

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a bold, serif font, centered between two horizontal blue bars.

NEW YORK
CITY BAR

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June 19, 2013

H. E. Mr. Recep Tayyip Erdoğan
Prime Minister of the Republic of Turkey
c/o Consulate General of Turkey
825 3rd Avenue, 28th Floor
New York, NY 10022

Your Excellency:

I am writing on behalf of the Association of the Bar of the City of New York (the “Association”), an independent, non-governmental organization of 24,000 lawyers, judges, law professors, and government officials from the United States and over 50 other countries. Throughout its 143-year history, the Association has consistently maintained that respect for the rule of law is essential in all jurisdictions, and has a long history of dedication to human rights, most notably through its Committee on International Human Rights, which investigates and reports on human rights conditions around the world, including within the United States. Since at least 2006, the Association’s Committee on European Affairs has closely followed developments regarding the Republic of Turkey’s relations with the European Union, as well as Turkey’s role within NATO and the Middle East.

The Association has serious concerns regarding the maintenance of the rule of law and the targeting and detention of lawyers in Turkey following recent events there. On June 11, 2013, a group of lawyers gathered at Çağlayan Courthouse to speak with the attorney general about alleged police interference with the freedom of the press. When the lawyers were denied access to the attorney general, they protested peacefully by clapping their hands. In response, private security approached the group and took two lawyers to another room by means of force. The peaceful protest nonetheless continued, at which point the lawyers were surrounded by private security and the Çevik Kuvvet, the Turkish riot police, and attacked: dragged on the ground, beaten and kicked. The lawyers were then handcuffed and unlawfully detained for 11 hours in a police vehicle. When the President of the Union of the Turkish Bar Association met with the acting attorney general about the attack and unlawful detention of the lawyers, the attorney general admitted that he had given the orders for the arrest.

This incident continues a dangerous and troubling trend of targeting lawyers in Turkey. Police have previously used excessive force, including tear gas, in Çağlayan Courthouse and have arrested and detained members of the judiciary without charge. It has been reported that police and private security officers have targeted human rights activists and members of the Progressive

Lawyers Association, using intimidation and violence in an attempt to silence them. In the latest round of protests, protesters continue to be targeted, but on June 16, reports suggested that Turkish authorities had broadened the crackdown to also target medics treating protesters' injuries, business owners sheltering them, and news media covering the events.

The Association echoes the European Parliament's concerns in a June 13 resolution about "disproportionate and excessive use of force by the Turkish police in its response to the peaceful and legitimate protests."¹ Additionally, the Association joins the European Parliament in calling on the Turkish Government to "immediate[ly] release [] all peaceful protestors taken into custody and currently detained" and to ensure that "all detainees have unrestricted access to lawyers of their choice"²

Prior to the escalation of violence in Turkey, Gabriela Knaul, the United Nations' Special Rapporteur on the Independence of Judges and Lawyers, expressed concern about "the increasing number of cases of arrest, detention and prosecution [in the Special Heacy Penal Courts] under terrorism-related charges of lawyers defending individuals accused of terrorism-related crimes."³ Indeed, it has been reported that, since the protests began in May, lawyers have been targeted, arrested and accused of terrorism-related activities for peacefully protesting against the government. Both the European Parliament and the special rapporteur have condemned these attempts to punish peaceful opponents to its policies.

The targeting and unlawful detention of lawyers in response to their peaceful protest violates the most basic protections provided Turkish Constitution including the right to hold peaceful meetings and marches, protections for personal liberty and security, and the right to a fair trial.⁴ In addition, the actions by the Turkish government are in violation of Turkey's international obligations. Under the International Covenant on Civil and Political Rights (the "ICCPR"), to which Turkey is a State Party, Turkey is obligated to allow for freedom of expression (Art. 19(2)),⁵ peaceful assembly (Art. 21)⁶ and freedom of association (Art. 22(1)).⁷ Turkey is also required to provide an effective remedy for violations of rights and freedoms (Art. 2(3)).⁸ Furthermore, the Turkish government has failed to uphold the United Nations' Basic Principles on the Role of Lawyers, which states that lawyers should be able to perform their functions "without intimidation, hindrance, harassment or improper interference."⁹ The principles also direct that lawyers "shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics."¹⁰

¹ European Parliament resolution of 13 June 2013 on the situation in Turkey (2013/2664(RSP)), para. 2.

² *Id.* At para. 4.

³ UN Human Rights Council, *Report of the Special Rapporteur on the Independence of Judges and Lawyers, Gabriela Knaul : Addendum, Mission to Turkey*, 16 (4 May 2012), available at <http://www.refworld.org/docid/501658292.html> (accessed 13 June 2013).

⁴ Constitution of the Republic of Turkey, II(2) Part XI Art. 34, Part III Art 19, an Part XIII Art. 36.

⁵ International Covenant on Civil and Political Rights, Art. 19(2) (1996).

⁶ *Id.* at Art. 21.

⁷ *Id.* at Art. 22(1).

⁸ *Id.* at Art. 2(3).

⁹ United Nations, *Basic Principles on the Role of Lawyers*, Art. 16 (7 September 1990), available at <http://www.refworld.org/docid/3ddb9f034.html> (accessed 13 June 2013).

¹⁰ *Id.*

In recent days, the Turkish government has demonstrated a lack of tolerance for peaceful assembly or freedom of expression if individuals voice opinions that are counter to those of the government. It has also shown that it will arrest and detain lawyers for simply exercising their right to peacefully protest or performing their professional duties.

The Association respectfully urges you to investigate and end the attacks on lawyers, which have been committed through intimidation, violence and unlawful means. These steps are required under both domestic and international law to maintain the legitimacy of Turkey's democratic institutions, and to demonstrate your commitment to the rule of law.

Very truly yours,

A handwritten signature in black ink, appearing to read "Carey R. Dunne", with a horizontal line extending from the end of the signature.

Carey R. Dunne

cc:

The Honorable John Kerry
Secretary of State
United States Department of State
2201 C St. NW
Washington, DC 20520