Internet Freedom and Freedom of Expression in Turkey

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Yet another mass protest in Turkey. Yet another drastic government response. The depressing reaction of the Turkish authorities to the Taksim and Gezi park protests bears strong authoritarian hallmarks and reflects the Turkish government's fear of open displays of "criticism" and, more generally, any form of dissent. This is not to imply that Turkey was ever a vigorous promoter of human rights, but certainly there were hopeful signs of progress over the past decades, including in realm of freedom of expression. Despite these positive signs, most commentators consider Turkish laws highly restrictive with regards to free speech and expression. The situation for journalists is also considered abysmal. Since 1992, eighteen journalists have been murdered in Turkey according to data collected by the Committee to Protect Journalists.

The Internet has, of course, not been immune from this trend. Aside from numerous national blockages of YouTube as a result of decisions by Turkish courts which accused uploaded videos of "insulting Turkishnes" and the filtering of Kurdish websites, the Turkish Internet was, up until 2011, only moderately restricted.[1] Internet filtering? Yes, but competing in digital repression with countries such as China, Iran or Tunisia? No, at least not in 2010.

From Morality to Political Censorship

This changed substantially in 2011, when the Turkish government – perhaps fearing their own "Arab Spring" – introduced proposals for a "voluntary filtering" of Turkish

Internet Service Providers (ISPs). This proposal was ostensibly to prevent users from viewing pornographic material involving children and minors and more generally to "protect" the Turkish population from pornography. While the level of filtering was meant to be voluntary for users, the installation of the filters themselves was made mandatory for ISPs in Turkey.

The regulatory proposals met with staunch opposition by civil society groups which were able to postpone but not prevent the introduction of the filtering system. Civil society saw the proposals by the Turkish government as the first step towards the creation of a wider filtering and censorship regime. These fears have been proved correct in more recent years as Turkey began to use the same filtering technologies to filter a wider array of political content. These kinds of activities are typical once the introduction of filtering systems have been approved, with governments then moving to monitor and censure political content with the use of the same technologies.

Beyond censorship, since 2011, the Turkish government has also systematically built up its capacity for surveillance. The Canadian research centre Citizen Lab based at the University of Toronto has documented the use of Trojan Horse technology acquired from the Italian vendor Hacking Team and from the British/German vendor FinFisher.[2] This suggests that the Turkish government has successfully developed the capacity to

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1 OpenNet Initiative, *Turkey Country Profile*, 18 December 2010, https://opennet.net/research/profiles/turkey.

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2 See, Bill Marczak et al., "Mapping Hacking Team's 'Untraceable' Spyware", in *Citizen Lab Research Brief*, No. 33 (February 2014), https://citizenlab.org/?p=22248; Morgan Marquis-Boire et al., "For their Eyes Only. The Commercialization of Digital Spying", in *Citizen Lab Research Brief*, No. 17 (April 2013), https://citizenlab.org/?p=18516.

hack into individual user devices and conduct targeted surveillance. The building up of increased surveillance technologies it not unusual, however there is a strong pattern of governments then using these technologies for political intimidation and censorship. Journalists are surveilled and activists are arrested with many forms of communications monitored, a pattern that can also be observed in Turkey.

Turkey's increasingly rigorous filtering system also included all of Google's online platform, a significant portion of the Internet. In 2012 the European Court of Human Rights found that Turkey was in violation of the right to freedom of expression.[3] This decision has had a minimal impact on Turkish filtering practices however, with the filtering of significant portions of the Internet remaining a widespread phenomenon. This includes pressuring social media platforms like Google and Facebook to remove political content during the Gezi park protests in 2013.[4] Such measures are often done with the strangest political justifications, like the need to block "fake" twitter accounts, a statement seen by many as a rather transparent attempt to "criminalize the incitement of protests".[5]

Such efforts gained renewed fervour in 2014, with Turkey passing additional legislation to restrict expression online. It was also revealed that Turkish ISPs had purchased and installed deep packet inspection technology from US company Palo Alto Networks and were attempting to purchase social media filtering technology from the Swedish company NetClean.[6] This decision has led to protests from Turkish and international civil society,[7] with claims that this is just another step towards the creation of a wide-ranging Turkish censorship and surveillance system. They also highlighted the role of European companies in exporting technologies to Turkey that can easily be used to encroach on human rights, pointing to the hypocrisy of these counties which at the same time proclaim their support for "Internet freedom" and human

rights online.[8]

Another watershed event that cannot be ignored was the complete ban of Twitter in Turkey immediately before key elections in March 2014. While the ban was eventually lifted after it was struck down by the Turkish Constitutional Court, the long blockage of a highly popular Internet service used by millions of Turks is in complete contravention of free speech and expression.

A similar ban was instituted on YouTube, after the online video platform hosted leaked telephone calls that are believed to document massive corruption among Turkish AKP government ministers and their families, including Prime Minister Recep Tayyip Erdoğan himself. The ban lasted for two months, was similarly instituted right before key local elections in March 2014 and was eventually lifted in June 2014 after the Turkish Constitutional Court ruled that the banning of YouTube is incompatible with guarantees for freedom of expression contained in the Turkish constitution.[9]

More recently, and now that Twitter is again accessible in Turkey, the government has turned to jailing Twitter users for their political opinions and content, with twenty-nine Turkish citizens being brought before a Turkish court in Izmir for posting information about Gezi Park. The Turkish Prime Minister is also seemingly involved and has personally petitioned the Turkish Constitutional Court seeking "damages" from Twitter users.[10] The involvement of the Prime Minister and taking Turkish citizens to court for expressing a political opinion is entirely incompatible with basic human rights standards. As noted by Amnesty International, the trial "can only be explained as a political attempt by the Turkish authorities to clamp down on

3 Article 19, *Turkey: Landmark European Court Decision finds blanket Google ban was a violation of freedom of expression*, 18 December 2012, http://www.article19.org/resources.php/resource/3567/en/.

4 Greg Epstein, "Online and Off, Information Control Persists in Turkey", in *Deeplinks*, 10 July 2013, https://www.eff.org/deeplinks/2013/07/online-and-information-control-persists-turkey.

5 Selcan Hacaoglu, "Turkey Announces Plan to Restrict 'Fake' Social Media Accounts", in *Bloomberg*, 20 June 2013, http://bloom.bg/121XBXc.

6 "Turkey's top soldier warns against social media as gov't to purchase software against illegal shares", in *Hürriyet Daily News*, 30 May 2014, http://www.hurriyetdailynews.com/Default.aspx?pageID=238&nID=67178.

7 Erkan Saka, "Are Turkey and NetClean Partnering to Stop Child Abuse or Curtail Internet Freedoms?", in *Global Voices*, 27 June 2014, http://globalvoicesonline.org/?p=477458.

8 Joe McNamee, "ENDitorial: Turkish Censorship - Swedish Built, by Royal Appointment", in *EDRi*, 18 June 2014, http://edri.org/?p=5563.

9 P. Nash Jenkins, "Turkey Lifts Two-Month Block on YouTube", in *Time World*, 2014, http://time.com/2820984.

10 Andrew Gardner, "The #IzmirTwitterCase: Ludicrous and baseless, yet set to continue", in *LIVEWIRE. Amnesty's global human rights blog*, 23 April 2014, http://livewire.amnesty.org/?p=13125.

social media."[11]

Conclusion

In the last three years the climate for online free expression in Turkey has gone from relatively bad to awful. Mirroring the more general human rights situation that has progressively deteriorated, online free expression has become a key battle ground. In this context, it should come as little surprise that the "usual suspects" – the "Dictators Little Helpers" as some have called them – have begun delivering increasingly advanced software and hardware to the Turkish government.[12] At this point, it seems credible to assume that not only mass censorship and filtering but wide scale mass surveillance is taking place.

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11 See, Milena Buyum, "Tweet Now for Student Facing Jail after Twitter Use in Turkey", in *LIVEWIRE. Amnesty's global human rights blog*, 11 July 2014, http://livewire.amnesty.org/?p=14332; Amnesty International, Turkey must abandon 'show trial' against Gezi Park protest organizers, 12 June 2014, http://www.amnesty.org/en/node/47677.

12 Danielle Kehl and Robert Morgus, "The Dictator's Little Helper", in *Slate*, 31 March 2014, http://www.slate.com/articles/technology/future_tense/2014/03/export_controls_how_to_stop_western_companies_from_sending_surveillance.html.

Responsibility for such a failure cannot be laid at the feet of the Turkish government alone. If anything, the spiral into violence in Turkey also represents a failure of its key partners and neighbours. For example, the politics of Turkey's EU accession made it impossible to "lock in" any progress made in the area of human rights. Instead repressive measures against free expression and other political rights have dominated Turkish politics since 2011, with successively more repressive measures since May 2011 heavily influencing Turkish politics. These authoritarian methods are reminiscent of other countries in the region but also of other authoritarian states such as Russia. Frustratingly, many of the countries affected by the Arab uprisings have praised the Turkish model and attempted to emulate it in some way or another. It should be emphasized however that the "Turkish model" in which even moderate political reform was considered possible no longer exists and that post-revolutionary countries would do better to look elsewhere for guidance.