Police repeatedly used abusive force including tear gas, water cannon and beatings, to prevent and disperse peaceful demonstrations. By early July over 8,000 people had been injured.[2] Journalists, doctors and lawyers who documented the events, supported the protestors or defended their rights were arrested, beaten and threatened as the government sought to smear those speaking out against it. Amnesty International monitored demonstrations in Istanbul and Ankara to observe police tactics and the use of violence by protestors. Amnesty International issued a series of statements documenting abuses culminating in the report *Gezi Park protests: Brutal denial of the right to peaceful assembly in Turkey* published in October 2013.[3]

One year on from the Gezi Park protests, the authorities have continued their attempts to crush the protest movement, prosecuting more than 5,500 individuals for organising or participating in the Gezi Park protests.[4] Many of them stand accused simply of participating in protests while others face trumped up charges of violent conduct without evidence to substantiate the charges.[5] Hundreds have been charged under anti-terrorism or organized crime provisions.[6] Those perceived to have supported the protests have also been targeted. The authorities have sought to sanction medical associations and doctors who performed a vital role providing first aid at makeshift health clinics and have introduced legal amendments that criminalize provision of such emergency care.[7] Social media users active

during the protests have been prosecuted, while attempts have been made to block the sites that carried their words and videos.[8]

While the authorities have aggressively sought to punish the protest movement and its supporters, impunity is prevailing for the large-scale police abuses that took place. Following thousands of injuries and hundreds of criminal complaints into abusive use of force by police only five police officers were standing trial, with a further two awaiting trial as of the end of April 2014.[9] The vast majority of criminal investigations have become mired in delays or floundered in the face of obstruction by the police.[10] The government has rarely acknowledged that abuses even took place and shown no interest in ensuring justice for victims and accountability for perpetrators. Indeed, the reverse is true, with the Prime Minister in particular having repeatedly praised the police and castigated protesters.

Anti-government demonstrations have continued to be banned and arbitrarily and brutally dispersed in the year since the Gezi Park protests first erupted. If anything, attitudes are hardening, on the side of the government and protesters alike. One year on, the human rights abuses seen during the Gezi Park protests are just as likely to be committed again. The continuing repression of peaceful demonstrations, the targeting of protest organizers and participants and the impunity enjoyed by police for their abuses are all adding to injustices already suffered. The Justice and Development Party (AKP) government has chosen a path of intolerance, conflict and polarization. Unless checked, it promises to wreak further damage on the wider human rights landscape in Turkey.

Amnesty International calls on the government to change course. It must fulfil its responsibilities to ensure prompt, effective and impartial investigations into arbitrary or abusive force by police officers and to bring those responsible to justice. It must ensure that demonstrators, organizers and other people are not prosecuted or otherwise harassed for exercising their rights to freedom of expression, association and peaceful assembly. Lastly, Amnesty International calls on the authorities to learn the lessons of the Gezi Park protests and to end the continuing denial of the right to hold peaceful assemblies and the use of arbitrary and abusive force by police.

During the course of research for this report, Amnesty International spoke to people injured by police violence and their families, individuals who face prosecution for their alleged participation in, organization of, or support for the Gezi Park protests and those who face other forms of harassment. Amnesty International also met with NGOs, lawyers, journalists and representatives of professional bodies in Adana, Ankara, Antakya, Istanbul and Izmir and conducted telephone interviews with individuals in other locations in Turkey. Amnesty International made repeated requests to meet with the authorities regarding the issues documented in this report but received no positive response from them. Unless otherwise stated, events reported are updated until the end of April 2014.

IMPUNITY FOR POLICE ABUSES

The impunity enjoyed by police who used arbitrary and abusive force in violation of international human rights standards, including though the unlawful use of tear gas, water cannon and beatings, to prevent and disperse peaceful demonstrations represents a damning indictment of the authorities' failure to acknowledge and learn from the abusive policies applied during the Gezi Park protests.[11] In stark contrast to the criminal prosecutions opened against thousands accused of organizing, participating in or supporting the Gezi Park protests (see section on the continued targeting of the Gezi protest movement and its supporters from p. 14) only four separate prosecutions had been bought against police by the end of April 2014. Amnesty International is aware of only one case - the well-publicised case of officers beating demonstrators and pulling the hair of a young woman on the Izmir seafront - in which internal disciplinary proceedings have resulted in police officers being sanctioned.[12] Most internal investigations have now been closed.[13]

Of the four criminal prosecutions opened against police officers, three cases relate to deaths. The fourth relates to a police officer accused of spraying pepper spray directly into the face of a woman since dubbed "the woman in the red" on the second day of the protests in Gezi Park.[14] All four of these incidents received widespread media coverage and generated significant pressure on the authorities to act. Very few cases have attracted such attention, however; indeed, their vast number precludes it. Investigations into these cases have proceeded at a snail's pace or been closed without result.

While the number of people who have made criminal complaints is not known, lawyers told Amnesty International that there are at least 350 in Istanbul, and up to 400 in Ankara based on reports from prosecutors mandated to investigate the cases.[15] The number of criminal complaints into police violence across Turkey is likely to be significantly higher than the sum of these figures, and the number of actual incidents of police abuse higher still. Individuals who were detained during the Gezi Park protests and later interviewed by Amnesty International frequently reported that prosecutors were reluctant to take complaints or record allegations of police abuse when taking statements regarding their role in the protests. People also told Amnesty International that they feared making a criminal complaint either because they were aware how slim the chances of justice were and/or because it would encourage the authorities to bring counter charges against them for their participation in the protests. Individuals who *did* bring complaints, such as **Muharrem Dalsüren**, (see boxed text, p.9) who complained that he was blinded by a police officer firing a gas canister from close range in Ankara, told Amnesty International that prosecutors first investigated whether he had participated in the protests or had committed any violent acts (he had not).[16] Lawyers and NGOs in all the cities in which Amnesty International conducted research told Amnesty International that the vast majority of individuals who had reported police abuses to them did not later make criminal complaints. Lawyers in Adana and Antakya, for instance, told Amnesty International that they were aware of only a few individuals who had made criminal complaints about police despite the widespread use of abusive force by police officers during demonstrations in both cities and serious injuries recorded at the scene of demonstrations, including the loss of eyes.

The case of **Dilan Dursun**, a 20 year-old student hit by a tear gas canister, provides a telling example of unnecessary and abusive force by police and subsequent attempts by the authorities to deny justice to the victim. The incident took place on 16 June, close to Kızılay in the centre of Ankara where the funeral of Ethem Sarısülük, a protestor shot dead by a police officer on 1 June was taking place. The Ankara authorities refused to allow the funeral procession to pass through the centre of the city and police dispersed the assembled crowds. Dilan Dursun was among a small group of people fleeing from police away from the scene of a demonstration, shortly before six in the evening. CCTV footage of the incident shows that police fired a tear gas canister from a "scorpion" armoured vehicle directly at protestors running away. The action is clearly unnecessary, dangerous and punitive.

Dilan Dursun was hit in the head by the tear gas canister. She was taken to a nearby hospital where she was immediately admitted for brain surgery after suffering a brain haemorrhage. She emerged from a coma four days later, and 15 days after the incident took place she was released from hospital.

Footage from a manually operated CCTV camera shows that it panned away from the scene of where Dilan Dursun lay on the ground injured to film an empty street. Police radio recordings reveal that a police officer reported that a member of the public had been injured and that an ambulance should be sent to the scene. However, no ambulance ever arrived and Dilan was transported to hospital in a private car. Nearly a year later the identity of the police witness who informed the police control centre of the injury has not been revealed. A crime scene investigation was not undertaken until four days after the incident took place despite the complaints of lawyers who made a criminal complaint on Dilan Dursun's behalf.

There was a public outcry regarding the injury to Dilan Dursun and perhaps as a result of this and the media attention it received, the investigation has advanced further than any other into non-fatal injuries caused by police abuses at Gezi Park protests in Ankara. Details that have emerged from the investigation show the scale of police force used against Gezi Park protestors. Police documents that form part of the investigation file reveal that approximately 5,000 gas canisters were used against 20,000 protestors in the centre of Ankara that day. In July 2013 the police authorities provided the list of five officers on duty at the scene and tasked with firing tear gas. However, only in February 2014 did four of the five officers provide statements to the prosecutor. As of the end of April 2014 one police officer had still not provided a statement according to Dilan Dursun's lawyers.

CCTV footage was also provided, however, the footage from the camera that is most important to revealing the incident was not provided. Months later, however, the same camera footage appeared in the prosecution of 35 people for their participation in Gezi Park demonstrations on the same day. The lawyers alerted the prosecutor who was able to obtain the footage, from camera no. 199 in February 2014, eight months after the initial request had been made.

As of the end of April 2014 the investigation continued.

SHORTCOMINGS IN THE INVESTIGATION OF POLICE ABUSES

Investigators have faced a number of objective difficulties in identifying the individual officers responsible for alleged abuses. As documented in Amnesty International's 2013 report on the Gezi Park protests, police officers, many of whom were wearing full face gas masks, frequently failed to display visible identifying markers. Officers often either wore plain clothes or only a numberless police vest to mark themselves out as police officers. Riot police frequently wore helmets without numbers or with stickers covering them up, in violation of

national law, in quite deliberate attempts to prevent identification.[17] Many abuses also took place out of sight of other witnesses and CCTV cameras. Those detained were often ill-treated in police holding areas or deliberately taken to places where there were no CCTV cameras before being beaten.[18]

These obstacles to the identification of individual police officers do not begin to explain the scale of the impunity that offending police officers have enjoyed. By far the most significant factor is the extremely low priority that has been given by prosecutors and police forces themselves (and indeed municipal and national authorities) to ensuring accountability for abuses. Investigations have proceeded slowly, if at all, with minimal diligence, if any, and have often been undermined by deliberate attempts to withhold, obstruct, or tamper with evidence. All of these failings, which are not new or particular to complaints relating to Gezi Park protest abuses, point to the urgent need for a truly independent and effective police complaints mechanism to investigate allegations of criminal misconduct by law enforcement officials.

While almost all of the criminal investigations into Gezi Park protest police abuses were continuing at the end of April 2014, in the vast majority there had been very little actual progress, with the police officers on duty at the scene of alleged abuses having been identified in only very few cases.

The investigation into the complaint of **Muharrem Dalsüren**, who was hit and blinded by a tear gas canister in Ankara on 3 June illustrates some of the many obstacles put in the way of those complaining of abusive force by police officers. Muharrem Dalsüren was carrying out his duties as a street cleaner for Çankaya Municipality on 3 June 2013 in the Kızılay district of Ankara. He told Amnesty International that he was hit by a gas canister fired from a "scorpion" armoured vehicle about 20 meters from him. He was rushed to hospital and operated on by doctors but lost the sight in his right eye. To date he has undergone three operations and had a prosthetic eye fitted. He told Amnesty International that he would undergo his fourth and last operation in July 2014.

Muharrem Dalsüren's lawyer told Amnesty International that her initial request for the provision of CCTV footage sent to police via the prosecutor was rejected on the grounds that none existed, and that all footage was automatically deleted after seven days. The lawyer told Amnesty International that in September 2013 she requested the list of police officers on duty at that location and warned that she would make a criminal complaint regarding the conduct of the police authorities unless attempts were made to collect the evidence. In October the prosecutor responded that he had investigated whether Muharrem had taken part in the unlawful demonstrations but found no evidence to support it. In October the police provided CCTV footage from the entire Çankaya district of Central Ankara, but not the camera 10 meters away from where the incident took place. The police also provided a list of more than 300 police officers who were on duty that day in the district without indicating which officers were on duty at that location. The lawyer told Amnesty International that following this, on 28 October she again requested the camera footage from where the incident took place and a list of police on duty at this location including the ones responsible for firing tear gas. On 16 January the prosecutor responded to this request, forwarding it to the Ankara police authorities. As of the end of April 2014 no response had been received from the Ankara police authorities.

In many cases documented by Amnesty International in the 2013 report, there has been little or no follow up from prosecutors regarding criminal complaints. **Eylem Düzyol** told Amnesty International that there had been no action taken by prosecutors regarding the complaint she

and fellow journalist **Fulya Atalay** made regarding being beaten by police while they were covering the protests in Istanbul.[19] As of the end of April 2014, they had not even been called to provide a statement.[20]

Ahmet Şık, a journalist who complained that he was hit twice by tear gas canisters fired by police in separate incidents while covering the protests in Istanbul, told Amnesty International that the prosecutor had neither requested video footage nor a list of police officers on duty at the time following his statement.[21] Likewise **Alper Merdoğlu** (see boxed text, p.26), a member of the board of the Istanbul Branch of the Chamber of Engineering Physicists (a member organization of the Chamber of Architects and Engineers (TMMOB)), who is being prosecuted for his participation in the Gezi Park protests, told Amnesty International that the prosecutor investigating his own well-documented complaint of being beaten on arrest at the scene of a demonstration in Istanbul had not been followed up with any requests by the prosecutor after he gave his statement in August 2013.[22]

One of the reasons for the lack of activity by prosecutors is the fact that so many cases have been assigned to so few of them. In a revealing indicator of the low priority attached to ensuring accountability for police abuses in the context of the Gezi Park protests, only three prosecutors have been assigned to work on such cases in both Ankara and Istanbul, despite there being over 350 criminal complaints in both cities.[23]

In the absence of an independent mechanism to conduct investigations, police abuses are - as with other crimes - investigated by the police themselves following directions from the prosecutor. This gives police considerable powers to obstruct, delay or mislead investigations into their own abuses or those of their colleagues.

In numerous instances, police appear to have deliberately withheld or destroyed evidence. Given the difficulties victims have faced in identifying police officers wearing no identification markers and whose faces were covered, accurate lists of the officers in locations at the time alleged abuses occurred are crucial to investigations. Lawyers have, however, told Amnesty International of many instances where, inaccurate or incomplete lists have been sent by relevant police departments or where no relevant information has been sent at all, effectively paralyzing investigations. A lawyer representing the family of **Berkin Elvan**, a boy who died at the age of 15 after being hit in the head by a gas canister fired by police from close range in Istanbul, told Amnesty International that police first sent a list of personnel on duty on a different day, then a list of those on duty at a different location before finally, months later, stating that there were no officers at all on duty at the relevant place at the relevant time.[24]

On 3 June**, Hakan Yaman**, was beaten up and thrown on a fire by four riot police officers and a person in plain clothes operating next to a water cannon vehicle. A witness recorded the incident on his mobile phone. Despite the number of the water cannon vehicle being visible in the video, the Istanbul police authorities have failed to reveal the identities of the officers assigned to work alongside it (see boxed text, p.11).

In several cases, police authorities have claimed to be unable to disclose which officers were firing gas canisters at which locations, despite the fact that their own regulations state that only trained personnel individually authorized by the commanding officer may perform this

task.[25] For instance, a request from the prosecutor to Ankara police to provide a list of officers on duty when **Muharrem Dalsüren** (see boxed text, p.9) was struck by a tear gas canister was responded to with a list of over 300 names, this being all the officers who were on duty in central Ankara that day.[26]

Police have also used their control over public CCTV footage to obstruct investigations. Lawyers representing **Dilan Dursun**, who was hit by a tear gas canister fired by police in Ankara (see boxed text p.8) told Amnesty International that police provided the prosecutor with incomplete footage, claiming that the most significant CCTV camera footage was not available. Months later, however, the same camera footage appeared in the prosecution of 35 people for their participation in Gezi Park demonstrations on the same day. The lawyers alerted the prosecutor who was able to obtain the footage, from camera no. 199 in February 2014, eight months after the initial request had been made.

In a very similar case, a lawyer representing **Muharrem Dalsüren** told Amnesty International that police provided the prosecutors with CCTV footage from all the cameras in the area except the one 10 meters away from the place where he was hit by a tear gas canister. As of the end of April, no response had been received from the police regarding the request to provide footage from camera no. 220.

In some cases Amnesty International is aware of, police officers have been accused by lawyers of deliberately deleting video footage to destroy evidence. Lawyers representing the family of **Ali Ismail Korkmaz**, a demonstrator who died of his injuries after being beaten by civilians and police officers from the anti-terrorism department in plain clothes during Gezi Park protests in Eskişehir accuse police officers of destroying footage from two private CCTV cameras.[27] Footage from one of the cameras, belonging to a bakery close to where the attack took place was deleted but later recovered by an expert unit of the gendarmerie specifically assigned to this task by the prosecutor following the destruction of the evidence. Complete footage from the other camera, belonging to a nearby hotel could not be recovered. The incomplete recording shows a person, reported to be a plain clothes police officer, entering the hotel shortly before the camera was switched off.[28]

While gendarmerie units have proved to be effective in recovering evidence, this has not always proved to be the case. A forensic medical report concluded that demonstrator **Abdullah Cömert** was killed by being hit in the head with a tear gas canister.[29] While the police officers responsible for firing tear gas from the three "scorpion" armoured vehicles at the scene were identified, available footage did not show clearly which vehicle had fired the shot. The gendarmerie unit tasked with blowing up the footage said that the footage was of too low quality to establish this.[30] Lawyers sent the footage to a television channel who were able to use their equipment to identify the armoured car. This evidence has been crucial in enabling the prosecution of the police officer responsible for firing tear gas from the armoured vehicle identified in the enhanced footage.

Hakan Yaman, a 37 year-old father of two was beaten by police at the scene of a Gezi Park demonstration near his home in the Sarıgazi district of Istanbul on 3 June. The attack was filmed by a witness with a camera phone, showing the identification number of the water cannon vehicle involved and giving many clues as to the identities of the police officers involved. Despite this an administrative investigation into the incident was closed without result and a criminal investigation has failed to identify the police officers responsible for the beating.

The attack took place at around 10.30 – 11pm when Hakan Yaman was returning home after finishing work as a minibus driver. He parked his vehicle a couple of streets away from his house and proceeded to walk home. A demonstration was taking place on the nearby Demokrasi Avenue. He told Amnesty International what happened:

"I saw some riot police a few hundred meters away. I was first sprayed by water cannon.

Then I was hit in the stomach with a tear gas canister but I didn't fall down. Around five police officers came over and began hitting me repeatedly on around the head. One of them put a hard object into my eye and gouged the eye out. By then I was lying down, without moving. I heard one of them say 'this one is finished, let's completely finish him off'. They dragged me about 10 to 20 meters and threw me onto a fire. They left and I dragged myself out of the fire. I was taken by some of the protestors to the hospital."

According to the forensic medicine report Hakan Yaman sustained serious injuries to his head and face. His nose, his cheek bone, and the bones of his forehead and his chin were broken. He lost one eye completely. His skull was fractured from the top of his head all the way down to his jaw and his back sustained second degree burns from being thrown on the fire.

A witness filmed part of the attack on their camera phone. In the video two riot police can be seen next to a water cannon, with around four others dragging a man along the ground towards a fire.

Following the attack Hakan Yaman made a criminal complaint against the police on the grounds of attempted murder. Hakan Yaman has been interviewed by the prosecutor as have the police on duty in the area at the time. However, due to other important items of evidence not being available, the administrative investigation has been closed without result and nearly one year later, the criminal investigation remains stalled.

Beyond the video taken on a camera phone by a witness, no evidence appears to have been obtained by the prosecutor that provides visual or audio recording of the attack. A CCTV camera at the scene was reported by police to be broken and therefore not recording at the time the attack took place. The police also claim that camera on the water cannon vehicle present at the scene of the attack was also not functioning properly. Police radios were operating on a channel that was not recorded and therefore no records are available.

Even without additional footage, the video taken by a witness shows the identification number of the water cannon vehicle and provides several clues as to the identities of the police operating next to it. Despite this, no progress has been made in identifying the police officers responsible for the beating. The police officers assigned to the water cannon vehicle have been identified, however they claim to have no memory of the event and to be unable to identify the police officers operating next to their vehicle. The 34 riot police operating in the area have also been identified and interviewed by the prosecutor but claim not to have been involved in the incident and not be able to identify the police officers shown in the video. The footage shows a person in civilian clothes wearing a white police helmet (uniformed riot police in the area wore blue helmets) and carrying a "zet" weapon for firing tear gas canisters. However, investigation documents state that the helmet numbers are not visible, either because they had been covered up or were not florescent and no records were made of which police officers were provided with which riot control equipment.

SLOW PROGRESS DURING THE PROSECUTION AND TRIAL PHASE

To date only four prosecutions of police officers have been opened in relation to Gezi Park protest related abuses, of which two had reached trial by the end of April 2014. The first hearing in the trial of the police officer accused of killing **Abdullah Cömert** in Antakya is due to start on 4 July 2014. The trial of an Istanbul police officer for spraying pepper spray into the face of **Ceyda Sungur,** known as the "woman in red" was scheduled to begin on 13 May 2014.[31] Prosecutions of four anti-terror department police officers and four civilians accused of taking part in the beating that caused the death of **Ali Ismail Korkmaz** in Eskişehir and of an Ankara police officer who shot and killed **Ethem Sarısülük** with live ammunition have both faced delays and difficulties, potentially undermining the fairness of the trials and the prospect of justice being done.

In the **Ali Ismail Korkmaz** case, the Eskişehir Court due to hear the case requested the opinion of the Governor of Eskişehir as to whether there would be security concerns if the case was heard in the city. The Governor argued that the trial would cause security concerns and in November the Supreme Court of Appeals upheld the request of the Eskişehir court to transfer the trial to the central Anatolian city of Kayseri. The trial has been conducted in two separate locations, with the main body of the trial being heard in Kayseri, but several witnesses giving evidence separately at a court hearing in Eskişehir. Subsequent hearings have taken place at the Kayseri courthouse. The second hearing at the Kayseri courthouse is due to take place on 12 May.

In the trial of the police officer who shot **Ethem Sarısülük**, the prosecutor requested a charge of "causing death by exceeding the limits of legitimate defence" (Articles 81 and 27/1 of the Penal Code) which carries a maximum sentence of five years in prison, less than that requested for people accused of damaging public property during protests outside the Ankara courthouse where the trial of the police officer was taking place.[32] The trial stage of the prosecution has been beset by delays and procedural irregularities. Before the first hearing the court due to hear the trial attempted to halt it on the grounds that permission had not been granted by the authorities to try a public official for an act committed during the course of his duties. Following a delay, in July 2013 this ruling was overturned by a higher court on the grounds that permission was not required for the charges in the case. At the first hearing of the trial in 23 September 2013, Sarısülük family members complained that they were insulted and threatened by police officers in plain clothes who packed the public gallery of the courtroom preventing their supporters from attending the hearing. At the third hearing on 2 December, the court made another – plainly unlawful – attempt not to try the case, ruling that it should not hear the case due to accusations of bias levelled at it by lawyers representing the family of Ethem Sarısülük. This decision was again overruled by a higher court. Chief among the complaints of the lawyers was the fact that the accused police officer had been allowed to give evidence via video link from Urfa, to which he had since been transferred, rather than attending the hearings as required to by law. Again this decision was finally reversed, on the grounds that defendants are required to give evidence in person. However, at the fourth hearing, the police officer accused of killing Ethem Sarısülük again declined to attend the hearing. The next hearing was set for 26 May.

THE CONTINUED TARGETING OF THE GEZI PROTEST MOVEMENT AND ITS SUPPORTERS

The clampdown on the Gezi Park protests was not limited to the violent dispersal of the protests themselves, but has continued, relentlessly, over the past year through the prosecution of those who organized and participated in them. While some of those facing charges of engaging in violent acts, a great many, only a fraction of whose cases are examined in this report, are being prosecuted for nothing more than having sought to peacefully exercise their right to freedom of peaceful assembly. Some are being prosecuted for serious crimes, including under anti-terrorism legislation, and risk decades in jail. A far larger number are being prosecuted for offences under highly problematic articles in the Law on Meetings and Demonstrations, which criminalizes even peaceful participation in unauthorized demonstrations, but even these people face prison sentences of up to three years. Violent offences carry much harsher penalties and are frequently brought without evidence that individuals themselves participated in violent acts. While some trials have already begun, few have been concluded; the vast majority are still pending. Amnesty International is aware of only two people who remain on remand in connection with the Gezi Park protests, but even if only a fraction of those facing prosecution are convicted and imprisoned, the clamp down on the Gezi Park protest movement will still have generated hundreds, if not thousands, of prisoners of conscience. Just as at the time of the protests, people who documented the events, or provided assistance to protestors have also faced reprisals, through criminal prosecutions or administrative sanctions.

PROSECUTIONS OF PEOPLE ORGANIZING OR PARTICIPATING IN GEZI PARK PROTESTS

According to the Human Rights Foundation of Turkey, more than 5,500 people have been indicted in 95 cases across 17 provinces, targeting organizers or participants in the Gezi Park protests.[33] In the small provincial city of Kırklareli alone, more than 3,000 people have been charged. Across Turkey at least 14 cases in eight provinces have been brought under anti-terrorism provisions. In almost all of the 95 cases the Law on Meetings and Demonstrations has been used to prosecute individuals, often in conjunction with the offences of "resisting a public official" and "damaging public property".[34] In addition, hundreds, possibly thousands, of people remain under investigation and face the possibility of future prosecution. In cases brought under anti-terrorism provisions and related articles of the Penal Code examined by Amnesty International, which carry sentences of up to 15 years imprisonment have been brought on the basis of participation at demonstrations, imputed association with political groups, which have not been banned and on occasion information and opinions shared via social media platforms. In the cases brought under the Law on Meetings and Demonstrations that have been examined by Amnesty International, the vast majority of those prosecuted have not been accused of any violent offences or are accused of violent offences without evidence pointing to their specific personal involvement in violent acts to substantiate the

charges. As such, the cases examined by Amnesty International threaten not only the right to peaceful assembly but also in many instances the right to freedom of association and conduct protected under the right to freedom of expression more broadly.[35]

PROSECUTIONS UNDER ORGANIZED CRIME AND ANTI-TERRORISM PROVISIONS

According to the Human Rights Foundation of Turkey, prosecutions related to the Gezi Park protests under organized crime and anti-terrorism provisions have been brought in Adana, Antakya, Antalya, Erzincan, Gaziantep, Istanbul, Izmir and Tunceli/Dersim.[36] Further investigations under anti-terrorism laws are ongoing in Ankara and Istanbul.

Prosecutions have been brought against those organizing or participating in protests under Article 314 of the Penal Code "membership of a terrorist organization", Article 220 of the Penal Code, which criminalizes leadership, membership or committing crimes in the name of a [terrorist or otherwise criminal] organization and Article 7/2 of the Anti-Terrorism Law "making propaganda on behalf of a terrorist organization". These charges continue a long history of prosecutions under laws that have been criticized by international and regional bodies including the Council of Europe's Commissioner for Human Rights, the United Nations Special Rapporteur on Human Rights while Countering Terrorism and the Organization for Security and Co-operation in Europe (OSCE).[37] The prosecutions brought in the context of the Gezi Park protests illustrate once again the failure to distinguish between criminal activities and those protected by the rights to freedom of expression, association and peaceful assembly, and use both protected conduct and potentially criminal conduct as the basis for unwarranted prosecutions on extremely serious criminal charges.

TAKSIM SOLIDARITY, ISTANBUL

Five members of Taksim Solidarity, a coalition of over 100 NGOs, political groups and professional bodies stand accused of "founding a criminal organization" under Article 220/1 of the Penal Code, "provoking others into participation in an unauthorized demonstration" under Article 34/1 of the Law on Meetings and Demonstrations and "refusing to disperse from an unauthorized demonstration" under Article 32/1 of the same law. Three of the five; Ali Çerkezoğlu, Secretary of the Istanbul Medical Association, Beyza Metin, Secretary of the Istanbul Chamber of Electrical Engineers and Mücella Yapıcı, General Secretary of the Istanbul Chamber of Architects are members of professional bodies that are part of the Taksim Solidarity coalition. The remaining two are Emre Imrek, Assistant President of the Emek (Labour) Party and Haluk Ağabeyoğlu, who works for a financial services company.

None of the information presented in the indictment against the five people constitutes evidence of participating in or incitement to violence or any other conduct not protected by human rights law. The evidence relates instead entirely to their peaceful presence at a gathering in Gezi Park on 8 July 2013 and their activities as members of the Taksim Solidarity coalition.[38] All five face up to 15 years imprisonment if convicted of all charges.

A first version of the indictment, in which the ruling AKP party was listed alongside two police officers as a "complainant", dated 30 January 2014 was rejected by the courts on the grounds that evidence presented did not justify the charges. A new indictment was accepted on 28 February 2014. It describes Taksim Solidarity as an organization containing "separatist", "marginal" and other civil society groups that was formed to oppose the re-development of Taksim and Gezi Park. It argues that Taksim Solidarity played an active role

in increasing the scale of the demonstrations by calling on people to demonstrate via social media and that the organization therefore played an important role in threatening order and security. The indictment states that the demonstrations resulted in damage to public and private property and that demonstrators (in general, not those indicted) threw Molotov cocktails, stones and bottles at the police.

The indictment further states that via Twitter, Facebook and other platforms, Taksim Solidarity reported deaths and injuries of protestors, called on police officers to resign, called for people to assemble in areas where demonstrations had been forbidden (Taksim Square and the adjacent Istiklal Avenue) and erroneously alleged that live ammunition was used against demonstrators, making the people enemies of the police and laying the ground for provocations by unspecified terror organizations and marginal groups.[39] It argues that the five formed an organization to commit crimes listed under Articles 32-34 of the Law on Meetings Demonstrations [which criminalize failure to obey an order to disperse from a demonstration, armed attendance of demonstrations and provoking others to attend unlawful demonstrations].

The main body of evidence consists of tweets sent by the defendants and from the Taksim Solidarity account, in which demonstrations are publicized, and information and opinions about the protests shared. None represent incitement to or evidence of participation in violence. Of the over one thousand tweets from the Taksim Solidarity account, the indictment includes tweets giving the address of makeshift health facilities set up to treat injured demonstrators, announcing demonstrations, condemning police violence, urging demonstrators to be peaceful and avoid provocations and notifying followers of their planned meeting with the Prime Minister. No indication is made in the indictment regarding which, if any, of the five defendants charged with forming the "criminal organization" sent the tweets from the Taksim Solidarity account. It appears that the five have been singled out – from the many others with leading roles in Taksim Solidarity - as conspirators on the arbitrary grounds that they attended and were detained at the demonstration on 8 July.

The indictment accuses a further 20 people of "refusing to disperse despite warnings after (unarmed) participation in an unauthorized demonstration" under Article 32/1 of the Law on Meetings and Demonstrations which is punishable by up to three years imprisonment. An additional person is charged with armed participation in an unauthorized demonstration under Article 33/1 on the basis of three slingshots and a number of marbles allegedly recovered on his person during arrest by police. He denies that he was in possession of the slingshots or marbles.

The crimes are alleged to have been committed on 8 July, the day Taksim Solidarity called supporters to attend a press statement at 7pm following the brief reopening of Gezi Park after being closed to the public since police violently ended its two week occupation by demonstrators. The five charged with "founding a criminal organization" are alleged to have called the 21 other defendants to the unauthorized demonstration. All 26 are charged under Article 32/1, on account of having allegedly refused to disperse from an unlawful protest of around 200 people on Istiklal Avenue at around 6.30pm. The indictment states that the 21 defendants charged with lesser offences attended the demonstration on the basis of a call from the five charged with forming a criminal organization.

The indictment notes that some of the defendants were found to have items such as gas masks, gloves and goggles, evidencing their participation in a demonstration.

On the basis of the information presented in the indictment it appears that the gathering was peaceful and should not, in any case, have been prevented from going ahead. The indictment refers to the demonstration as unauthorized citing the arbitrary decision of the Istanbul Governor of May 2013 that no demonstrations would be allowed in Taksim. It gives no indication that any acts of violence were committed at the spontaneous demonstration.[40] No evidence is presented either to show that the five were personally responsible for calling the other 21 indicted individuals to the demonstration; but even if they had, there is no legitimate basis on which to regard this call as unlawful. Attending the demonstration, being part of the Taksim Solidarity coalition and any call to peacefully participate in the demonstration are all activities protected by the rights to freedom of expression, association and peaceful assembly. It should be noted that Taksim Solidarity repeatedly urged those participating in protests related to Gezi Park to do so peacefully. The first hearing in the case is scheduled for 12 June.

ANTAKYA AND IZMIR CASES

In Antakya 26 people are currently standing trial accused of "membership of a terrorist organization" (Article 314 of the Penal Code), "making propaganda for a terrorist organization" (Article 7/2 of the Anti-Terrorism Law) and offences under the Law on Meetings and Demonstrations, including "failing to disperse from a demonstration" (Article 32/1) and "armed participation of a demonstration" (Article 33/1).[41] The charges are based on the participation of the accused at demonstrations, information shared by them on social media related to the demonstrations, and association with registered political parties and groups the authorities claim to be linked to terrorist organizations.

As in the case against the Taksim Solidarity members, Amnesty International is concerned that the prosecution uses conduct protected by the right to freedom of expression, association and peaceful assembly as evidence of the offences. The authorities also allege that the accused threw stones and other objects at the police, for which the evidence is weak in many cases, disputed by the defendants and, in any case, does not provide any demonstrable link to a "terrorist organization". Amnesty International is concerned that those on trial may be convicted as in previous cases brought for "membership of a terrorist organization" based on unsubstantiated evidence in violation of the right to a fair trial.[42]

The indictment provides information on seven separate illegal left wing organizations which are claimed to have participated in the Gezi Park protests under the leadership of the banned Revolutionary People's Liberation Party-Front (DHKP-C) through linked political groups and registered civil society associations. Prosecutors allege in the indictment that the defendants participated in the demonstrations on behalf of the "terrorist organizations". This is justified in the indictment by the existence of calls to participate in the demonstrations in media said to be linked to the "terrorist organizations" and because the defendants carried flags of, or were otherwise associated with political groups or registered associations linked to the "terrorist organizations" during their participation in the demonstrations.

Items recovered during police searches of AKA-DER, a registered association, including magazines, banners, placards and megaphones are listed as evidence. Items recovered from

the home shared by three of the defendants are listed as magazines, gas masks, a slingshot, a club, a bread knife, placards, a helmet and two empty bottles of wine that could be used to make Molotov cocktails.

Items shared by the defendants on Facebook, including invites to demonstrations and items with the names and logos of registered associations and political groups and photographs of the defendants holding the banners of legal associations AKA-DER and Kaldıraç, also a legal political group, are presented as evidence of making propaganda for a terrorist organization. There are also photographs that the authorities claim show the defendants throwing stones at the scene of demonstrations.

The indictment cites the pre-Gezi attendance of a number of the defendants at a demonstration in May 2013 to mark the execution of three students, Deniz Gezmiş, Yusuf Aslan and Hüseyin İnan in 1972. The indictment states that the three executed students were members of the now defunct terrorist organization THKO, and that the attendance of those indicted at the demonstrations amounts to making propaganda for a terrorist organization, though it is not specified which one.

In respect of one of the defendants, the indictment states that the defendant was seen at a demonstration throwing stones. The indictment states that he was not carrying any symbols of a "terrorist organization" and that he is therefore not assumed to be a member of a "terrorist organization" on this account. However, the defendant was later seen to attend a press conference in which a press statement signed by People's Front [of unsubstantiated content] was read out and slogans including "Murderous Police, keep away from our association". It is his participation at this event, but nothing in his individual behaviour during it that is presented as evidence of making propaganda for a terrorist organization and being a member of one.[43]

The next hearing of the trial is due to be heard by the Antakya Heavy Penal Court no. 2 on 15 May.

In Izmir, six prosecutions have been opened under anti-terrorism laws in relation to the Gezi Park protests.[44] The cases are strikingly similar to each other and the Antakya prosecution in terms of the descriptions of the Gezi Park protests and the participation of "terrorist organizations". The prosecutions follow the same logic that the defendants participated in the protests based on the call of left wing "terrorist organizations", which is supposedly substantiated by the fact that media said to be close to these organizations called for participation at the protests and that the defendants themselves were associated with political groups, which, though lawful, are described as linked to "terrorist organizations".

The prosecutions are brought under Article 220/6 of the Penal Code "committing a crime in the name of a [terrorist] organization". Amnesty International has previously called for the abolition of the provision on the grounds that courts have used this Article as the basis for imposing increased sentences for supposedly criminal activity with little evidence of the commission of a recognizably criminal offence or any demonstrable link to a "terrorist organization". In the six Izmir cases, prosecutors do make allegations of genuinely criminal conduct, namely the throwing of stones or other objects at the scene of demonstrations. Most of the defendants also face charges of "resisting a police officer" under Article 265 of the

Penal Code and offences of "failing to disperse from a demonstration" and "armed participation in a demonstration" under Articles 32/1 and 33/1 of the Law on Meetings and Demonstrations respectively.

However, other conduct protected by the rights to freedom of expression, association and peaceful assembly is then presented as evidence of the commission of terrorist offences. Among the activities protected by the right to freedom of expression used to substantiate the charge of "committing a crime on behalf of a terrorist organization" are invites sent by defendants via Facebook to attend demonstrations, and as in the Antakya case, the attendance at a protest to commemorate the 1972 death of executed political activists said by the authorities to be terrorists. In one prosecution of eight defendants the indictment states that at the demonstration the slogan "the only way is revolution" was shouted, supposedly evidencing the fact that the demonstration was an attempt to overthrow the current constitutional order and provoke other "terrorist" acts.[45]

Amnesty International calls on the authorities to ensure that only persons found to have individually participated in acts of violence or other recognizably criminal acts face prosecution. Amnesty International calls on the authorities to throw out cases brought under provisions for membership and "committing a crime in the name of a [terrorist] organization" which fail to demonstrate a link between the individual and a "terrorist organization".

PROSECUTIONS UNDER THE LAW ON MEETINGS AND DEMONSTRATIONS AND RELATED PROVISIONS OF THE PENAL CODE

The prosecutions described below provide illustrative examples of the failings witnessed in over 30 cases in 12 provinces examined by Amnesty International. These cases illustrate some of the ways in which the legal framework in Turkey facilitates politically motivated prosecutions, including many in which people are punished for nothing more than exercising their human rights to freedom of peaceful assembly and expression. The prosecutions in effect continue the violation that is committed when peaceful demonstrations are arbitrarily considered "unauthorized" by the authorities and unnecessary and abusive force is used to disperse them, by criminalizing participation in those demonstrations. In many cases prosecutions are solely on the basis of police incident reports stating that individuals were detained at the scene of demonstrations, without further allegations of individual violent behaviour. During the Gezi Park protests however, Amnesty International observed and received numerous credible reports of individuals being arbitrarily detained at the scene of demonstrations, solely on the basis that they had participated or were going to participate in demonstrations.[46] Amnesty International is therefore concerned that hundreds if not thousands of demonstrators are being prosecuted for conduct protected by the right to freedom of peaceful association, and in other cases that people who were at the scene of demonstrations but not participating are also facing prosecution.

Amnesty International is also concerned that in cases where recognizably criminal acts are alleged, commonly damage to property or throwing stones or other items at police, individuals are being prosecuted without evidence to substantiate charges that they themselves engaged in violent acts. Instead evidence is brought that violent acts were committed at demonstrations they were participating in.

The cases reviewed below, brought under the Law on Meetings and Demonstrations and related provisions of the Penal Code, illustrate the need for an urgent review of the law to bring it in line with international human rights standards, including the abolition of certain provisions that directly and unlawfully limit the right to peaceful assembly.

SHORTCOMINGS IN TURKISH LEGISLATION ON PUBLIC ASSEMBLIES

The right to freedom of peaceful assembly is enshrined in major human rights treaties to which Turkey is party, including the 1966 International Covenant on Civil and Political Rights (ICCPR) and the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

Detailed guidance on the regulation of peaceful assemblies in line with international standards can be found in the reports of the UN Special Rapporteur on the rights of peaceful assembly of association. The Organization for Security and Cooperation in Europe (OSCE) has elaborated extensive guidelines, [47] while the European Court of Human Rights has issued several judgments clarifying the scope of the right to freedom of peaceful assembly, including in respect of Turkey.

The right is also protected by Turkey's Constitution. Article 34 of Turkey's Constitution provides for the right to demonstrate peacefully without obtaining prior permission subject to limitations proscribed by law with the intention of protecting national security, public order, prevention of crime and the protection of the right and freedoms of others.[48] Turkey's constitutional guarantee of the right to freedom of peaceful assembly is broadly in line with the restrictions on the right found in international law. The European Convention on Human Rights, for instance, stipulates that no restrictions may be placed on the right to peaceful assembly and association other than those "prescribed by law and [...] necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others."[49]

The Law on Meetings and Demonstrations, No. 2911, regulates the conduct of the authorities and protestors alike in relation to demonstrations.[50] The restrictive nature of this law and the arbitrary application of it has presented a fundamental barrier to guaranteeing the right to peaceful assembly in Turkey. Extensive criticism of the authorities' restrictive approach to peaceful assemblies was made following the Gezi Park protests during the summer of 2013. However the law, which was subject to cosmetic changes in March 2014 (See section on changes to the Law on Meetings and Demonstrations and regulations regarding the policing of demonstrations, p.33) remains highly restrictive and its application by the authorities remains unchanged.

Article 3 of the Law provides for the right of all persons to hold peaceful demonstrations without obtaining prior permission.[51] However, Article 10 requires the organizers of meetings and demonstrations to notify the authorities in detailed terms of the nature of the demonstration and its time and location 48 hours ahead of the planned demonstration. Under Article 23, the failure to provide such notice automatically renders a public gathering unlawful.[52]

The existence of a notification procedure is not in itself an unlawful limitation to the right to freedom of peaceful assembly, but the procedure in Turkey is both overly burdensome and in practice applied in such a restrictive manner that it is akin to obtaining permission. International standards on the freedom of peaceful assembly are quite clear that the exercise of the right to freedom of peaceful assembly should not be subject to the permission of government authorities. States may require notice – but not authorization - of assemblies in order to facilitate the right of peaceful assembly and in order to take measures to protect public safety or the rights of others. As the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association has stated, the "exercise of the right to freedom of peaceful assembly should not be subject to prior authorization by the authorities, but at the most to a prior notification procedure, which should not be burdensome."[53]

The European Court of Human Rights has repeatedly noted that the purpose of notification requirements must be to allow the authorities to take reasonable and appropriate measures to guarantee the smooth conduct of any assembly, meeting or other gathering.[54] The Court considers that while the authorities may use notification requirements to prevent disorder or crime, these should not "represent a hidden obstacle to the freedom of peaceful assembly protected by the Convention."[55] According to the Court, "any demonstration in a public place may cause a certain level of disruption to ordinary life", including disruption of traffic. However, "where demonstrators do not engage in acts of violence, it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the ECHR is not to be deprived of all substance."[56] The withholding of approval solely on the basis of the possibility of disruption of traffic, for example, would not be permissible under the Convention. Authorities must ensure that responses to this disruption are necessary and proportionate and do not lead to restrictions that render the freedom to peaceful assembly meaningless.

Similar guidance with regard to the notification requirement is provided by the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE ODIHR).[57] The Guidelines note that where notification of assembly is required, this must constitute "a notice of intent rather than a request for permission."[58]

The Law on Meetings and Demonstrations is also highly restrictive in placing strict limitations on the times – requiring all demonstrations to end at sunset at the latest - and places that demonstrations are allowed to take place under Articles 6, 7 and 22.[59] Examples of the restrictions applied to places include the stipulation made by the authorities in relation to the 2014 May Day demonstrations in Istanbul that any large demonstrations in the city could henceforth only take place in one location on the Asian and one location on the European side of the city (see section on May Day, Istanbul 2014,p.35). Such blanket restrictions also contravene the proportionality test within the OSCE guidelines.[60]

Further restrictive limitations found within the Law on Meetings and Demonstrations include those found under Article 23 which lists the circumstances under which a meeting or demonstration will be regarded as unlawful, including the absence of prior notification, the demonstration not sticking to the issue regarding which notification was provided for, the presence of symbols of a banned organization or if participants cover their face to hide their identity.[61]

PROSECUTIONS BROUGHT SOLELY FOR PEACEFUL PARTICIPATION IN DEMONSTRATIONS

Prosecutions brought for participation in demonstrations are commonly brought under Article 28/1 of the Law on Meetings and Demonstrations, "participation in an unauthorized demonstration", which carries a sentence of up to three years imprisonment, and Article 32/1 of the law, "failure to disperse from an unauthorized demonstration", which carries a maximum term of three years imprisonment. In a minority of cases, prosecutions are brought under Article 28/1 for participation in "unauthorized" demonstrations that were not dispersed with force by police. The majority of prosecutions relate to demonstrations which were dispersed with force by police and for which either 28/1 or, more commonly, Article 32/1 is used to prosecute the same conduct.

Article 28/1 "Participation in an unauthorized demonstration"

The following cases, all brought under Article 28/1 of the Law on Meetings and Demonstrations, have been brought solely for peaceful participation in demonstrations.[62] Two cases brought in the city of Kırklareli, relate to demonstrations where police are not recorded in the indictments as having made any attempt to prevent the demonstrations taking place, no violent conduct was alleged to have taken place and no arrests were made. All the accused were identified by video recordings of the protest. In addition to the peaceful nature of the demonstration, given that the authorities apparently did not state at the time that the demonstration was unauthorized, it appears hard to understand how the participants could understand that they were committing a criminal offence. The prosecutions of 89 people in connection with a demonstration on 6 June 2013, and 60 people in connection with a demonstration on 8 June 2013 under Article 28/1 of the Law on Meetings and Demonstrations are based on the allegation that the demonstrations were unlawful in that no notification had been made to the authorities that they were to take place, disruption of traffic and that they took place in inappropriate locations.[63]

An ongoing case from the Kadıköy district of Istanbul relates to a spontaneous protest on 11 September 2013 following the death of protestor Ahmet Atakan the previous day.[64] The charges are based on the fact that all 13 of the accused were detained by police in side streets following their use of force to disperse the demonstration. According to the indictment six people detained accept that they were taking part in the demonstration while seven deny it. The demonstration is stated to be unlawful but not violent with around 6,000 people gathering in groups in the Kadıköy area at around 8pm. Indeed according to the indictment it seems that a peaceful demonstration was dispersed with force by police. Furthermore, given that the only evidence for their participation in the demonstration is their detention from side streets following the dispersal of the protests, in what is a busy entertainment district, the claims of the seven denying their participation in the demonstrations are perfectly credible.

The prosecution of 176 individuals in Eskişehir under Article 28/1 of the Law on Meetings and Demonstrations is also based on the fact that all the accused individuals were detained at the scene of a demonstration [of an unspecified number of people]. According to the indictment, the demonstration started at 7pm in the city's Eti Park before leaving the park at 9.45pm with participants shouting the slogans "The ones who resist will win, Gezi Park is ours""Taksim will be the grave of fascism", "shoulder to shoulder against fascism", "AKP fall down, Shopping Centre [AVM] be burned" "get lost AKP, this country is ours","Metin Lokumcu [protestor who died at the scene of a demonstration in Hopa in 2011] is our honour", "Metin's killers are the AKP police", "Chemical Tayyip", "Get lost AKP, this country

is ours", "Everywhere is Hopa, everywhere is resistance", "Everywhere is Taksim, everywhere is resistance". According to the indictment, the police warned the demonstrators to disperse but they refused and threw stones, glass bottles and plastic bottles full of water at the police. The police intervened to break up the demonstration with force but demonstrators refused to disperse and set up barricades. Police continued to use force against the demonstrators and detained the indicted people at the scene.[65] The indictment states that some of the individuals were identified as being at the scene of the demonstration by video footage. While the indictment references the fact that bottles and stones were thrown at the police during the demonstration in general, no individual accusation is made against any of the people indicted.

Article 32/1 "Failure to disperse from an unauthorized demonstration" and other provisions
The cases below have been brought under the offence of "failure to disperse from a demonstration" under Article 32/1 of the Law on Meetings and Demonstrations.[66] The provision criminalizes participation at a demonstration following dispersal by force by police without any requirement for any violent act to have been committed by the accused. Given the routine use of unnecessary and abusive force to arbitrarily prevent and disperse peaceful demonstrations seen during the Gezi Park protests, Amnesty International is concerned that prosecutions under Article 32/1 of the Law on Meetings and Demonstrations are being used to criminalize conduct protected under the right to freedom of peaceful assembly.

The problems associated with prosecutions under Article 32/1 of the Law on Meetings and Demonstrations are well illustrated by a case opened in connection with spontaneous protests in Istanbul on 10 September 2013. The protests took place following the death the previous day in Antakya of protestor Ahmet Atakan who died in disputed circumstances. The authorities issued a statement saying that Ahmet Atakan died as a result of falling from a building, while protestors at the scene claimed that he was hit by a tear gas canister prior to falling. 25 individuals are accused of participating in protests in the Taksim area in violation of Article 32/1 and, in addition, Article 34/1 of the Law on Meetings and Demonstrations "provoking others to participate in an unauthorized demonstration" and Article 265/1 of the Penal Code "resisting a public official".[67] In this and other cases examined by Amnesty International, Article 265 is used to prosecute the same conduct as that criminalized under Article 32/1 without the accusation that they were engaged in "force or threats" against police as required to be prosecuted under 265.[68] The accused face a maximum of 14 years imprisonment if found guilty of all charges. The allegations are based on that fact that they were detained at the scene of the demonstrations and on items that some of the accused were found to be in possession of when detained: goggles, gas masks, helmets and cloth to cover the face allegedly proving their determination to demonstrate despite police efforts to disperse the protests. In only one case does the prosecution claim to have video footage of an individual throwing items at police officers. A number of the accused claim that they were arbitrarily detained without ever having participated in the demonstrations; three individuals allege that they were arrested and are now being prosecuted simply because they were taking photographs at the scene of the protest without having a press card. In a number of cases those detained allege that they were ill-treated on arrest. According to the indictment, investigations into the alleged ill-treatment were continuing. The allegations of ill-treatment and arbitrary arrest match many such allegations reported to Amnesty International during the time of the Gezi Park protests.[69]

Another case brought against protestors under Article 32/1 of the Law on Meetings and Demonstrations has been brought against 35 people accused of failing to disperse from an unlawful assembly on 16 June, the day of the funeral of Ethem Sarısülük, a protestor shot by a police officer at a Gezi Park demonstration on 1 June and who died of his injuries on 14 June 2013.[70] The indictment does not differentiate between the three individuals for whom evidence is presented that they participated in violent acts and those who were merely detained at the scene on the basis of the possession of items supposedly indicating their intention, *ab initio*, to violently resist dispersal.

The detention and prosecution of individuals detained at or around the scene of violently dispersed protests on the basis of their possession of protective items, such as gas marks, is a common feature of many prosecutions. This has been consistently taken by prosecutors as indicating an intention to resist lawful instructions to disperse, as opposed to reasonable precautionary measures taken by peaceful protestors well aware of the likelihood of abusive and excessive force being used to arbitrarily – and unlawfully – disperse them.

The authorities had refused in advance to allow the funeral procession to pass through the central Ankara district of Kızılay in order to prevent "provocative and [other] unwanted events" without specifying what these events may be or how the authorities came to the conclusion that such events would take place. According to the indictment, in line with this, police issued warnings at 3pm before dispersing the assembly using force.[71] Indicted individuals allege that the police intervened with abusive force without warning and that they were ill-treated on arrest. Police incident reports related to a separate case - the investigation into the injuring of Dilan Dursun, who was hit in the head by a tear gas canister fired from close range by a police officer at the same demonstration (see boxed text p.8), disclose that 5,000 tear gas canisters were used to disperse a crowd of 20,000 protestors that day.

According to the indictment three of the accused are allegedly shown in video footage to have thrown stones, a further demonstrator was allegedly identified as having a stone in his hand, and another is alleged to have mounted a water cannon vehicle. Five others were allegedly identified by the footage to have been at the scene of the demonstration without further qualification or separate allegation of criminal conduct. The remaining 25 are indicted on the basis of the fact that they were detained at the scene and due to items they were found to be carrying. These items are listed collectively in the indictment as gas masks, swimming goggles, solution, lemons, milk, vinegar [to treat exposure to tear gas], flags belonging to civil society organizations, scarves "that could be used to cover the face", laboratory glasses, helmets, face masks, spray paint, marbles and empty gas canisters. Amnesty International is concerned that possession of any of these items would not be sufficient evidence of the commission of a criminal offence.

On the basis of the information presented in the indictment, the vast majority of those indicted are not accused of any act of violence and are being prosecuted merely for attending a peaceful demonstration that was arbitrarily refused permission to go ahead and dispersed with abusive force by police. The fact that following the dispersal with force by police, other individuals are alleged to have thrown items at police is not sufficient to establish criminal conduct, or criminal intent, on the part of other protestors in an otherwise peaceful demonstration.

The prosecution of 17 people accused under Article 32/1 and, additionally, of "resisting police officers" under Article 265/1 of the Penal Code in connection with a demonstration in the Taksim area of Istanbul on 5 June 2013, provides another example of the failure of prosecutors to present evidence of individual criminal liability.[72] According to the indictment, a group of around 3,000 people walked from the Dolmabahçe area of Beşiktaş towards Gezi Park. Police blocked the road and issued a warning that the demonstration was unlawful. After waiting 15 minutes, the police dispersed the demonstration with water cannon. According to the police, the majority of demonstrators left the scene of the demonstration while a group of approximately 20 people stayed and chanted slogans. The indicted persons are accused of being part of this group. According to the indictment the group did not engage in violence but did block the road with barricades following the use of force by police to disperse the demonstration. The prosecution is based on police reports detailing the events and the fact that the accused were detained at the scene. The indictment also records that three of the accused were found to be in possession of a blanket, a gas mask and a helmet, vinegar, two protective masks and swimming goggles respectively, proving according to the indictment that they came to the demonstration "prepared" to resist police. A further charge, substantiated only by the police record, is that the group of demonstrators shouted slogans swearing at the Prime Minister and for this reason each of the defendants is charged with defamation under Article 125/1-3 of the Penal Code, which is punishable by between one and three years of imprisonment. Amnesty International is concerned that the charge of criminal defamation of a head of government itself is contrary to international human rights standards.[73] Irrespective of the nature of the alleged slogans, there is no evidence that the individuals themselves shouted the slogans, only that according to the police, they were part of a group from which the slogans were heard.

ALLEGATIONS OF RECOGNIZABLY CRIMINAL OFFENCES WITHOUT SUBSTANTIATING EVIDENCE

Some cases where recognizably criminal conduct, such as violent acts, are alleged to have been committed at the scene of demonstrations also raise serious human rights concerns. In some of these cases no evidence of the offences is presented or they are substantiated solely through police reports of the events. In other cases criminal responsibility for alleged violence is assigned to individuals, whose own involvement in violent acts committed at the scene of demonstrations is not individually evidenced.

A case involving 39 people accused of violent acts at the scene of demonstrations in Istanbul is based on a police incident report, in which one of the key points of evidence is contradicted by a widely known public source. It relates to events on 16 June 2013 in the Taksim district of Istanbul following the call by Taksim Solidarity to attend a press statement at 7pm.[74] All 39 defendants are charged under Article 32/1 and 32/2 of the Law on Meetings and Demonstrations, alleging both "unarmed" (32/1) and armed (32/2) "refusal to disperse from a demonstration" and Article 33 of the Law on Meetings and Demonstrations "armed participation in a demonstration". Alper Merdoğlu (see boxed text p.26) and nine others are additionally charged with "provoking others to take part in an unlawful demonstration" under Article 34/1. The charges brought against Alper Merdoğlu and some of the other defendants are based on the allegation found in the indictment, based on the police report, that they were detained after arriving at the scene of a demonstration close to the Inönü stadium between Beşiktaş and Taksim in a vehicle containing sticks and other items that could be used to attack the police and that a group of about 30 people inside the vehicle threw stones from the vehicle and attacked police with sticks. However, widely circulated photographs

including one that featured on the front page of the New York Times[75] show Alper Merdoğlu being detained and ill-treated by police officers more than a kilometre away on Sıraselviler Avenue close to Taksim Square. An Amnesty International observer present at the scene of the demonstration on Sıraselviler that day witnessed police repeatedly using abusive force against peaceful demonstrators including water cannon and tear gas and arbitrarily detaining people. Defendants who were present in the vehicle refute the allegation that they attacked the police. They maintain that they are construction workers who played no part in the demonstrations and that the items in the vehicle were their tools.

A prosecution in Muğla illustrates the practice of holding all the participants at a demonstration responsible for any violent acts that take place there. The case, which is similar to others brought in Muğla, has been brought against 159 people accused of violent offences during a demonstration on the night of 1 June.[76] According to the indictment, the authorities believed that the demonstration would be violent and as a result police warned demonstrators [the number of participants at the demonstration is not specified] that the assembly was unlawful and that they must disperse. Force was then used to disperse the demonstrators and clashes ensued with [an unspecified number of] demonstrators throwing stones, sticks and bottles at police. During the course of the clashes a police officer was lightly injured and 4,000 Lira (1,400 Euro) and 15,000 Lira (5,200 Euro) worth of damage was allegedly done to public and private property respectively. It is stated in the indictment that because the demonstration took place at night, video footage could not establish the identities of the people responsible for the damage but that the footage showed that demonstrators had acted together. On the basis of Article 37 of the Penal Code, which provides for persons that commit a crime together with the perpetrator to bear the same responsibility, The 159 defendants are identified as having participated in the demonstration but no evidence - such as CCTV footage or detention at scene - is presented in the indictment to substantiate this. They are all charged with "resisting police officers" under 265/1 of the Penal Code, which is punishable with between one and three years imprisonment and of damaging property under Article 152 which carries a sentence of between one and 12 years imprisonment. The 159 accused are also charged with participation in an unauthorized demonstration under Article 28/1 of the Law on Meetings and Demonstrations which carries a sentence of up three years imprisonment. Amnesty International is concerned that the prosecution for participation in the demonstration does not allege individual responsibility for recognizably criminal behaviour. While criminal acts may have occurred, there is a complete lack of any concrete evidence linking the individuals to the violent offences with which they are charged.

Alper Merdoğlu was detained on 16 June close to Taksim Square in Istanbul. Despite having photographs and a medical report substantiating his claim that he was beaten by police at the time of his detention, the investigation into the actions of the police officers remains stalled nearly one year later. He himself is being prosecuted however. A prosecution based on his participation in a demonstration that day has been opened based of the account of the events provided by police. If convicted he faces a maximum of 9 years in prison.

Alper Merdoğlu is a member of the board of the Istanbul Branch of the Chamber of Engineering Physicists, a member organization of Chamber of Architects and Engineers (TMMOB), a professional association that played an active role in the Taksim Solidarity coalition. On 16 June, Alper Merdoğlu planned to attend a Taksim Solidarity press conference at 7pm, following the clearing of Gezi Park the previous day. However, police had already began using force to disperse the crowd assembled on Sıraselviler Avenue, close to Taksim Square.

Alper Merdoğlu told Amnesty International that police officers attacked everyone in the vicinity of Sıraselviler. He was on the ground when around five police officers beat him with batons, kicks and punches, put handcuffs on him and pepper sprayed his face with a hand held device. Alper Merdoğlu told Amnesty International that police took him to Taksim Square where he was further beaten and sprayed with pepper spray before being put on one police bus after another, being beaten by police each time. "All in all, the time I was on the buses was around one hour. They were beating me and all the while shouting insults at me, including threats to rape members of my family."

Police took Alper Merdoğlu for the routine medical examination. He told Amnesty International that a police officer was in the room during the medical examination. The medical report stated he had been assaulted. The doctor diagnosed a burst eardrum but this was not noted in the medical report, which referred to a 'hearing problem in the ear' bruising on the nose bridge, superficial injuries on the feet and knees and bruising on the left arm, left shoulder and on his back. He had a back and head tomography taken.

Police officers took Alper Merdoğlu to detention facilities at Istanbul's main Security Directorate, on Vatan Avenue in Fatih. On 18 June he was taken to Çağlayan Courthouse, charged with violating the Law on Meetings and Demonstrations and finally released at around 9pm, more than 48 hours after he was first detained by police.

In August 2013, Alper Merdoğlu made a criminal complaint against the police officers who beat him, providing photographs of the moment he was detained by police on Sıraselviler, including one that was used on the cover of the New York Times on 17 June. Other photographs show close up images of Alper Merdoğlu being led away police officers. The photographs also show close up images of the faces of police officers without gas masks that should make identifying them a formality. Despite this the investigation remains stalled with the police officers involved not identified nearly one year later.

Prosecutors have been far more proactive in investigating his alleged unlawful participation at a demonstration that day. A prosecution continues against Alper Merdoğlu based on the allegation that he was detained after arriving at the scene of a demonstration close to the Inönü stadium between Beşiktaş and Taksim, a location more than a kilometer from where he was photographed being detained. He is charged under Article 32/1 and 32/2 of the Law on Meetings and Demonstrations, alleging both "unarmed" (32/1) and armed (32/2) "refusal to disperse from a demonstration" and Article 33 of the Law on Meetings and Demonstrations "armed participation in a demonstration". He is also charged with "provoking others to take part in an unlawful demonstration" under Article 34/1 of the Law on Demonstrations. In the first hearing of the trial on 19 March, which was observed by Amnesty International, the judge told Alper Merdoğlu, who was providing his statement to the court, not to give details of his ill-treatment on detention, telling him "the police are not the defendants". The second hearing was scheduled to take place on 20 May.

PROSECUTIONS AND OTHER HARASSMENT OF GROUPS PERCEIVED TO SUPPORT THE GEZI PARK PROTEST MOVEMENT

During the Gezi Park protests, senior members of the government and other public officials frequently insulted, criticized and threatened those they perceived to be supporting the demonstrations. Targets of these attacks included doctors who treated those injured at the scene of demonstrations in makeshift health clinics, lawyers who defended the rights of protestors and protested against government abuses and journalists and social media users who documented the events and publicized the opinions of protestors ignored by the mainstream media.[77] Just as the authorities have sought to prosecute those who attended the

demonstrations, so have they continued the harassment of groups they perceive have supported the protests. The cases detailed below provide examples of the attempts the government continues to make to punish those they perceive to have supported the protests.

MEDICAL PERSONNEL

Volunteer medical personnel played a key role during the Gezi Park protests, staffing makeshift health clinics to provide first aid to those injured at the scene of demonstrations. This role was especially vital given the scale of the injuries, numerous reports of ambulances refusing to attend the scene of demonstrations on "security grounds" and because the injured in some cases avoided hospitals for fear of being identified as protestors.[78] During the protests, makeshift health clinics were raided by police, including by using tear gas inside buildings. Amnesty International received reports that police assaulted and detained medical personnel during the course of their duties.[79]

Since the end of the protests doctors have been subjected to unfair disciplinary punishments and in two cases, criminal prosecution for providing first aid in makeshift medical clinics. Medical associations who established the makeshift health clinics have also been subjected to administrative prosecutions by the authorities. In January 2014, the government brought legislative amendments which could be used to criminally punish the provision of emergency medical treatment during protests. All proceedings brought against medical personnel and medical associations should be dropped.

ATTEMPTS TO SANCTION THE PROVISION OF MEDICAL CARE UNDER EXISTING LAWS AND REGULATIONS

The authorities have consistently presented the makeshift health clinics set up in several cities in the wake of the protests as illegal. During the protests, the Minister of Health pledged to investigate doctors staffing these makeshift health clinics and his ministry requested from medical associations the names of the volunteer doctors and patients they treated in them.[80] The ministry also issued a communication to the Union of Turkish Medical Associations that the makeshift health clinics were "illegal and should be closed immediately."[81]

To date, two doctors**, Sercan Yüksel** and **Erenç Yasemin Dokudan**, have been criminally prosecuted for providing medical care on the grounds that they assisted persons committing criminal acts (protestors at an "unauthorized" demonstration) and that they damaged a place of worship by treating patients inside a mosque. Both provided first aid inside a mosque in the Dolmabahçe area of Istanbul. The indictment details the fact that they provided medical care to injured demonstrators inside the mosque, that medical supplies were brought, that the injured were separated into three groups depending on the seriousness of their injuries, and that the doctors did not provide the identities of the injured people to the authorities. It is also claimed that the mosque was damaged by using it as a makeshift clinic, leaving rubbish and entering with shoes, a claim denied by the accused.[82] News of the makeshift health clinic in the mosque was reported widely at the time of the protests and was attacked by the Prime Minister who accused protestors of drinking alcohol and wearing shoes inside the mosque.[83] In September 2013, the imam who refuted these claims was transferred to another mosque along with the muezzin. The Ministry of Religious Affairs denied that the transfer was related to the events of the Gezi Park protests and stated that an investigation into the events at the mosque was continuing.[84] The doctors are accused of damaging a place of worship under Article 153/2-3 of the Penal Code and protecting a criminal under Article

283/1 of the Penal Code on the grounds that they treated demonstrators inside a mosque who had participated in an "unlawful" demonstration. They face a maximum term of imprisonment of six years and four months if convicted on both charges.

A number of medical professionals are facing criminal prosecution for protest related offences. The Union of Turkish Medical Associations told Amnesty International that the heads of Kırklareli and Balıkesir medical associations were being prosecuted under the Law on Meetings and Demonstrations on the grounds that they participated in demonstrations. **Ali Çerkezoğlu**, the Secretary of the Istanbul Medical Association is being tried for "founding a criminal organization" for his role as prominent member of Taksim Solidarity (see p.15).

Administrative proceedings have been brought against medical association personnel in cities across Turkey with doctors reportedly receiving notification that they were being investigated by the Ministry of Health.[85] Identical cases to remove the board members of the Ankara Medical Association and the Hatay Medical Association were initiated in January 2014 on the grounds that they opened "without authority, illegal and out of control makeshift health clinics which lay outside the role of the association."[86] The disciplinary proceedings against the board of the Hatay Medical Association also makes reference to statements made by the head of the medical association regarding medical opinions on the death of protestor Ahmet Atakan in the province.[87] The then head of the Adana Medical Association, Dr. Ali İhsan Ökten, received a disciplinary punishment of "admonishment" due to his "participation in Gezi Park protests outside of work hours" on the grounds that it amounted to behaviour "not befitting a civil servant". Three other medical personnel active during the protests in Adana were given the same punishment.[88]

LEGAL AMENDMENTS PROVIDING EXPLICIT CRIMINALIZATION OF "UNLICENSED MEDICAL SERVICES"

In January 2014, Parliament passed into law provisions criminalizing the provision of "unlicensed medical services", making it punishable with between one and three years' imprisonment and a fine of up to 2,000,000 Lira (700,000 Euro).[89] The law was passed despite warnings from the UN Special Rapporteur on the right to health that the legal amendments would "have a chilling effect on the availability and accessibility of emergency medical care in a country prone to natural disasters and a democracy that is not immune from demonstrations".[90] The provisions specify that emergency care can be provided only in the absence of emergency services personnel, speaking directly to the Health Ministry's criticism of the makeshift health facilities set up during the Gezi Park protests that they existed despite the availability of official medical services. Following the passage of the law, government officials confirmed that makeshift facilities such as those that operated during the Gezi Park protests would be unlawful under the terms of the new provisions.[91]

As of the end of April 2014 no further makeshift health clinics had been established at the scene of demonstrations to test the application of the law following the January amendments. However, given the fact that the authorities have attempted to sanction medical associations and medical personnel under pre-existing provisions, and the statements of Ministry of Health regarding the applicability of the amendments to the type of makeshift clinics seen during the Gezi Park protests, it is clear that there is a grave danger of these provisions being applied abusively. Amnesty International is concerned that the provisions themselves represent a substantial threat, likely to prevent qualified medical personnel providing first aid to protestors outside of official medical facilities in future, and urges their repeal.

THE ONGOING HARASSMENT OF JOURNALISTS AND SOCIAL MEDIA USERS

Independent journalists played an important role in documenting the events during the protests and representing the views of the protestors. The fact that the mainstream media failed to cover the protests, increased the importance of their work but also their vulnerability. During the period of the protests, from 27 May until 30 September 2013, 153 journalists were reported injured and 39 detained at the scene of demonstrations.[92] Journalists working for international media were subjected to unprecedented pressure as the authorities accused the international media of exaggerating or even orchestrating the protests. A number reported that they had received anonymous death threats.[93] Pressures on journalists in the national media took a different and more direct form, with many critical journalists reported to have been forced out of their jobs as result of editors' and media owners' desire to maintain good relations with the government. By the end of July 2013, the number of journalists reported to have been forced out of their jobs had risen to 81.[94] Following the end of the protests two criminal investigations have been started against individuals documenting the protests that crudely violate the right to freedom of expression and illustrate the authorities' severe aversion to dissent. They reveal once again the way in which defamation and incitement to hatred legislation are used to silence government critics in Turkey.

Social media has been the main focus of the authorities' ire, with the Prime Minister's pledge to take action against the "menace" of twitter being realised in the form of draconian amendments to the internet law, the blocking of social media sites and criminal prosecutions against social media users.[95]

Erol Özkoray is being prosecuted for defaming the Prime Minister under Article 125 of the Penal Code for a book entitled "Gezi Phenomenon" that documented the Gezi Park protests. The book reports graffiti scrawled on walls during the protests including "Don't be a donkey listen to the people", "Poppet Tayyip", "Resign, ignoble", "Hypocrite Tayyip, the crime isn't yours, it's your mother's who gave birth to you". Film director **Serkan Koç** is being investigated for defamation against the Prime Minister and "incitement to hatred or hostility" under Article 216 of the Penal Code for his popular film "The Beginning" that documents the actions of police and Gezi Park protestors. The two works simply present critical voices during the Gezi Park protests and critique the government's response. There is nothing in either that does not fall within the legitimate exercise of the right to freedom of expression.

The Turkish government was quick to criticize the role of social media during the Gezi Park protests. Prosecutions of those active on social media platforms during the protests have inevitably followed as have a series of restrictions on internet use. Prosecutions of protestors frequently refer to the Gezi Park protests as having been driven by calls to protest on social media - and Facebook posts and tweets in some cases make up a large body of the evidence.[96]

A standout case based entirely on tweets has been opened against 29 young people in Izmir for "inciting the public to break the law", under Article 217/1 of the Criminal Code. Three of the defendants are additionally charged with defaming the Prime Minister.[97] All the tweets were sent during the first weekend of the protests. They provide information, such as where the police were using force against demonstrators and available wireless passwords, or contain opinions and messages of support for the demonstrations. None of the tweets in the

indictment contain any incitement to, or indication of participation in, violence. A number of the tweets are said to defame the Prime Minister, who intervened in the case and is listed as a "victim". The police operation to arrest the social media users took place in June 2013, the day after the Prime Minister notoriously referred to twitter as a "menace". After two hearings the case was postponed until 14 July.

In a move muted since the Gezi Park protests, on 20 February 2014, the authorities blocked the social media website Twitter on the basis of an administrative order.[98] The website remained blocked for 14 days despite a court ruling declaring the block unlawful. The ban was finally withdrawn after the Constitutional Court ruled in favour of lifting the ban. The attempted blocking of Twitter (which was in any case, easily circumvented) came just weeks after sweeping changes were made to the Internet Law. The amendments passed on 5 February 2014, expanded the authorities' powers to block content on the internet on the vague grounds of violating personal rights and obtain users' data traffic records, threatening the rights to freedom of expression and privacy.[99]

CIVIL SERVANTS

Civil servants have been particularly vulnerable to harassment for their alleged support for or participation in the Gezi Park protests on account of the power of authorities to dismiss them from their jobs. Examples of the abuse of this power include two teachers from Bartın who were reported to have been dismissed for their alleged encouragement of students to support the protests while on a foreign trip.[100] In Isparta disciplinary proceedings were reported to be continuing against 11 civil servants for their participation or otherwise support for the Gezi Park protests.[101] In Adana two disciplinary proceedings were brought to establish whether teacher **Güven Boğa** participated in Gezi Park related protests and invited colleagues or students or made calls via social media for others to join them. The education sector union Eğitim Sen reported that in Adana, 129 of its members were being investigated over their activities in the Gezi Park protests in the city alone.[102]

CONTINUING DENIAL OF THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY AND USE OF ABUSIVE FORCE BY POLICE

One year on from the Gezi Park protests, very little has been done to prevent the systematic human rights violations seen during the protests from being repeated. The right to freedom of peaceful assembly continues to be denied and unnecessary and abusive force by police remains routine. Over the year no significant progress has been made to bring the Law on Meetings and Demonstrations in line with international standards and time and again rights have been abused in practice.

The restrictive Law on Meetings and Demonstrations continues to be applied to arbitrarily refuse permission to demonstrations or declare those that proceed without authorization as unlawful. Cosmetic changes introduced to the law in March 2014 have failed to remove undue restrictions on the permitted time and location for demonstrations, loosen burdensome notification procedures or allow for spontaneous demonstrations (see section on shortcomings in Turkish legislation on public assemblies, p.20), resulting in continuing breaches of international human rights standards on the right to freedom of peaceful assembly.

Internal regulations issued by the Ministry of Interior regarding the policing of demonstrations issued after the start of the Gezi Park protests are more significant but have not proven effective because of a lack of implementation. Police have continued to use arbitrary and abusive force against demonstrators, in particular using completely unnecessary force against peaceful demonstrators. There has been no discernable change in the abusive and excessive use of tear gas, which continues to be used as a weapon, fired directly at demonstrators as reported by Amnesty International in relation to the Gezi Park protests.[103] Other abuses seen during the Gezi Park protests, such as the abusive use of water cannon and plastic bullets have also been reported, as have beatings of suspected demonstrators at the scene of demonstrations. Police officers in plain clothes with no identification have been witnessed intervening in demonstrations and on occasion civilians armed by sticks have attacked or threatened demonstrators apparently unhindered by police. Making direct comparisons is difficult given the fact that demonstrations of the scale of those seen during the Gezi Park protests have not occurred since, but unofficial detention on the street and in police buses has not been reported since.[104] Positively, riot police have not been reported to have policed demonstrations with identification numbers on their helmets erased or covered with stickers as was commonly seen during the Gezi Park protests.[105]

It is now widely understood that attending peaceful protests carries certain risks in Turkey. These risks include injury from beatings or the use of tear gas or rubber bullets, overnight

detention and potential prosecution. This has changed the nature of participation in demonstrations in Turkey. It has discouraged many from taking part in peaceful demonstrations. Conversely the widespread abuse of rights has angered many people not previously politically active and brought them to the streets to demonstrate. This anger, directed at the police and the authorities in general has also produced a visible minority that is increasingly prepared to fight back against the police after the inevitable intervention with water cannon and tear gas.

This section looks at amendments to the Law on Meetings and Demonstrations and relevant regulations in the year following the Gezi Park protests. It also examines the failure to respect the right to peaceful assembly over the period in respect to three assemblies that are representative of the continuing violations of the rights of protestors: protests over the redevelopment of the Middle East Technical University (ODTÜ) campus in Ankara in October 2013, assemblies marking the funeral of Berkin Elvan in March 2014 and May Day demonstrations in Istanbul in 2014.

CHANGES TO THE LAW ON MEETINGS AND DEMONSTRATIONS AND REGULATIONS REGARDING THE POLICING OF DEMONSTRATIONS

In the report *Gezi Park protests: Brutal denial of the right to peaceful assembly in Turkey*, Amnesty International called for the authorities to conduct a thorough review of the Law on Meetings and Demonstrations, bringing it in line with international human rights standards. In its September 2013 submission to the Committee of Ministers regarding the Oya Ataman group of European Court of Human Rights (ECtHR) cases[106], made shortly after the Gezi Park protests subsided, the Turkish authorities acknowledged that a thorough review of the law was necessary to bring it in line with the case law of the ECtHR in order to ensure that violations of the rights of demonstrators identified in the cases were not repeated.[107] The submission stated that such a review was underway. It is therefore extremely disappointing that, given this commitment and following the Gezi Park protests, which illustrated the urgent need for legislative reform, amendments to the Law on Meetings and Demonstrations adopted in March 2014 offered only cosmetic changes, such as the amendment to Article 7 of the law to allow demonstrations to continue until sunset rather than an hour before sunset and changes to Article 6 which provide for the authorities to take a view from civil society organizations before deciding whether a demonstration can go ahead which has yielded no tangible results. Crucially, the law still requires assemblies to be dispersed if they are considered unlawful even if they are peaceful, conflicting with the requirements of the case law of the ECtHR, and leading to violations of the right to freedom of peaceful assembly in practice as discussed in the cases below.[108] The fact that the law is overly broad in restricting the time and place that demonstrations can take place, and requires an overly burdensome notification process are key failures leading to abuses of the rights of protestors at the scene of demonstrations. No changes were made to articles under which peaceful participation at demonstrations is routinely criminalized: Articles 28/1, 32/1 and 34/1 which should be abolished or brought into line with international rights standards (see section on shortcomings in Turkish legislation on public assemblies, p.20).[109]

In response to the wave of criticism provoked by the policing of the initial Gezi Park protests, the Ministry of Interior issued a circular on the policing of demonstrations in early June 2013, which, if implemented would have gone some way to reducing the excessive use of force by police. [110] The circular requires police officers to allow people enough time to leave a

demonstration after a warning that force using tear gas will be used; use water cannon before resorting to tear gas; and refrain from the use of tear gas against peaceful protestors or protestors who have ceased any violent acts. Sadly these instructions were routinely ignored from day one, and have continued to be flouted since.

The Ministry of Interior introduced a further welcome circular in July 2013 regulations that provides additional important safeguards against injury and abuses, notably that plain clothes police officers wear identification when policing demonstrations and that tear gas canisters are not fired from a distance of less than 40 meters or directly at people.[111] While protests that Amnesty International observers have attended over the past year suggest that riot police have, indeed, been observing the requirement to display visible identification numbers, the same cannot be said of the instruction on the use of tear gas, which police still regularly fire at dangerously close ranges and directly at protestors.

PROTEST AT THE MIDDLE EAST TECHNICAL UNIVERSITY, ANKARA, OCTOBER 2013

In October 2013, only a few months after the Gezi Park protests, the authorities denied the right to peaceful assembly and police used abusive and excessive force against demonstrators protesting against the building of a road on the Middle East Technical University (ODTÜ) campus in Ankara.[112]

On 18, 21 and 26 October 2013, police used excessive force against students, academics and local residents protesting what they say is the clearing of around 3,000 trees as part of the construction of a highway. Riot police used tear gas, flash bangs and plastic bullets against up to 500 peaceful demonstrators.

On the night of Friday 18 October, 20 to 25 lorries and diggers started work for the construction of a highway through a forest, part of which is on ODTÜ campus grounds. A university academic present at the scene told Amnesty International that at around 10.30pm police used tear gas, firing a large number of canisters, first towards the ground, then directly at the 20 peaceful demonstrators as they were attempting to enter the campus. She told Amnesty International that she was hit on the heel by a gas canister and another person was hit on his hand by a plastic bullet.

According to eye witnesses, on Monday 21 October, a crowd of several hundred students and academics gathered in the afternoon for a planned ‘tree planting protest’ at one of the gates of the campus to symbolically replace some of the trees that had been uprooted by construction workers on the previous Friday. At around 9pm, there were still around 300 protestors at the gate. According to eye witnesses that Amnesty International has spoken to, clashes ensued when a group of unknown individuals in civilian clothes attacked some of the protestors prompting a small number of protestors to throw stones at police. Eye witnesses state that police then used disproportionate force including tear gas and flash bags to clear all of the demonstrators at the scene, injuring several people.

Police again used excessive force at around 7pm on Saturday 26 October to clear a group of up to 500 students attempting to march between two gates of the campus, peacefully protesting against the police use of force during protests in the previous week. Eyewitnesses told Amnesty International that the police issued a warning to protestors who were chanting slogans to disperse, but began using tear gas and water cannon against them without giving

them any time to act on this instruction. For several hours protestors repeatedly regrouped only to be violently dispersed again. At around 10pm, police allegedly beat one of the student protestors then threw him onto a burning barricade. The student sustained serious injuries with a gash on his head and second and third degree burns on parts of his body.

BERKIN ELVAN FUNERAL, ISTANBUL, MARCH 2014

On 12 March, an estimated one million people took to the streets for the funeral of 15 year-old Berkin Elvan, who died the previous day after spending 269 days in a coma. All the evidence suggests that he died after being hit by a tear gas canister fired by police at close range at the scene of a Gezi Park demonstration. At his funeral there was obvious anger at police violence, impunity and a government perceived to be protecting the perpetrators and condoning their violence.[113]

Ahead of the funeral, the authorities had stated that they would allow the funeral procession to pass from the Cemevi in Okmeydanı to the Feriköy cemetery for the burial but that people would not be allowed to march the short distance to symbolically assemble in Gezi Park. An Amnesty International observer witnessed that police had blocked the road from the early morning between the funeral procession route and the road to Taksim Square and Gezi Park. Crowds of thousands had been in the area all day to mark the funeral. According to witnesses, shortly after the end of the funeral at around 5.30pm police used abusive force against peaceful protestors, amongst them people demanding to be allowed to march to Taksim. Four water cannon vehicles sprayed water at protestors before police used tear gas. People at the scene told Amnesty International that there was widespread panic as people were not able to get away from the scene of the demonstrations, a busy shopping street. Following the police use of force a small minority of demonstrators clashed with the police. Demonstrations continued into the evening and through the night in cities across Turkey. By morning, two people had died at the scene of demonstrations. One person was shot in Istanbul, in a clash not thought to involve the police. A police officer in the eastern city of Tunceli/Dersim died following a heart attack. Initial reports suggested that large amounts of tear gas used against protesters may have prompted his heart attack. Scores of injuries were reported. In the Taksim area of Istanbul protestors clashed with the police including bystanders allegedly struck by tear gas canisters fired by police. Twenty year-old **İsa Kahraman** alleges that he was hit by a gas canister in the evening shortly after leaving work on Istiklal Avenue close to Taksim Square. After finishing work he had planned to go to an internet café and was walking on the street close to where there were clashes between police and protestors. He says that he was first hit by pressurised water fired by police which knocked him off his feet, then hit by plastic bullets before being hit by a gas canister fired by police breaking his nose and jaw. According to his statement, police saw him injured on the ground but left the scene without calling for medical attention. Bystanders helped him to an ambulance, taking him to hospital where he was admitted to intensive care.[114] On 17 March he was released from hospital. He made a criminal complaint on 25 March and the prosecutor called police officers to provide statements. The investigation continued as of the end on April 2014.

MAY DAY, ISTANBUL 2014

For a second year running, the authorities refused to allow trade unionists and other groups to celebrate May Day in the traditional location of Taksim Square.[115]

The authorities stated that large scale demonstrations would no longer be tolerated in Taksim Square or in Kadıköy, a central location on the Asian side of Istanbul and could only take place at two designated locations outside the centre of the city – in Yenikapı and Maltepe on the European and Asian sides of the city respectively. The authorities did not provide any legitimate or reasoned explanation for the refusal beyond vague references to upholding order. The authorities later authorized demonstrations to take place in Kadıköy "for the last time" on the grounds that Maltepe had not been fully prepared to hold demonstrations.[116] Responding to criticism of the ban the day before May Day, the Governor stated that demonstrators would not be allowed to march in Taksim Square on the grounds that intelligence had revealed that "terrorist organizations" and groups linked to them would use the event to attack police and that demonstrations would be disruptive to tourism and traffic.[117] The policy, in line with Turkey's restrictive Law on Meetings and Demonstrations that provides wide scope for the authorities to restrict the location that assemblies can take place, whether based on the blanket ban on demonstrations in Taksim as per the authorities' first statement, or unsubstantiated threats by "terrorist organizations", effectively renders the right to peaceful assembly meaningless when it is applied routinely to politically inconvenient assemblies.

In recent years when the authorities have allowed May Day rallies to take place in Taksim Square, they have passed peacefully and without injuries or damage to property. On occasions where the authorities have refused permission for Taksim May Day rallies to take place, they have resulted in the use of abusive force by police against demonstrators, injuries and major disruption across the city. In 2007 and 2008 there were scores of injuries after police intervened with abusive force against peaceful demonstrators. The European Court of Human Rights found the actions of authorities in forcibly dispersing demonstrators on 1 May 2008 to violate Article 11 of the European Convention of Human Rights (freedom of peaceful assembly) in the case of KESK and DİSK vs. Turkey. In 2009 the authorities allowed a number of May Day demonstrators to enter Taksim Square significantly reducing the clashes experienced in the previous years. In 2010, 2011 and 2012, large-scale, peaceful, May Day demonstrations were held without incident in Taksim Square with the approval of the authorities. In 2013 the authorities refused to allow May Day demonstrations to go ahead in Taksim citing construction work taking place in the square. Public transport links were suspended and police used abusive force against demonstrators in areas surrounding Taksim, resulting in scores of injuries as seen in the years preceding 2009. In 2014, public transport links were again suspended and a far larger police operation was undertaken by a reported 39,000 police officers and 50 water cannon vehicles. Police sealed off the route of the proposed demonstration with the entire Taksim area and parts of neighbouring Şişli and Beşiktaş closed to traffic, resulting, ironically, in significant disruption to both traffic and tourism.[118]

Given the experience of past years and the fact that the pedestrianization of Taksim Square has been completed it is hard to understand what legitimate aim could be pursued by banning May Day demonstrations in the square. The refusal appears rather, to have been based on the government's desire to prevent a visible platform for dissenting voices to express their views.

In the morning of 1 May Amnesty international sent observers to monitor the protests and the policing operation.[119] In Şişli, an area neighbouring Taksim, a crowd of several thousand

people did manage to travel to the location for the start of the march outside the DİSK union confederation offices. An Amnesty International observer was present to witness police blocking the road from Şişli preventing demonstrators from moving any further forward. The crowd waited peacefully for about 15 minutes before an announcement was made by the police stating that the demonstration was unauthorized and would be dispersed. Without giving any opportunity for people to leave the scene of the demonstration at that point, police used tear gas and water cannon against the people peacefully assembled.

The use of force breached Ministry of Interior regulations in at least three ways: no time was given for demonstrators to leave the scene of the demonstration after the warning that force would be used was issued, tear gas was used without first resorting to water cannon and tear gas was used against peaceful demonstrators. The scene repeated the abusive force against trade unionists in the same location in 2008 and against the Gezi Park protestors last year.

CONCLUSIONS AND RECOMMENDATIONS

One year on from the Gezi Park protests, the government's approach to the right to peaceful protest appears more abusive than ever. Rather than heal the wounds opened during the summer of 2013, it has continued to use abusive force to deny the right to peaceful assembly, persisted with its attempts to crush the protest movement and shown no interest in ensuring justice for police abuses. It has ushered in new laws restricting access to social media and criminalizing the provision of emergency medical care of the kind provided during the Gezi Park protests. Repeated police violence has created a minority who turn up to demonstrations expecting violence and prepared to fight back. Retrograde reforms to the High Council of the Judges and Prosecutors and targeted transfers of judges and prosecutors have further politicised the judiciary, undermining its ability to challenge government abuses and uphold fundamental rights.

After twelve years in power, the AKP government is perhaps at a cross-roads. It has earned the support of many millions after a decade of sustained economic growth and significant rises in living standards. As its success in March 2014 municipal elections shows, it remains the most popular and best organised political party by some margin. At the same time, it has faced a series of challenges to its authority over the last year, of which the Gezi Park Protests are only one. It has also found itself embroiled in corruption scandals, locked in a bitter feud with one-time supporter Fethullah Gülen and faced a public outcry over the mining disaster in Soma and its own callous response to the tragedy.

Faced with these threats to its hold on power and legacy as a reforming government, the AKP administration has a choice. It can choose to acknowledge legitimate grievances and reach out to those who have become disaffected. Or it can seek to bolster its support amongst AKP loyalists through the politics of blame and polarisation. Prime Minister Erdoğan has chosen the latter course. His default reaction to these crises has been to seek to silence or crush his critics, while accusing nefarious internal and external agents of sowing discord. The effect has been to harden latent divisions in Turkish society and badly damage the respect for human rights in the country.

The Gezi Park protests were, in large measure, fuelled by this authoritarian tendency and those that took part in them are now feeling the very pressures they were railing against one year ago. It is worrying, and should be especially worrying for the ruling AKP, that a generation of politically active youth is growing up accustomed to the politics of conflict and, when they take to street, the assumption that violence awaits them.

It is not too late to change course, though this requires a significant change in the government's attitude to criticism. Respecting the right to freedom of assembly, staying the prosecution of peaceful protest organisers and participants and ensuring accountability for police abuses would be a good place to start.

RECOMMENDATIONS TO THE TURKISH AUTHORITIES

End the targeting of the Gezi Park protest movement and its supporters

- Ensure that nobody is prosecuted for activities protected by the right to freedom of peaceful assembly;

- Remove provisions of the Law on Meetings and Demonstrations that criminalize peaceful participation in demonstrations, in particular:

  - Article 28/1, criminalizing "participation in an unlawful demonstration";
  - Article 32/1, criminalizing "failure to disperse from an unlawful demonstration";
  - Article 34/1, criminalizing "provoking others to participate in an unlawful demonstration"

- Ensure that other laws, including anti-terrorism legislations and organised crime offences are not used to prosecute people for exercising their right to organise and take part in peaceful assemblies;

- Ensure that nobody is prosecuted or faces administrative sanction for sharing information or opinions about the Gezi Park protests as protected by the right to freedom of expression;

- Repeal Additional Article 11 of law no. 3359 that may be used to criminalise the provision of emergency medical care and ensure that medical personnel are never prosecuted or subjected to other forms of sanction for the provision of emergency care to those in need.

End impunity for human rights abuses by law enforcement officials

- Carry out effective and impartial investigations into all cases of alleged ill-treatment by state officials and bring those responsible to justice;

- Establish a truly independent and effective police complaints mechanism.

- In particular, this mechanism should:

  - Have no structural or organizational connection with the police, such as in the form of an independent non-departmental public body, for example a specialized Police Ombudsman or Independent Police Complaints Body;
  - Be adequately staffed and headed by professionals of acknowledged competency, impartiality, expertise, independence and integrity, who are not members of the law enforcement agencies;
  - Have at its disposal its own corps of independent expert investigators to investigate complaints.

End the arbitrary denial of the right to freedom of peaceful assembly in Turkey

- Conduct a thorough review of the Law on Meetings and Demonstrations and its application and make necessary revisions in line with international human rights law and standards, such as the OSCE's Guidelines on Freedom of Peaceful Assembly;

- In particular, the Law on Meetings and Demonstrations should be revised so as to:

  - Explicitly recognise the right to peaceful spontaneous assembly;
  - Remove excessive temporal and geographic restrictions on the holding of public assemblies;
  - Simplify notification requirements for planned demonstrations.

Police demonstrations in line with international human rights standards

- Police should proactively engage with those planning or organizing assemblies in order to identify and mitigate potential risks of conflict or escalation prior to the events;

- Police responses should include a broad range of options that include the possibility of non-intervention if intervention may increase the risk of conflict. The use of force in the dispersal of violent assemblies should be restricted, and used only if other means remain ineffective or without any promise of achieving the intended result;

- Police should employ mediation and negotiation to de-escalate conflicts before resorting to the use of force;

- Ensure that regulations introduced by the Ministry of Interior governing the use of force and the identification of police officers during demonstrations are strictly adhered to and that their breach by individual and commanding officers are appropriately sanctioned;

- Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;

- Ensure that journalists are able to perform their duties in reporting from the scene of demonstrations unhindered and in safety.

ENDNOTES

[1] Haber Ajansı *İçişleri Bakanlığı'nın Gezi raporu*, 20 September 2013. Available at http://www.etha.com.tr/Haber/2013/09/20/guncel/icisleri-bakanliginin-gezi-raporu/ [accessed on 29 May 2014]

[2] Turkish Medical Association, *The Health Status of the Demonstrators*, 15 July 2013. Available at http://www.ttb.org.tr/en/index.php/tuem-haberler-blog/179-ttb/1214-health [accessed on 29 May 2014]

[3] Amnesty International, *Gezi Park protests: Brutal denial of the right to peaceful assembly in Turkey*, 2 October 2013. Available at http://www.amnesty.org/en/library/info/EUR44/022/2013/en

[4] According to information supplied by the Documentation centre of the Human Rights Foundation of Turkey

[5] See section on the continued targeting of the Gezi protest movement and its supporters, from p.14

[6] See section on prosecutions under organized crime and anti-terror provisions, pages 15-19

[7] See section on prosecutions and other harassment of groups perceived to support the Gezi Park protest movement, pages 27-31

[8] Amnesty International, *Turkey: Move to block YouTube ahead of elections points to growing censorship*, 27 March 2014. Available at http://www.amnesty.org/en/for-media/press-releases/turkey-move-block-youtube-ahead-elections-points-growing-censorship-2014-03, and Amnesty International, *Turkey: Pre-election Twitter shutdown brings internet freedom to a new low*, 21 March 2014. Available at http://www.amnesty.org/en/news/turkey-pre-election-twitter-shutdown-brings-internet-freedom-new-low-2014-03-21

[9] See section on shortcomings in the investigation of police abuses, from p.8

[10] See section on slow progress during the prosecution and trial phase, p.13

[11] The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (BPUFF) provides guidance on the situations in which force may lawfully be used without violating human rights, including the right to life and to be free from torture and other ill-treatment. Available at http://www.ohchr.org/EN/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx [accessed on 19 May 2014]

[12] Four police officers were reported to have received an [unspecified] disciplinary punishment. No information was provided regarding any criminal investigation against the officers. For details see Radikal, *İzmir´de, saç çeken polislere ceza verilmiş*, 14 March 2014. Available at http://www.radikal.com.tr/turkiye/izmirde_sac_ceken_polislere_ceza_verilmis-1181289 [accessed on 19 May 2014]

[13] An administrative investigation into the beating of journalist **Gökhan Biçici** in a busy street in Istanbul, which was filmed by a number of cameras was closed without result in November 2013. The administrative investigation into the beating of **Hakan Yaman** which was also filmed was closed in April 2014 without result. Criminal investigations continue in both cases. For details of these incidents see Amnesty International, *Gezi Park protests: Brutal denial of the right to peaceful assembly in Turkey*, October 2013. Available at http://www.amnesty.org/en/library/info/EUR44/022/2013/en; pages 28 and

32 respectively for Hakan Yaman and Gökhan Biçici cases.

[14] A police officer is charged with "abuse of duty" for spraying pepper spray into the face of Ceyda Sungur and using abusive force against other environmental protestors peacefully demonstrating in Gezi Park on 28 May 2013. The first hearing in the case was set for 13 May 2014. Indictment no. 2014/579 of 9 January 2014.

[15] Interviews with lawyers in Istanbul 20 March and in Ankara 26 March 2014

[16] Amnesty International, *Gezi Park Protests: Brutal denial of the right to peaceful assembly in Turkey*, p.23

[17] Amnesty International, *Gezi Park Protests: Brutal denial of the right to peaceful assembly in Turkey*, pages 35 and 36

[18] For examples of such cases see Amnesty International's 2013 report on the Gezi Park protests. One alleged victim, **M.E** stated that he was taken by police to an area where there was no CCTV cameras present before being beaten by police in Istanbul. **Deniz Erşahin** told Amnesty International that she was taken to an area on the street used as a detentıon area before beıng sexually assaulted by a police offıcer in Ankara. In both cases prosecutors later closed investigations due to lack of evidence.

[19] Amnesty International, *Gezi Park protests: Brutal denial of the right to peaceful assembly in Turkey*, p.34

[20] Interview of 4 April 2014

[21] Interview of 7 March 2014

[22]Interview of 3 April 2014 Amnesty International, *Gezi Park protests: Brutal denial of the right to peaceful assembly in Turkey*, p.29

[23] According to lawyers in both cities representing individuals complaining of abusive force by police.

[24] Interview with lawyer representing family of Berkin Elvan, 13 November 2013

[25] Ministry of Interior Regulation 2013/28 of June 2013, also discussed on p.31

[26] Interview with lawyer representing Muharrem Dalsüren, 27 March 2014

[27] Amnesty International, *Gezi Park protests: Brutal denial of the right to peaceful assembly in Turkey*, p.38

[28] Radikal, *Ali İsmail Korkmaz davasında şok ifade: Polis istedi, şalteri kapattım,* 28 February 2014. Available at http://www.radikal.com.tr/turkiye/ali_ismail_korkmaz_davasinda_sok_ifade_polis_istedi_salteri_kapattim-1178938 [accessed on 19 May 2014]

[29] Ministry of Justice Forensic Medicine Institute report, Decision no. 3362, p. 21, 21 August 2013

[30] According to investigation documents seen by Amnesty International

[31] A police officer is charged with "abuse of duty" for spraying pepper spray into the face of Ceyda Sungur and using abusive force against other environmental protestors peacefully demonstrating in Gezi Park on 28 May 2013. Indictment no. 2014/579, 9 January 2014

[32] Indictment no. 2013/1494. Protestors are accused of participating in an unlawful demonstration and

damaging public property.

[33] According to information supplied by the Documentation centre of the Human Rights Foundation of Turkey

[34] According to information supplied by the Documentation centre of the Human Rights Foundation of Turkey

[35] Turkey is party to both the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR), which, in their Articles 19 and 10 respectively, guarantee the right to freedom of expression. The right to freedom of peaceful assembly is guaranteed by Article 21 of the ICCPR and Article 11 of the ECHR. Detailed guidance on the regulation of peaceful assemblies in line with international standards can be found in the reports of the UN Special Rapporteur on the rights of peaceful assembly of association. Additionally, the Organization for Security and Cooperation in Europe (OSCE) has elaborated extensive Guidelines on Freedom of Peaceful Assembly (OSCE Guidelines) for OSCE participating states such as Turkey. Also see Amnesty International, *Gezi Park protests: Brutal denial of the rights to peaceful assembly in Turkey*, p.9-11 for further details.

[36] According to information supplied by the Documentation centre of the Human Rights Foundation of Turkey

[37] See for example para. 24-26 of Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe *Report on Freedom of expression and media freedom in Turkey*. Available at https://wcd.coe.int/ViewDoc.jsp?id=1814085 [accessed on 19 May 2014]; See also para. 26-33 Mission to Turkey: Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. Available at http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/149/42/PDF/G0614942.pdf?OpenElement [accessed on 21 May 2014]; Also see OSCE, *Main Findings of the Table of Imprisoned Journalists in Turkey*, April 2012. Available at http://www.osce.org/fom/89371 [accessed on 19 May 2014]

In addition, in 2010 Amnesty International published a report *All Children have rights: End prosecutions of children under anti-terrorism legislation in Turkey* that looked into the abuse of anti-terrorism legislation to prosecute demonstrators, many of them children. The report is available at http://www.amnesty.org/en/library/info/EUR44/011/2010/en

[38] Indictment No. 2014/3115, 28 February 2014, pages 9-11

[39] Indictment No. 2014/3115, 28 February 2014, pages 9-10

[40] Indictment No. 2014/3115, 28 February 2014, p. 10. The indictment refers to the May 2013 decision of the Governor that no forms of demonstrations would be allowed in the Taksim area. See Sec Haber, *Taksim'e çıkış tamamen yasaklandı*, 8 May 2013. Available at http://www.sechaber.com/taksime-cikis-tamamen-yasaklandi/ [accessed on 19 May 2014]

[41] Indictment no. 2013/135, 20 August 2013

[42] Amnesty International, *Turkey: Time to deliver genuine human rights reform,* 22 February 2013. Available at http://www.amnesty.org/en/library/info/EUR44/005/2013/en; *Turkey: Time to remove the shackles on freedom,* 27 March 2013. Available at http://www.amnesty.org/en/for-media/press-releases/turkey-time-remove-shackles-freedom-2013-03-27; and Amnesty International, *Turkey: Decriminalize dissent: Time to deliver on the right to freedom of expression,* March 2013, pages 17-32.

Available at http://www.amnesty.org/en/library/info/EUR44/001/2013/en

[43] Indictment no. 2013/135, 20 August 2013

[44] Indictment no. 2013.47, 17 July 2013; Indictment no. 2013/49, 18 July 2013; Indictment 2013/56, 6 August 2013; Indictment no. 2013/57, 16 August 2013; Indictment no. 2013/59, 20 August 2013; Indictment no. 2013/61, 20 August 2013

[45] Indictment no. 2013/49, 18 July 2013

[46] Amnesty International, *Gezi Park protests: Brutal denial of the rights to peaceful assembly in Turkey*, p.41. See also the case of Deniz Erşahin pages 26-27

[47] See OSCE, *Guidelines of Freedom of Peaceful Assembly*, 2010. Available at http://www.osce.org/odihr/73405?download=true [accessed on 29 May 2014]

[48] Turkish Constitution, Law No. 2709 entered into force 7 November 1982 Article 34. (As amended on October 17, 2001) Everyone has the right to hold unarmed and peaceful meetings and demonstration marches without prior permission. The right to hold meetings and demonstration marches shall only be restricted by law on the grounds of national security, and public order, or prevention of crime commitment, public health and public morals or for the protection of the rights and freedoms of others. The formalities, conditions, and procedures governing the exercise of the right to hold meetings and demonstration marches shall be prescribed by law.

[49] European Convention on Human Rights, Article 11(2) "No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State". Similarly, Article 21 of the ICCPR, provides that "No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others."

[50] The Law on Meetings and Demonstrations, Law No. 2911 entered into force on 6 October 1983. Available at http://www.mevzuat.gov.tr/Metin.Aspx?MevzuatKod=1.5.2911&sourceXmlSearch=&MevzuatIliski=0

[51] Article 3 – Everyone has the right to organize unarmed and peaceful meetings and demonstrations without prior permission in accordance with this law that does not consider such meetings and demonstrations unlawful.

[52] Article 10 of the law on demonstrations states that organizers must provide the notification to the Governorship or the Prefecture within at least 48 hours and during working hours, stating the aim of the meeting, date, start and end times and the names, home and if available work addresses of the organizers. Full text available in Turkish at http://www.mevzuat.gov.tr/Metin.Aspx?MevzuatKod=1.5.2911&sourceXmlSearch=&MevzuatIliski=0

[53] See the statement by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, at the 20th session of the Human Rights Council, Agenda item 3, 20 June 2012, p.4, para.1, available at

http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12349&LangID=E [accessed on 29 May 2014] The Special Rapporteur further suggests that "in case an assembly is not allowed or restricted, a detailed and timely written explanation should be provided, which can be appealed before an impartial and independent court."

[54] See Sergey Kuznetsov v. Russia, no. 10877/04, para. 42, 23 October 2008, and Rai and Evans v. the United Kingdom (dec.), nos. 26258/07 and 26255/07, 17 November 2009, Bukta and Others v. Hungary, no. 25691/04, para. 35, ECHR 2007; Oya Ataman v. Turkey, no. 74552/01, 5 December 2006, para. 39; Rassemblement Jurassien Unité v. Switzerland, no. 8191/78, Commission decision of 10 October 1979, DR 17, p. 119; and also Plattform "Ärzte für das Leben" v. Austria, judgment of 21 June 1988, Series A no. 139, p. 12, paras. 32 and 34.

[55] Ibid, para. 37

[56] Balcik v. Turkey (2007), paras. 49, 52. See also Ashughyan v. Armenia (2008), para. 90

[57] The Guidelines state that prior notification of assemblies is not generally necessary, and should "only be required where [the] purpose [of the notification] is to enable the state to put in place necessary arrangements to facilitate freedom of assembly and to protect public order, public safety and the rights and freedoms of others." See OSCE Office for Democratic Institutions and Human Rights, *OSCE Guidelines on Freedom of Peaceful Assembly*, 2010, available at http://www.osce.org/odihr/73405?download=true

[58] Ibid, Principle 4.1 Notification

[59] In English version – summary text of Articles 6, 7 and 22 Full text available in Turkish at http://www.mevzuat.gov.tr/Metin.Aspx?MevzuatKod=1.5.2911&sourceXmlSearch=&MevzuatIliski=0

[60] See paragraph 2/4 of the OSCE Guidelines "A blanket application of legal restrictions tends to be over inclusive and, thus, will fail the proportionality test, because no consideration has been given to the specific circumstances of the case." OSCE, *Guidelines of Freedom of Peaceful Assembly*, 2010. Available at http://www.osce.org/odihr/73405?download=true

[61] Article 23 of the Law on Meetings and Demonstrations reads: Article 23 a) Holding an assembly without notification as outlined in Articles 9 and 10, or holding it before or after the notified date and time; b) Bearing any kind of firearms, explosives, cutting/perforating tools, stones, sticks, iron and rubber bars, instruments that can bruise or choke such as chains or wire, compounds that can corrode or cause injury, all types of poison, gas or fog and other such materials, as well as symbols of illegal organisations, uniforms with these symbols, or wearing clothes that are uniform-like or participating in meetings and demonstrations while covering faces completely or partially to prevent identification, and carrying unlawful posters, placards, slogans, pictures, signs, being transported in vehicles or chanting illegal slogans or broadcasting these on loud speakers/sound systems; c) Holding an assembly outside timing restrictions foreseen in art. 7; d) Outside the places mentioned in Articles 6 and 10 e) Noncompliance to the methods and conditions mentioned in Article 20 and to the prohibitions and measures mentioned in Article 22; f) Transgressing its own aims, rules and limits defining meetings that are not required authorization according to Article 4; g) Gatherings aiming at committing a crime defined by law; h) Transgressing the aim mentioned in the notification; i) Holding an assembly before the end of the postponing or banning of a meeting or a demonstration according to articles 14, 15, 16, 17 and 19; j) in case of a decision to disperse an assembly according to Article 12; k) In violation of Article 21 l) The meetings or demonstrations that do not comply with the para. 2 of Article 3 will be considered illegal.

[62] Article 28/1 – Unlawful acts – Those who organize or lead unlawful meetings or demonstrations and those who participate in them, provided that their actions do not include another crime that would carry a bigger sentence, will face six months to three years imprisonment.

[63] Indictment no. 2013/965, 23 November 2013 and Indictment no. 2013/2048, 24 December 2013

[64] Indictment no. 2013/17033, 17 September 2013

[65] Indictment no. 2013/3594, 4 December 2013

[66] Article 32/1 – Resisting police – Participants of unlawful meetings or demonstrations who insist on not dispersing despite warnings and use of force, will face a sentence of six months to three years imprisonment. If this offence is committed by the organizers of the meeting or demonstration, the sentence that is passed under this Article will be increased by one half (unofficial translation, by Amnesty International).

[67] Indictment no. 2013/18441, 8 November 2013

[68] See section on prosecutions under the Law on Meetings and Demonstrations and related provisions of the Penal Code, from p.19

[69] Amnesty International, *Gezi Park protests: Brutal denial of the rights to peaceful assembly in Turkey*, pages 15-34 and p.41

[70] Indictment no. 2013/93, 26 July 2013

[71] Indictment no. 2013/93, 26 July 2013

[72] Indictment no. 2013/37560, 27 June 2013

[73] Amnesty International, *Turkey: Decriminalize dissent: Time to deliver on the right to freedom of expression*, March 2013, pages 13-14

[74] Indictment no. 2013/20531, 4 December 2013

[75] New York Times, 17 June 2013

[76] Indictment no. 2013/512, 16 September 2013

[77] Amnesty International, *Gezi Park protests: Brutal denial of the right to peaceful assembly in Turkey*, pages 46-50

[78] Amnesty International, *Gezi Park protests: Brutal denial of the right to peaceful assembly in Turkey,* p.47

[79] Amnesty International, *Gezi Park protests: Brutal denial of the right to peaceful assembly in Turkey*, pages 47-48

[80] Amnesty International, *Gezi Park protests: Brutal denial of the right to peaceful assembly in Turkey,* p.48

[81] Communication from the Ministry of Health to the Turkish Medical Association no. 23824201, 18 June 2013

[82] Indictment no.2013/20645, 6 December 2013

[83] Hürriyet, *Başbakan Erdoğan havalimanında halka seslendi,* 10 June 2013. Available at

http://www.hurriyet.com.tr/gundem/23470929.asp [accessed on 19 May 2014]

[84] Sözcü, *Dolmabahçe'de fatura imam ve müezzine*, 21 September 2013 http://sozcu.com.tr/2013/gundem/dolmabahcede-fatura-imam-ve-muezzine-375608/ [accessed on 19 May 2014]

Hürriyet, *Dolmabahçe Camisi'nin imam ve müezzini gitti*, 21 September 2013. Available at http://www.hurriyet.com.tr/gundem/24756039.asp [accessed on 19 May 2014]

[85] New York Times, *Turkey Doctors Say Police, Govt Harassed Them*, 9 January 2014. Available at http://www.nytimes.com/aponline/2014/01/09/world/europe/ap-eu-turkey-doctors-under-fire.html?partner=rss&emc=rss&_r=0 [accessed on 19 May 2014]

[86] Ministry of Health documents no. 11045126/641.03.01/2014.4978.2231 and no. AS/49

[87] Ministry of Health document no. 11045126/641.03.01/2014.4978.2231

[88] Decision no. 2013/63 and Decision no. 2013/61, 26 December 2013

[89] Law no. 3359 entered into force on 7 May 1987. Article 46 states that "All work related to the delivery of health services and operations are overseen by the Ministry of Health." Available at http://www.resmigazete.gov.tr/eskiler/2014/01/20140118-1.htm [accessed on 19 May 2014]

[90] UN News Centre, *Turkey: UN, global experts warn against criminalizing independent medical care in emergencies*, 9 December 2013. Available at https://www.un.org/apps/news//story.asp?NewsID=46695&Cr=turkey&Cr1=#.U2jOoXf3Fkh [accessed on 19 May 2014]

[91] Bianet, *Hastalara İzinsiz Yardım Eden Doktora Ceza*, 28 June 2013. Available at http://www.bianet.org/bianet/saglik/148052-hastalara-izinsiz-yardim-eden-doktora-ceza [accessed on 19 May 2014]

[92] Bianet, *Başbakan Üç Ayda İfade Özgürlüğü İhlallerinde Başrolde!* 2 May 2014. Available at http://www.bianet.org/bianet/ifade-ozgurlugu/155378-basbakan-uc-ayda-ifade-ozgurlugu-ihlallerinde-basrolde [accessed on 19 May 2014]

[93] Amnesty International, *Gezi Park protests: Brutal denial of the right to peaceful assembly in Turkey,* October 2013, p.49

[94] Amnesty International, *Gezi Park protests: Brutal denial of the right to peaceful assembly in Turkey,* October 2013, p.50

[95] Amnesty International, *Gezi Park protests: Brutal denial of the right to peaceful assembly in Turkey,* October 2013, p.50

[96] Indictment no. 2014/3115, 28 February 2014 and Indictment no. 2013/135, 20 August 2013

[97] Indictment no. 2013/19565, 9 December 2013. For further details of the trial see Amnesty International *Turkey Twitter Trial,* 16 April 2014. Available at http://livewire.amnesty.org/2014/04/16/turkey-twitter-trial/

[98] See Amnesty International *Twitter is still blocked in Turkey, and battle lines over internet freedom are being drawn,* 25 March 2014. Available at http://livewire.amnesty.org/2014/03/25/twitter-is-still-blocked-in-turkey-and-battle-lines-over-internet-freedom-are-being-drawn/

[99] Amnesty International, *Turkey: President Gül: Veto restrictive internet law changes,* 12 February 2014 available at http://www.amnesty.org/en/library/asset/EUR44/002/2014/en/590f88f6-91bf-4169-86fc-06b165ccb03b/eur440022014en.html and *Turkey: Amnesty International welcomes Internet law changes recommended by President*, 27 February 2014, available at http://www.amnesty.org/en/library/asset/EUR44/004/2014/en/0362086a-113a-4889-addd-c7e1111ac8f1/eur440042014en.html

[100] Radikal, *Gezi'ye destek veren öğretmenleri meslekten attılar*, 17 March 2014. Available at http://www.radikal.com.tr/turkiye/geziye_destek_veren_ogretmenleri_meslekten_attilar-1181640 [accessed on 19 May 2014]

[101] Ajans32, *11 Devlet Memuruna Gezi Soruşturması,* 3 November 2013. Available at http://www.ajans32.com/11-devlet-memuruna-gezi-sorusturmasi-18268h.htm [accessed on 19 May 2014]

[102] Eğitim Sen, *Gezi Parkı Eylemleri İçin Kamu Emekçilerine Soruşturmalar Sürüyor,* 10 October 2013. Available at http://www.adanaegitimsen.org.tr/index.php/component/content/article/81-sendika/1403-gezi-park-eylemleri-cin-kamu-emekcilerine-soruturmalar-suerueyor [accessed on 19 May 2014]

[103] Amnesty International. *Gezi Park Protests: Brutal denial of the right to peaceful protest in Turkey,* p.19

[104] Amnesty International. *Gezi Park Protests: Brutal denial of the right to peaceful protest in Turkey,* p.36

[105] Amnesty International. *Gezi Park Protests: Brutal denial of the right to peaceful protest in Turkey,* p.35

[106] In the case of *Oya Ataman vs. Turkey*, Application no. 74552/01, Decision of 5 December 2006, the court found a violation of the right to peaceful assembly (Article 11 of the ECHR)

[107] Communication from the Government of Turkey concerning the Oya Ataman group of cases, 17 September 2013 at para. 18

[108] Article 24.c of the Law on Meetings and Demonstrations. This deficiency in law is acknowledged in the Submission to the Council of Ministers.

[109] Law no 6529, entry into force 13 March 2014. Articles 6, 7, 11, 12, 13, 23, 24, 28, 35, 36 of the Law on Meetings and Demonstrations were changed or abolished by the amendments.

[110] Ministry of Interior Circular No: 2013/28

[111] Ministry of Interior Circular No. 2013/33

[112] Amnesty International, *Turkey: End excessive police force against student protestors in Ankara, 31 October 2013.* Available at http://www.amnesty.org/en/library/asset/EUR44/028/2013/en/bd34b9ed-ca2a-404e-bf12-c6a431e1d065/eur440282013en.pdf

[113] Amnesty International, *Can Turkey open a fresh chapter following the death of Berkin Elvan?* 13 March 2014. Available at http://livewire.amnesty.org/2014/03/13/can-turkey-open-a-fresh-chapter-following-the-death-of-berkin-elvan/

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[117] Radikal, *Istanbul Valiliği'nden Taksim için 'son' açıklama,* 30 April 2014. Available at http://www.radikal.com.tr/turkiye/istanbul_valiliginden_taksim_icin_son_aciklama-1189421 [accessed on 19 May 2014]

[118] Regarding the policing of May Day demonstrations, see Radikal, *1 Mayis'ta Istanbul'da 39 bin polis gorevde*, 25 May 2014. Available at http://www.radikal.com.tr/turkiye/1_mayista_istanbulda_39_bin_polis_gorevde-1188699 [accessed on 22 May 2014]

[119] Amnesty International, *Turkey: Riot police in reprehensible crackdown on peaceful May Day protest*, 1 May 2014. Available at http://www.amnesty.org/en/news/turkey-reprehensible-riot-police-crackdown-peaceful-may-day-protest-2014-05-01

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ADDING INJUSTICE TO INJURY

ONE YEAR ON FROM THE GEZI PARK PROTESTS IN TURKEY

One year has passed since the Gezi Park protests were brutally crushed across Turkey. The protests have subsided, but attempts by the authorities to punish the protest movement continue while police officers who used abusive force have yet to face justice.

More than 8,000 people were reported injured at the scene of demonstrations. Thousands more were detained as peaceful protests were denied permission to go ahead and police used abusive force to prevent and disperse demonstrators. Yet it is protesters and their supporters who face prosecution for exercising their rights, not police officers who committed the abuses.

The authorities have charged more than 5,000 people for supporting or taking part in protests. Doctors and medical associations who treated injured protesters have been prosecuted. Social media users are on trial for sharing information and opinions about the protests.

Only four prosecutions have been brought against police officers while administrative and criminal investigations remain stalled or closed without result. The right to peaceful protest continues to be denied and police violence against demonstrators continues unabated.

This report calls on the Turkish authorities to end unfair prosecutions linked to participation or support for the Gezi Park protest movement and makes recommendations aimed at bringing police responsible for past abuses to justice and allowing demonstrators to exercise their rights without fear.

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