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The Struggle for Turkey's Internet



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Cover image: Protesters in Ankara demonstrate against new controls on the Internet approved by Turkish parliament February 8, 2014. REUTERS/Umit Bektas

Executive
Summary

Turkey as a Battleground State for Regulating the Internet

Nate Schenckan

This report focuses on the Internet in Turkey as it hosts the September 2014 Internet Governance Forum (IGF) in Istanbul. Turkey's hosting of the IGF is timely because of the country's critical role as a "swing state"—or, perhaps more fitting, a "battleground state"—on issues of Internet policy.

In the Internet governance discussion, "swing states" have been defined as countries that have the capacity for outsized influence on international processes due to their resources and mixed political orientation.¹ Turkey's mixed orientation is clear at the level of global Internet governance. In 2012, Turkey was one of only three OECD countries to vote in favor of a new set of International Telecommunications Regulations (ITRs) that Russia and China had backed and that argued for expanding the state's role in Internet governance.² More recently, however, in June 2014 Turkey was one of a core group of countries along with the United States and Sweden backing a resolution at the UN Human Rights Council to recognize that the same rights people have offline must be respected online.³

At the domestic level, Turkey's policies have been more one-sided. Even prior to 2013, Turkey had implemented an extensive and untransparent system of website blocking. In the last 15 months, as traditional punitive offline measures restricting freedom of speech have migrated more and more to the online sphere and new legislation has increased the government's capacity to regulate content, Turkey has moved

to the cutting edge of controlling online space. A new Press Law, currently in committee in parliament, would force broadly defined "Internet news sites" to register and name their owners and authors, echoing the law that went into effect August 1 in Russia. After crudely blocking Twitter in March, the government has also now increased its use of court orders to the social media company and is increasingly finding success in getting Twitter to remove content.

A "swing state" is a country that could go either way, as the term applies to the United States' two-party system. But a more accurate American political metaphor here would be the closely related "battleground state"—meaning a place where the bigger campaign could be won or lost. For Internet governance, Turkey is a battleground state: a place where a young population, improving technology, and international connections could result in a free Internet the world might envy, or where government tactics might provide a model for shutting down a vibrant online sphere.

The Internet, and social media in particular, have become an important part of public life in Turkey. As

As of December 2012, Turkish users spent the second-most amount of time online per capita in Europe.

.....



More than **90%** are on **FACEBOOK**



More than **70%** are on **TWITTER**

.....

Among 15- to 24-year-olds, the Internet had nearly matched television as a source of news.

of December 2012, Turkish users spent the second-most amount of time online per capita in Europe, after the UK.⁴ More than 90 percent of the population ages 15-64 have a Facebook account, and more than 70 percent are on Twitter. The Boston Consulting Group puts Turkey in the "Straight to Social" group of developing countries, where rapidly expanding ranks of new Internet users are going directly to social media as soon as they start using the Internet.⁵

Turkey is also notable for young people's use of the Internet for news. A recent Gallup/BBG survey showed that among 15- to 24-year-olds, the Internet had nearly matched television as a source of news (71 percent for Internet versus 75 percent for TV; the comparable split for 25- to 34-year-olds was 56 percent Internet versus 90 percent TV). Forty-seven percent of the 15-to-24 cohort got their news from social media⁶—all despite the fact that fixed broadband and mobile broadband penetration rates are currently only about half of OECD averages.

In this report, Freedom House and Turkish experts examine Turkey's online sphere from three perspectives: speech restrictions and data collection, infrastructure development, and the emergence of new media. In the first section, Freedom House Program Officer Nate Schenkkan describes the government's tightening restrictions on online speech and expansion of abilities to monitor and intercept data in the last 15 months since the Gezi Park protests. In the second section, Osman Coşkunoglu, a former member of parliament and professor of industrial engineering, describes the development of Turkey's telecommunications infrastructure and the policies that support its development. His analysis explains how political influence over the country's nominally independent regulatory authority, and the close relationship between the government and the country's dominant telecommunications provider, have prevented infrastructure development from rising to meet demand. Finally, in the third section Aslı Tunç, a professor of communications and head of the Media School at Bilgi University in Istanbul, gives readers a window into one of the most remarkable aspects of Turkey's Internet growth, namely, the innovative use of social media to create new forms of citizen journalism. Her section concludes on a note of hope that the growth in bottom-up journalism in Turkey can help the country brighten its troubled press freedom picture.⁷ But this media revival will depend on the survival of a rights- and rule of law-based model for domestic gov-

ernance of the Internet, and genuine independence of the institutions responsible for encouraging growth in Internet infrastructure.

Even more than how it votes at international Internet governance forums, Turkey is a battleground state in how it governs the Internet at home. Because of its position as an OECD and G-20 country, not to mention an EU candidate and a member of NATO, the example Turkey sets is one that other countries facing similar challenges from online speech will be watching. Right now, the contradiction between Turkey's words at the UN and deeds at home only serves to reinforce the belief that international norms can be manipulated in order to curtail domestic freedoms when needed.

There are structural reasons to hope that Turkey will not be able to consolidate control over the Internet as firmly as countries like Russia and Azerbaijan. National institutions, including the Constitutional Court and the constitution itself, are stronger in Turkey than in consolidated autocracies. Civil society is more diverse, vocal, and connected to transnational networks. The state is not yet dominated by an all-powerful executive. Just as important, Turkey cannot count on filling its budget with hydrocarbon revenues. Instead, the country's economy is heavily reliant on Western investment and trade, especially its customs union with the EU. The EU is Turkey's number one import and export partner, and provides the overwhelming majority of Turkey's foreign direct investment. To the extent that Turkey's European economic partners find the lack of telecommunications infrastructure development and censorship online problematic for their investments, Turkey will face pressure to improve its approach to the online sphere.

These factors are unlikely to produce a sudden reversal in the country's Internet policies or the broader negative trends in governance that are driven by domestic political dynamics. But they will create a drag on authoritarian consolidation and preserve space in which free and independent voices in traditional media and online continue to develop and thrive. These voices are the ones that can help preserve the liberalism and diversity that have gathered strength in Turkey over the last 20 years. In this way, Freedom House hopes this report contributes to strengthening support from the international community for sustaining the vibrancy of Turkey's online media and a free Internet.

Freedom House

May 2013-July 2014: Turkey's Long Year of Content Restrictions Online

Nate Schenckan

Understanding restrictions on the media sphere is an indispensable part of discussing how the Internet is governed in Turkey. As Aslı Tunç notes in the third section of this report, one of the striking features of the Gezi Park protests in June 2013 was how protesters turned to online platforms, especially Twitter, Facebook, and live-streaming services like Ustream, to publicize events that the traditional media ignored. For a brief period, Turkey was an antidote to pessimism about the Internet and political activism after the painful descent of the Arab Spring into counter-revolution and civil war. Although overwhelming police force eventually broke the Gezi protests, new online media outlets continued to flourish in Turkey through 2013 and 2014, seeking to capture the momentum of the summer.

At the same time, the government has intensified its efforts to control the Internet since Gezi through punitive and legislative means. In Izmir, 29 Twitter users are on trial for inciting riots after retweeting information about Gezi protests, in a case where then-Prime Minister Recep Tayyip Erdoğan is listed as a victim. In April, columnist Önder Aytaç was sentenced to 10 months in prison for swearing at the prime minister in a tweet, and authorities have brought similar charges against the editor of Today's Zaman newspaper for tweets on his personal account. Although these cases are especially relevant because they concern social media content, in important respects they are continuations of historical practice offline in Turkey.

The chief mechanism of control of most media in Turkey is not a law but the relationships between media owners and the government. The country's largest media outlets are owned by corporate holding companies that depend heavily on government procurement contracts in areas like construction, housing, transport, and logistics. This makes the outlets vulnerable to government pressure, and incentivizes holding

companies to use their media arms as lobbying firms for major government contracts. Online, Türk Telekom continues to hold a monopoly in Internet infrastructure and broadband services, despite the privatization of Türk Telekom in 2005 and the nominal opening of the market to competition. With Türk Telekom still 30 percent state-owned, the independence of the country's dominant Internet provider is a matter of serious concern.⁸

Turkey retains a repressive set of legal tools that are actively used to punish dissent. These include criminal and civil defamation laws, which the government uses extensively against all sorts of protected speech. President Erdoğan himself has filed hundreds of defamation suits, including concerning online speech. This continues despite a 2012 European Court of Human Rights (ECtHR) ruling in *Tuşalp v. Turkey* stating the use of civil defamation laws to afford greater protection to public officials is a violation of Article 10 of the European Convention on Human Rights. Antiterrorism laws also give latitude to judges and prosecutors to consider politically sensitive speech as "propaganda," even if it is published in a registered media outlet and no organizational link is proven between the publisher and a terrorist organization. Thousands of people, mostly from Kurdish and leftist movements, have served time in jail under the antiterrorism laws in the past decade.

As it has grown in scale, the online sphere has also been subject to increasing restrictions. Since passing **Law No. 5651** in 2007, the Turkish government has blocked tens of thousands of websites.⁹ Under 5651, the Telecommunications Communication Presidency (TİB) was not required to notify content or hosting providers that a block was being imposed, meaning that subjects of blocks often did not know their website was being blocked. In December 2012, the ECtHR found that 5651 lacked a strict legal framework



A protester wearing a gas mask reads the news on his phone on June 13, 2013 during the Gezi Park protests. Ozan Köse/AFP/Getty Images

for blocking orders and their contestation. The court held that the law violated Article 10 of the European Convention on Human Rights, a ruling that is legally binding upon Turkey as a signatory.¹⁰ Yet the government made no moves to revise 5651 until more than a year after the ruling.

The government only moved to change 5651—in the opposite direction to what ECtHR recommended—when Internet use appeared to threaten its rule. On December 17, 2013, prosecutors arrested influential figures close to the government, including the head of the state bank Halkbank, several construction magnates, and the sons of three government ministers, as part of a sweeping corruption investigation. As with the Gezi Park protests, the ruling AK Party and Erdoğan saw the investigation as a coup attempt, in this case launched by its former ally the Gülen movement. While the government pushed back on the investigation, including by reassigning thousands of police and prosecutors around the country, dozens of recordings of wiretapped conversations allegedly showing top government officials engaged in corruption and manipulation of the media began to appear

on Twitter and YouTube. Some of the first measures to block the leaks were ad hoc. The online news site VagusTV was blocked in January under 5651 for more than a week in unclear legal circumstances; another news site, T24, was ordered to take down coverage of the corruption investigation.

The government gave itself new powers to curb the leaks. In a rushed process in January–February 2014, parliament passed amendments to 5651 that strengthened the powers of the TİB. Hosting providers are now required to retain user information for one to two years. The legal framework that ECtHR had said must be remedied remained unchanged, while a new blocking measure was added under Article 9 allowing the TİB to issue blocking orders itself, which hosting providers must implement within four hours. ISPs will now be required by law to join a providers' association and will bear responsibility for implementing orders. Twitter, Facebook, and other platforms defined as "hosting providers" under the law will also be required to obtain a certificate in order to operate in Turkey. In sum, the 5651 amendments took the law in the opposite direction as that required by the European court's

ruling and added new measures intensifying control.

The 5651 amendments were followed in April by **amendments to the National Intelligence Organization (MIT) law** that empowered the agency to access any information, documents, data, or records from public institutions, financial institutions, and entities with or without a legal character, including access to archives, electronic data centers, and communications infrastructure. The law established that no other legal obligation, national or international, could overrule an MIT request, and made the refusal to comply with a request punishable by up to five years in prison. Acquiring or publishing information about MIT activities—including on social media—is now punishable by up to nine years in prison.

With the new laws in place but the leaks still continuing, and with pivotal nationwide local elections on March 30, the government pulled the plug. Speaking on the campaign trail on March 20, Erdoğan said, “We will tear this Twitter-shmitter out at the roots. The international community can say this or that, it has nothing to do with them. This has nothing to do with freedom-shmeedom. We will show the strength of the Turkish Republic.” The next day, the government blocked Twitter, followed by YouTube on March 27. The government claimed that the actions were in response to individual citizen complaints of privacy violations, but they did not follow either the requirements of the ECtHR or the new procedures under the amended 5651.

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On April 2, Turkey’s Constitutional Court held that the Twitter block violated the constitution’s Article 26, which protects freedom of expression. A similar ruling regarding YouTube followed on May 28. The rulings came after the local elections, however, which were held with both social media platforms blocked throughout the country. Both platforms are now accessible again, but after Twitter sent a delegation to Turkey on April 14, the government has begun making content removal requests to Twitter extensively. In 2013, Turkey sent nine official requests to Twitter for content removal; Twitter complied with none. In the first half of 2014 alone, Turkey sent 186 removal

requests, and Twitter complied with 30 percent.¹¹ This substantiates concerns that Twitter is shifting its policies to comply more frequently with removal requests, even in authoritarian countries where it does not have employees or servers.

These are likely not the last changes to be made to the legislative framework governing speech online. A **modification of the Press Law (Basın Kanunu)**, now in the committee stage in parliament, would make online news sites fall under the same regulations as print. The law defines “online news sites” so broadly that blogs and amateur commentary could easily fall under the regulations. Among other administrative requirements, all news sites under the definition would be required to include a “masthead” with the publisher, managing director, and hosting provider listed. Any website blocked under Article 9 of the new amendments to 5651 would also have its privileges as a press outlet—including press cards and official advertising—suspended. Those websites not driven out of business by the new expenses and administrative burdens would be left highly vulnerable to politically motivated blocking.

On July 23, during his campaign for president, Erdoğan announced that the powers of the TİB should be transferred to the National Intelligence Organization (MIT). Responsibility for blocking websites and monitoring user data would thus fall to the intelligence organization, which is run by a close ally of the prime minister. This change would confirm what two of Turkey’s most prominent Internet freedom experts said at the time of the February amendments to 5651, that the TİB was being transformed into an intelligence organization.¹²

This whirlwind of events—all taking place during the last 15 months—has raised the question of what the Internet in Turkey will look like in the future. The rapid passage of regressive new laws and the promise of new restrictions, like the Press Law, threaten the development of the Turkish telecommunications sector, especially its vibrant new media startups. As the government catches up to the Internet as a space for expression and applies the same repressive laws and practices that have historically undermined free speech in Turkey, it is placing at risk the benefits of the open Internet for Turkey. Repressive regulations could stifle the very innovation that has drawn so much positive attention to Turkey’s Internet in the past year.

Infrastructure and Independence: Why Turkey's Telecommunications Sector Is Not Keeping Pace with Demand

Osman Coşkunoglu

As other sections of this report highlight, Internet use in Turkey and the role of the Internet in the country's economy have grown significantly in recent years. Yet the development of Turkey's Internet infrastructure—especially next-generation networks requiring broadband that are necessary for the new phase of Internet development—has not kept pace. This section explains why the regulatory apparatus in Turkey has failed to stimulate infrastructure development despite meaningful reforms.

INFRASTRUCTURE

The last two decades have seen significant changes for Turkey's telecommunications sector, which falls under the jurisdiction of the Ministry of Transportation.¹³ In 1994, Law No. 4000 created a state-owned, fixed-line operator company, Türk Telekom (to be privatized in 2005), and granted it exclusive rights for all telecommunications infrastructure, with the exception of mobile service.

In 1994, Türk Telekom was created as a state-owned, fixed-line operator company with exclusive rights for all telecommunications infrastructure except for mobile service.

Also in 1994, two private companies, Turkcell and Telsim, launched mobile telephony services and were granted licenses in 1998. Later, Avea, a subsidiary of Türk Telekom, became the third mobile operator.

TTNet, a subsidiary of Türk Telekom, launched broadband in the early 2000s, providing ADSL services over their public switched telephone network (PSTN). Mobile broadband over 3G started towards the end of

the decade, with three GSM operators: Turkcell, Vodafone (which had bought Telsim), and Avea. Likewise, broadband services started over fiber and cable-TV networks, as well as through satellites, at the end of the 2000s.

The penetration rate of fixed-line telephony has been decreasing steadily over the last decade as consumers switch to mobile service. With more than 13 million subscribers, the current penetration rate of fixed-line telephony is 17.34 percent. Considering that the average household size in Turkey is 3.69 persons, it can be assumed that the fixed-line market is saturated. Around 86 percent of fixed-line users subscribe to the incumbent Türk Telekom, and the remaining 14 percent to alternative operators.

After significant growth in mobile telephony over the last decade, there are more than 70 million subscribers (around 70 percent of which have 3G), for a penetration rate of 91.5 percent. If the 0-to-9 age group is excluded, the penetration rate of mobile telephony exceeds 100 percent. According to subscriber numbers, Turkcell, Vodafone, and Avea's market shares are 49.62 percent, 28.57 percent, and 21.87 percent, respectively. According to revenues, these market shares are, respectively, 46.45 percent, 33.38 percent, and 20.17 percent.

With 8.5 million fixed and 26.4 million mobile subscribers, total broadband subscription in Turkey has reached 35 million (broadband subscription through satellite is negligible). Fixed broadband subscription is as follows: 79 percent xDSL (67 percent of which is owned by Türk Telekom subsidiary TTNet and 12 percent by other ISPs), 15 percent fiber, and 6 percent cable. Currently, Türk Telekom owns 182,450 km of fiber infrastructure, around 123,000 km as backbone

FIXED-LINE USER SUBSCRIPTIONS



network and around 60,000 km that reaches subscribers. Alternative operators own a total of 51,244 km fiber infrastructure reaching subscribers.¹⁴ In other words, nine years after its privatization and the opening of the sector to competition, Türk Telekom remains the overwhelmingly dominant provider in fixed-line and broadband services.

Scoreboard

Turkey lags behind all other OECD countries in fixed broadband penetration with 11 percent, less than half of the OECD average of 26.7 percent. In mobile broadband, Turkey is near the bottom but ahead of three member countries (Chile, Hungary, and Mexico), with 26.44 million subscribers corresponding to 34.5 percent penetration, which is still only about half the OECD average.¹⁵

FIXED RETAIL BROADBAND CONNECTIONS (BY 2008)



Two annual reports provide global comparisons. The Global Information Technology Report of the World Economic Forum ranks countries according to the Network Readiness Index (NRI). In the report published in 2014,¹⁶ Turkey ranks 51st out of 148 countries on the NRI. One sub-index in the rating is "Readiness," where Turkey ranks 48th. Under this sub-index, Turkey ranks 42nd on the pillar of "Infrastructure and Content." Turkey ranks 44th on the "Environment" sub-index, but 55th on the "Political and Regulatory Environment" pillar within it.

FIBER INFRASTRUCTURE REACHING SUBSCRIBERS



The International Telecommunication Union's Measuring the Information Society ranks countries according to the ICT Development Index (IDI). In the latest report published in 2013,¹⁷ Turkey ranks 69th out of 157 countries according to the IDI. On the sub-index "Access" that captures ICT readiness and includes five infrastructure and access indicators (fixed-telephone subscriptions, mobile-cellular telephone subscriptions, international Internet bandwidth per Internet user, percentage of households with a computer, and percentage of households with Internet access), Turkey ranks 72nd.

REGULATORY MECHANISMS

Why have infrastructure development and broadband penetration lagged behind expectations? Since 1998, Turkey has increasingly adopted market-based mechanisms for telecommunications and Internet infrastructure development. As such, the two most important functions of the regulatory agency are to achieve liberalization of the sector and to ensure fair competition while protecting consumers. Yet effective

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liberalization, particularly in the broadband sector, has not been achieved. A review of the legislative changes shows an improvement in the regulatory framework that is not matched by an improvement in implementation of liberalization.

Background (1998–2008)

The first legislative step towards the liberalization of Turkey's telecommunications sector was the enactment of Law No. 4502 in 2000. With this law, the Ministry of Transportation established its regulatory oversight of the communications sector through the Telecommunications Authority (Telekomünikasyon Kurumu, TK), with powers to regulate prices, interconnection, and access.

Even before this law, however, liberalization in telecommunications had started when two mobile operators, Turkcell and Telsim, were granted licenses in 1998, rendering them independent of Türk Telekom's monopoly. This launched genuine competition in the mobile telephony segment of the sector. In 2003, Avea, a subsidiary of Türk Telekom, entered the mobile market, and in 2005 Vodafone bought Telsim. Although the mobile segment had liberalized, Turkcell dominated the market due to the first-mover advantage until the TK took two measures in 2007: instituting retail and wholesale tariff controls and mobile number portability. Fair competition in the mobile market was also reinforced by later reducing mobile call termination rates.

Liberalization in fixed-line telephony started only with the adoption of Law No. 4502. According to the law, the monopoly rights of Türk Telekom would be terminated at the end of 2003. However, by 2008, the share of Türk Telekom in overall telephony services was still 91 percent by traffic and 81 percent by revenue. The degree of competition in fixed broadband services was even worse. By 2008, there were more than 70 ISPs in the market, yet the share of Türk Telekom in

TURKEY'S STATS



FIXED-BROADBAND PENETRATION

TURKEY

11%

OECD AVERAGE
26.7%

MOBILE-BROADBAND PENETRATION

TURKEY

34.5%

OECD AVERAGE
68.4%

fixed retail broadband connections was about 95 per cent (4.3 million out of a total of 4.5 million).

Despite some shortcomings in Law No. 4502, it was a good start. However, implementation of the regulatory framework and the resulting market outcomes were less than satisfactory. The implementation was uneven and conspicuously favored Türk Telekom. Although the Ministry and the TK vigorously enforced competition in the mobile telephony segment, they were ineffective in the fixed telephony and broadband segments, where Türk Telekom continued to dominate.

As the European Commission noted in 2008 in its progress report on Turkey's accession, "Liberalisation of local telephony is still pending and undermines competition in the fixed and broadband markets. The regulatory body is well staffed and is self-financed. However, it lacks independence—notably in the authorisation process—and the decision making process of the Telecommunications Authority is not transparent."¹⁸

The European Competitive Telecommunications Association (ECTA) also noted the Telecommunications Authority's uneven and ineffective implementation. The ECTA's Regulatory Scorecard report contains an overall score, based on qualitative and quantitative analyses, for the effectiveness of the regulatory environment in each of the EU member and some candidate countries. In ECTA's 2008 report, Turkey scored the worst of all countries surveyed.¹⁹ Turkey scored particularly poorly in the "Entry Enabler" and "Economic Market Conditions" dimensions. Even though Turkey's score was best in the "Institutional Framework" dimension, within that dimension it performed worst in the "National Regulatory Agency (NRA) Independence" and "NRA Enforcement Powers" sub-dimensions.

It is also revealing to note that, when the Telecommunications Authority persistently remained ineffective in countering the dominance of Türk Telekom in fixed-line telephony and broadband segments, the Competition Authority—which had had an impeccable record of acting independently at that point in time—had to interfere. In a landmark decision in November 2008, the Competition Authority imposed a fine of 12.4 million TL (about \$9 million) on Türk Telekom for abusing its dominance in the wholesale broadband Internet market.²⁰ That it required another authority's interference to enforce competition speaks

to concerns that the Telecommunications Authority was insufficiently independent in encouraging competition.

Electronic Communications Law (2008)

The Electronic Communications Law (Law No. 5809) of November 2008 was a landmark piece of legislation. Although not perfect, the ECL constituted a significant improvement over Law No. 4502. Article 5 of the ECL redefined the Ministry of Transportation's role and duties in the communications sector:²¹ determining strategy and policy for electronic communications services that use scarce resources (such as numbering, satellite positions, and frequencies). It also authorized the Ministry to determine the principles and policies for the promotion of competition in the electronic communications industry, and to take supportive measures. This is in line with the general approach adopted in the liberalization of network industries, whereby the Ministry takes on responsibility for general formulation of policy and strategy for the industry, and an independent regulatory authority is given responsibility for the formulation and implementation of necessary regulations. As we shall see, however, the question of independence of the regulatory authority has been a constant issue for effective implementation.

The ECL empowered the regulatory agency and changed its name to the Information and Communication Technologies Authority (Bilgi Teknolojileri ve İletişim Kurumu, or BTK).

More specifically, Article 6 authorizes the BTK to do the following:²²

- To undertake regulations so as to install and protect competition and to prevent activities that hamper or distort competition, and to impose remedies on operators with significant market power (SMP) and on other operators if necessary;
- To undertake market analysis and determine operators with SMP;
- To maintain Board decisions, along with justifications and procedures, on matters of interest to operators and consumers open to public;
- To approve, as necessary, tariffs and reference access offers.

Two virtues of the law deserve to be emphasized. First, there is an explicit reference to market analysis to determine operators with SMP (even if the market

analysis procedures lack a firm basis in the law).²³ Second, the requirement that the BTK has to publish its decisions with justifications is of particular importance for transparency and accountability.²⁴

Following the adoption of the ECL, the BTK released or renewed the necessary secondary legislation, including ordinances on the following: Authorizations, Rights of Way, Access and Interconnection, Determination of Operators with SMP and Obligations that can be Imposed on Them, Tariffs, and Number Portability.

The European Commission's views on the legislation were mildly positive:²⁵ "[ECL] is a significant step towards aligning Turkey's regulatory framework with the EU acquis, notably as regards the authorisation rules and the tasks of the regulator... The amendments to the law have the potential to create the conditions for competition on the fixed telephony market." The EC also expressed some reservations:²⁶ "However, the Electronic Communications Law is not in line with the acquis, in particular the provisions on universal service obligations, and as regards the scope of authorisation rules, which does not apply to existing concession agreements."

The lack of progress in the development of competition is due to weak implementation and enforcement rather than the lack of legal instruments.

Although the legal gaps between the EU and the Turkish regulatory frameworks were not eliminated, they were narrowed down. The foremost implication of this is that the lack of progress in the development of competition was then due to weak implementation and enforcement rather than the lack of legal instruments.

Implementation (2008–Present)

As shown in the "Infrastructure" section above, despite regulatory liberalization, the incumbent Türk Telekom's domination in the fixed-line telephony and broadband segments has continued, and the progress in competition as well as infrastructure development remains slow.

Some limited but favorable developments have oc-

curred in the last six years. The following is compiled from the European Commission's annual Turkey Progress Report from 2010–13:

- The BTK is publishing three-year strategic plans (so far, 2010–12 and 2013–16) and quarterly market reports. It also publishes justifications of decisions taken, which is a positive development for the transparency and accountability of its activities.
- A communiqué was published in February 2012 to improve the service quality of Internet service providers. However, the quality of ISPs has not improved significantly.
- Fixed number portability and wholesale line rental became operational in early 2012.
- Mobile termination rates (MTR) were further reduced. Fixed termination rates, however, remain higher than the EU average, and calls of international origin are exempted from the MTR regulation, resulting in distortion of the market.

In addition to the foregoing, in 2010 Türk Telekom was finally required to provide naked DSL services. Provision of naked DSL means that Türk Telekom can no longer bundle voice and data services together and that subscribers can subscribe to DSL services alone, without having to pay for voice services as well. Despite pressure from public and alternative operators, for years the BTK had not asked Türk Telekom to provide naked DSL, which would mean revenue loss for the incumbent and would increase the competitiveness of alternative ISPs. The unavailability of naked DSL was slowing down consumer switching from fixed to mobile telephony and retarding demand for VoIP services.

Yet again it was only through a Competition Authority ruling that Türk Telekom was forced to provide naked DSL services.²⁷ What should have been the BTK's role as the independent agency regulating telecommunications infrastructure development was again fulfilled by the Competition Authority.

Around the same time that the ECL was enacted in Turkey, a new technological concept had emerged in telecommunications at the global level: New (or Next) Generation Networks (NGN).²⁸ Being packet-based, NGN uses Internet Protocol (IP) and enables the deployment of access-independent services over converged fixed and mobile networks. As such, broadband plays the core role in NGNs and has become the most crucial technology in telecommunications.

Faced with this new challenge, in an October 2011 decision the BTK excluded fiber from market analysis for the next five years or until the percentage of fiber-based subscriptions reaches 25 percent of all fixed broadband subscriptions. Türk Telekom's reference offer, as approved by the BTK, includes the terms and conditions of facility-sharing, and Türk Telekom committed to provide wholesale and bitstream services over its fiber network on a nondiscriminatory basis.²⁹ The objective of exclusion was to incentivize Türk Telekom to invest in fiber development that ISPs could then use through facility-sharing agreements.

In the last eight months alternative operators have been unable to install a single yard of fiber.

Excluding fiber from market analysis has not served its purposes, however. Türk Telekom's investments in broadband in general and in fiber in particular have not increased in recent years. In fact, according to an analysis by the Competitive Telco Operators Association (TELKODER)—members of which are all the telecommunications and Internet firms in Turkey, except for Türk Telekom—the investment/revenue share of Türk Telekom between 2010 and 2013 is 17.2 percent, while the combined alternative operator revenue is 38.8 percent.³⁰

There are a number of other implementation problems regarding the growth of broadband in general and fiber infrastructure in particular. The most important is that alternative operators face difficulties in acquiring rights-of-way to deploy mobile/wireless and fiber networks. Under an executive order from 2011, the Ministry is supposed to encourage Türk Telekom to reach an agreement with alternative providers for right-of-way concessions. Yet, due to lack of responsiveness on the part of Türk Telekom, in the last eight months alternative operators have been unable to install a single yard of fiber.³¹

CONCLUSION

Turkey has great potential for growth in telecommunications and the Internet sector given its young population and high technology adoption rates. The BTK has the legal instruments, financial resources, and institutional capabilities to encourage this growth. However, this potential has not sufficiently translated into the expansion of the sector. In fact, according to the BTK's own annual figures, in dollar terms there has

been no significant growth in the telecommunications and Internet sector from 2008 to 2013.³²

With the exception of the incumbent Türk Telekom, there is consensus in the sector that the root cause of this insufficient growth is the lack of progress in fostering competition. The underlying reasons for this lack of competition are the BTK's scant degree of independence from the Ministry and the continued close ties of Türk Telekom with the current administration.

In regard to the BTK, the Ministry of Transportation remains responsible for overall government telecommunications policy, proposes names for BTK board members to the cabinet, and exercises approval power over changes in license fees proposed by the BTK. It also oversees Türksat, the government operator of Turkey's three communications satellites and the holder of Türk Telekom's former cable company assets. The Cabinet of Ministers appoints BTK board members without any consultation with the sector.

The prime minister's attitude towards independent regulatory agencies was shown early in his premiership in 2004, when he expressed frustration that "We give instructions to the boards of regulatory agencies, they say 'yes, sir' but then they don't do what we say."³³ After 10 years of one party in power, fewer and fewer people are not doing what they're told. The last 10 years have demonstrated the consequences of this approach, with decreasing independence evident among regulatory agencies not only in telecommunications but in other areas as well, such as media regulation and public procurement.

As for Türk Telekom, despite privatization in 2005, the company remains very close to the government. The Turkish Treasury owns 30 percent of the company, and the Undersecretary of the Ministry of Transportation is the vice-chair of the board. In March 2014, the chief advisor to Prime Minister Erdoğan (a former newspaper columnist with no background in telecommunications) was appointed to the board as an independent member.³⁴ These close relationships ensure that Türk Telekom continues to receive preferential treatment regardless of the legal obligations that should prevent favoritism.

In order for Turkey to fulfill its potential for growth Internet infrastructure and telecommunications services, the first and foremost step must be to eliminate political intrusion into the sector.

Can Pomegranates Replace Penguins? Social Media and the Rise of Citizen Journalism in Turkey

Aslı Tunç

The Gezi Park protests in 2013 sparked an outpouring of creativity and new media development online. The vibrancy of Turkey’s citizen journalism sector is the flipside of a traditional media that has failed in its role as an independent provider of information. This section describes the growth of citizen journalism in Turkey and the possibilities for its future.

A BOOMING ONLINE AUDIENCE

Turkey has a vibrant online community, with nearly 36.5 million Internet users³⁵ in a country with a population of 77 million. Facebook is the most popular social network with 32,354,900 users and a penetration equal to 41.59 percent of the population. Around 90 percent of the country’s Internet users are active

on Facebook. Turkey is witnessing an explosion in social media, ranking the fourth largest in global use of Facebook and eighth largest for Twitter with 31.1 percent penetration and 11,337,500 active Twitter users. From 2012–13, the number of Twitter users in Turkey increased from 7.2 million to 9.6 million. The number of tweets sent daily also increased dramatically, by 370 percent. Turkish Internet users now send approximately 8 million tweets per day, or roughly 92 tweets per second.

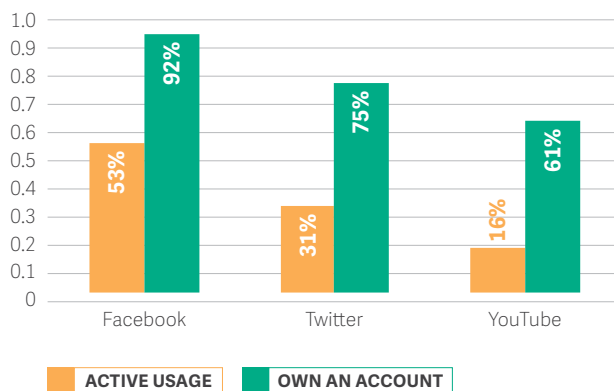
It was during the Gezi Park protests of May–June 2013 that Twitter became a widely accepted source of news for the Turkish public. On May 31, the total number of tweets sent daily in Turkey skyrocketed from the normal 9–11 million to 15.2 million, the day when the events erupted into a national movement. New York University researchers found that during Gezi about 90 percent of geo-located tweets with protest hashtags were coming from within Turkey—in contrast to the Egyptian protests in 2011, when another research project estimated only 30 percent of those tweeting were in the country.³⁶

The popularity of social media in Turkey and during the Gezi Park protests is due in part to the failures of the traditional Turkish media. As discussed in the first section of this report, the financial connections of media owners with the government, weak professional trade unions, and aggressive use of repressive laws have produced a situation of severe self-censorship in Turkey’s traditional media. This was seen clearly in the first days of the protests, when cable news channels broadcast cooking shows and penguin documentaries instead of covering huge protests in the heart of Turkey’s largest city. The penguin, in particular, became a national symbol of media complicity that the protesters adopted as their own ironic icon.

Figure 1

SOCIAL MEDIA ACCOUNT OWNERSHIP AND USAGE IN TURKEY

Share of population age 15-64



Source: Global-WebIndex, Second Quarter 2014.

Given the profound distrust of urban, educated youth towards highly partisan news outlets, it should be no surprise to see the powerful impact of social media on the young, desperate as they are for an alternative way to find out what is going on in the world and share information with their friends. During the Gezi Park events, every element of news ignored by traditional media spread like wildfire across social media. Twitter became the obvious outlet for digitally literate people in search of information.

Additionally, the constantly updating, live-streaming quality of social media made it a powerful tool during the protests. Citizen journalism and live-stream broadcasts not only helped to fill the gap left by the traditional media but they also usurped the traditional media's functions by allowing participants and users to directly share and verify valuable information about rapidly developing situations. Live-stream channels on platforms like Ustream also included live-chat tools, enabling real-time communication about real-time

events on a local and global scale. Participants did not just use the tools; they actively took on the challenge of creating structures for gathering and disseminating information. By the third day of the protests, media desks were formed at Gezi Park calling for volunteers to team up with live-streamers with their tools: smartphones, laptops, video cameras, and 3G modems. A popular slogan to promote civic journalism during the protests was: "There is no media, we are all journalists." The downsides of social media were also on display during the protests, including misinformation, lack of verification, slander, and hate speech. But citizen-generated content on social media played a major role in raising awareness and mobilizing action.

In the early days of the Gezi protests, on June 6–8, 2013, KONDA Research and Consultancy conducted 4,411 face-to-face interviews with participants. One of the questions was to identify the initial source of news about the protests. Sixty-nine percent of protesters in the park indicated that they first heard about the events from social media. Only 7 percent got the news from television, 10 times less than at the national level (71.3 percent) (Figure 2). Age and education level were the main indicators on this question. Only 5 percent of participants above the age of 44 got their initial news of the protests from social media, 2 percent from online news sites, and 88 percent from television.

Figure 2

FROM WHICH SOURCE DID YOU FIRST HEAR ABOUT THE GEZI PARK PROTESTS?

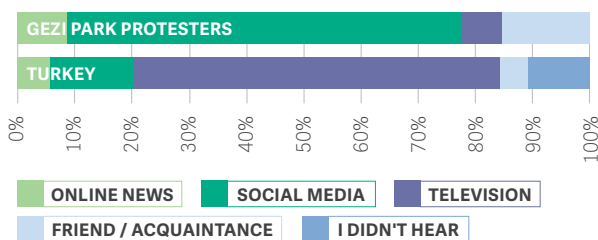
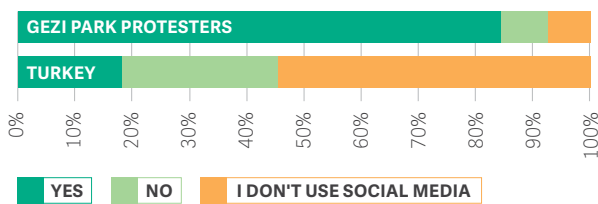


Figure 3

OVER THE PAST MONTH, DID YOU POST ANY MESSAGES ABOUT THE PROTESTS?



Source: (Figures 2 & 3) KONDA Gezi Park Research 2013

Figure 3 shows how much more Gezi Park protesters used social media in comparison with Turkey as a whole. While 84.6 percent of protesters had posted on social media in the last month at the time of the survey, only 18.3 percent of Turkey as a whole had done so. And less than 8 percent of Gezi protesters did not use social media, compared with 55 percent of Turkey as a whole. According to the KONDA research, use of social media was also correlated with the time that participants arrived at Gezi Park. The earlier they arrived at the park, the more they used social media.

The following examples of independent initiatives give an idea of the desperate search for reliable news and how it has led to a blossoming of citizen journalism in Turkey.

140journos

This commercial-free, volunteer-based "counter-media" initiative started just after an airstrike on the Turkey-Iraq border that killed 35 Kurdish villagers on December 29, 2011. The mainstream media released



the first information to the public a full 12 hours after the tragedy, even as social media was already in a storm. Frustrated by the lack of media coverage, a 21-year-old college student, Engin Önder, decided to found 140journos, an organization whose volunteers use their own mobile devices to provide uncensored news to the public via social media platforms like Twitter and SoundCloud. Currently, 140journos has a team of 20 students from different academic backgrounds, none of whom is a journalism student.



140journos considers itself a “data project” rather than a journalism outlet. Its main output at present is its Twitter feed, which covers events through photographs, micro-videos using Vine, and live broadcasts, as well as interviews conducted on the spot. 140journos members actively use Twitter to cover issues that are largely ignored in the society, such as LGBT movements, student trials, protests, and terrorism cases. Recently, its work has expanded into areas like crowdsourced vote-counting through the journos.com.tr and saydirac.com platforms.



Dokuz8Haber

Dokuz8Haber is a journalism network that gathers various independent citizen journalism outlets, such as Ayağa Kalk Taksim, Demokrat Haber, Emek Dünyası, Gezi Postası, HaberVesaire, Jiyan, Solfasol, and Ötekilerin Postası, to join forces and create a common newsroom. Volunteers and citizen journalists send their stories to professional editors, and the news stories are serviced domestically and internationally via this independent news agency. There is live-stream coverage and translation if needed.



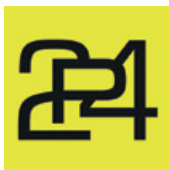
VagusTV

The website VagusTV was a combination of professional and citizen journalism. It became especially popular due to its coverage of corruption allegations against the government in late 2013–early 2014, when the corruption scandal was at its height but many media outlets were tentative about releasing details of the allegations. In January 2014, the site was blocked by the government of Turkey for approximately two weeks under unclear circumstances. The site closed not long after the blocking, which had disrupted its business and reduced its audience. VagusTV is a concrete example of the risk independent journalism runs in Turkey.



VivaHiba

VivaHiba (www.vivahiba.com) is a relatively new and open-ended citizen journalism platform that enables freelance photojournalists and amateurs to share user-generated content and images. News stories may be uploaded to the Internet directly or by using a smartphone application. The website was launched in November 2013 by cofounders Hıdır Geviş and Barış Şarer and is based in New York City. VivaHiba is run by a team of volunteers and has roughly 5,000 subscribers, among whom 400 are actively producing content for the site from 25 different cities in Turkey. Hıdır Geviş has future plans to expand the site into different languages, including English, German, and Arabic.³⁹



Ötekilerin Postası (The Others' Post)

The Ötekilerin Postası platform started as a Facebook page sharing news related to hunger strikes of Kurdish prisoners demanding better conditions for PKK leader Abdullah Öcalan and greater freedom for the Kurdish language in public life in Turkey, both taboo issues in the mainstream media. Eventually, Ötekilerin Postası became a platform for rights journalism that invited citizen journalists to contribute. It now has more than 140,000 “likes” on Facebook and a stand-alone website, otekilerinpostasi.org.

When Gezi started, Ötekilerin Postası was already providing activist news from a radical left-wing perspective. During the protests, it became a citizen journalism hub and a major alternative news source on the Kurdish issue. Its Facebook page has been closed repeatedly, but each time the authors have reopened it and rebuilt their audience. In August 2013, the logo of Ötekilerin Postası—a pomegranate—was reported to Facebook for violation of community standards, resulting in the editors being banned from posting to the page for 30 days. The logo had been chosen as “the most beautiful symbol of social peace,” as one of the editors told Hürriyet Daily News. “A pomegranate is a whole with a thousand different seeds.”³⁷ The Facebook page continues to face problems with community complaints. In early August 2014, the page was closed for the ninth time for unclear reasons.³⁸

From top to bottom
The logos for
140journos, Ötekilerin
Postası, Dokuz8Haber,
VagusTV, VivaHiba,
and P24 used on
Twitter and Facebook



Members of Occupy Wall Street and New York City's Turkish community demonstrating in New York during the Gezi Park protests June 8, 2013. Michael Fleschman/Creative Commons Attribution-NonCommercial 2.0

Despite all of the practical and legal obstacles, journalism in Turkey seems to be more alive than ever.

investigative reporting or criticism of the government can put reporters at risk of being fired, deported, or imprisoned and that self-censorship is widespread as a result. The question is whether citizen journalism can help improve a media landscape that is rapidly deteriorating. While advancements in technology gives these independent initiatives the tools to create diverse and “unfiltered” journalism, there are two primary challenges: 1) to find sustainable, self-sufficient business models; and 2) to harness more participation from Turkish citizens, especially beyond the educated, urban, and mostly left-wing participants that are most active in citizen journalism but are a minority in Turkey.

P24 (Platform for Independent Journalism)

An exception to the citizen journalism model, P24 is a nonprofit, civil-society organization formed to support and promote editorial independence in the Turkish media under the supervision of experienced journalists and columnists, including Hasan Cemal, Doğan Akin, Yasemin Çongar, Andrew Finkel, Hazal Özvarış, Yavuz Baydar, and Murat Sabuncu. It launched in 2013 with a broad mission to strengthen the integrity of independent media in Turkey. It does this through a wide range of activities, such as press monitoring, organizing investigative journalism workshops, journalistic training, and public advocacy. Increasingly, P24 also acts as a news outlet itself by supporting the projects and reporting trips of independent professional journalists.

What is Next for Citizen Journalism in Turkey?

Citizen journalists are becoming a potent force for building open and democratic societies, especially in countries where antidemocratic regulations and problematic ownership structures limit the ability of professional journalists to operate freely. With social media use rapidly increasing in Turkey, citizen journalists have helped fill the gap in news coverage. Economic threats, intimidation, and other heavy-handed tactics have humbled the country's largest news organizations. Journalists acknowledge that

Citizen journalism is far from replacing the mainstream news culture (especially television), despite the decline of trust in journalism as a profession in Turkey. Citizen journalism also poses a problem for advocates of quality, accuracy, and objectivity, as contributors typically lack formal training or knowledge of the essential roles that independent media play in ensuring accountable and transparent government. Citizen journalism platforms now produce a daily review of public events the traditional press in Turkey is not covering, but they are not yet able to produce investigative or in-depth reports. Meanwhile, threats are mounting in the form of recent amendments to Law 5651 on blocking Internet sites and the proposal to expand the Press Law to cover Internet news sites (see first section of this report).

Yet, this dynamic landscape of continuous and diversified witnessing and reporting should not be seen as a crisis of journalism but, rather, as an explosion of potential. Despite all of the practical and legal obstacles, journalism in Turkey seems to be more alive than ever and undergoing a multiplication of both forms and content at amazing speed. Citizen journalism has provided a refreshing platform for the future of the news profession. The current challenge for journalists is to dare to imagine what they could be in the future, instead of hanging on to the constraints of their past.

Endnotes

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- 24 Full disclosure: as a member of parliament during the adoption of the ECL, the author of this article campaigned hard for this transparency and accountability measure.
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Freedom House is a nonprofit, nonpartisan organization that supports democratic change, monitors freedom, and advocates for democracy and human rights.

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