



**EXECUTIVE SUMMARY**

**LAW  
CHANGES,  
OPPRESSION  
REMAINS:  
TURKEY'S  
COUNTER-  
TERRORISM  
LEGISLATION  
SINCE 1980**



**Law Changes, Oppression Remains:  
Turkey's Counter-Terrorism Legislation since 1980  
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# LAW CHANGES, OPPRESSION REMAINS: Turkey's Counter-Terrorism Legislation since 1980

## EXECUTIVE SUMMARY

"Law Changes, Oppression Remains: Turkey's Counter-Terrorism Legislation since 1980" traces the development of counter-terrorism legislation that has been a source of oppression against dissenting voices in Turkey since 1980. The research focuses on the historical processes and political climate that led to the drafting and enactment of Turkey's Anti-Terror Law, which came into force in April 1991, with the 12 September 1980 military coup d'état as a milestone. Examining the evolution of Turkey's so-called "counter-terrorism legislation," the research also evaluates other components of the legal corpus used to implement security policies and repress civic space, such as Articles 216 and 301 of the Turkish Penal Code, within this framework.

As part of our "Supporting Human Rights Defenders and Organizations" program, this research aims to analyze the evolution of the concept of "terrorism" in Turkey, which remains a significant obstacle to the country's progress toward becoming a democratic state that upholds universal legal values and respects human rights and liberties. The research also seeks to examine the practical impact of legal reforms and amendments and to present this issue's contentious aspects through specific cases.

When we began this research, our focus was to understand the process behind the enactment of the Anti-Terror Law and its connection to the articles of the

former Penal Code. The Anti-Terror Law was introduced to fill the void created by the abolition of Articles 141, 142, and 163 of the former Penal Code which aimed to punish “propaganda of communism and socialism with separatist intent” and “propaganda against secularism.” It thus became clear that our initial questions could not be addressed without first understanding the previous legal framework. As a result, we began to realize the need to establish a historical trajectory, and adopted a period-based approach to clarify how the Penal Code has been applied, reshaped through various judicial reforms, and upheld through different practices. The research covers various periods from 1980 onwards, with each chapter focusing on the specific dynamics and legal amendments of its respective timeframe. In each chapter, we analyze the social and judicial impacts of counter-terrorism legislation by closely examining the distinctive practices and judicial processes characteristic of each period.

## 1980-1990: Reorganized Social Life and the Legal Legacy of the Coup

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### Political Agenda

The coup of 12 September 1980 aimed to support the neoliberal economic order and suppress social opposition, causing a profound and transformative rupture in law and human rights, with effects that persist to this day. During this period, 650,000 people were detained, 230,000 were put on trial, and 50 were executed. Regulations extending detention periods to 30 days, and up to 90 days for collective crimes, paved the way for systematic torture in prisons. Enforced disappearances, as well as extrajudicial and arbitrary executions, were widespread. **Following the coup, the association of any form of rights claims with terrorism and the legitimization of state violence against civilians as “combating terrorism” progressively increased.** This trend severely undermined Turkey’s democratic development and organizational capacity.

### Judicial Developments

In the aftermath of the coup, **over 71,000 dissidents**, including journalists, writers, lawyers, and human rights defenders, were prosecuted, sentenced, and imprisoned for years **solely under Articles 141, 142, and 163** of the Turkish Penal Code.

From the early days of the coup, numerous anti-democratic laws with lasting effects on Turkey were enacted, followed by radical changes. **Between 12 September 1980 and 6 December 1983, the date of transition to a controlled democracy, a total of 669 pivotal laws were passed**, reshaping Turkey's political, social, and cultural landscape. These laws laid the foundation for an approach that prioritized national security over fundamental rights and freedoms. These regulations extended beyond the State of Emergency (SoE) period, becoming prevailing norms even during ordinary times.

One of the most significant legal changes was the adoption of the new constitution. Prior to the 1982 referendum, the "No Campaign" opposing the new constitution was effectively silenced through various interventions, and **the 1982 Constitution was ultimately adopted with 91.4% of the vote.**

Under **Martial Law No. 1402**, which underwent numerous amendments shortly after the coup, **Martial Law Commands** were granted extensive restrictive powers, such as the dismissal of "objectionable" public personnel, control over all media and communication channels, prevention of meetings and demonstrations, restriction of the exercise of trade union rights, and the closure of associations and foundations. Civilian prosecutors and judges were sidelined, and regulations undermining the principle of the lawful judge were introduced. Extraordinary judicial procedures became routine with the establishment of the **State Security Courts (DGM)**. There were no clear criteria or supervisory authority for imposing restrictions or prohibitions. Various groups, including university students, journalists, and politicians, were suppressed under these new regulations. The closure of trade unions, federations, and confederations after the coup severely weakened workers' rights movements, and the number of organized workers in Turkey never returned to pre-12 September 1980 levels. While martial law was gradually lifted in many western provinces after the coup, a state of emergency was declared in Kurdish-majority provinces, granting law enforcement officers exceptionally broad powers to use weapons.

# 1991-2000: From Post-Coup Civil Politics to the Anti-Terror Law

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## Political Agenda

While international developments such as the end of the Cold War, the dissolution of the Soviet Union, and the Gulf War were unfolding, **civil society and the human rights movement, which had been significantly suppressed by the 12 September 1980 coup, experienced a resurgence during this period.** Steps were taken in the field of human rights to restore relations with the West. Turkey made significant commitments regarding human rights and democratization within the context of its relations with the European Union (EU) and its membership in the Council of Europe. However, Turkey's post-coup constitution and laws fell far short of meeting these standards, prompting debates on reform and legislation. During this period, Turkey recognized the compulsory jurisdiction of the European Court of Human Rights (ECtHR) (1990), entered the Customs Union (1995), and gained EU candidate status (1999). Despite the gradual lifting of the state of emergency declared after martial law by 1994, governors were granted extensive powers under new regulations referred to as "civilian martial law."

During the same period, **the conflict with the PKK intensified, state violence and the military's influence on politics increased, and the Islamist movement gained momentum.** Human rights violations, particularly in the southeast of Turkey, persisted under the state of emergency, accompanied by counterinsurgency practices such as torture, village burnings, and enforced disappearances. The **1993 Sivas** and the **1995 Gazi Neighborhood Massacres** highlighted the devastating consequences of the state's security policies. The **1996 Susurluk Accident** exposed the "deep state," which has since become a term used to describe clandestine networks, and the existence of structures like the Gendarmerie Intelligence Counter Terrorism (JITEM) unit. Throughout the 1990s, prisons saw a rise in prolonged hunger strikes among inmates demanding improved living conditions and an end to repression. The military's intervention in politics, particularly during the **28 February process** and the closure of the Welfare Party, significantly hindered the democratization efforts of the 1990s. While the military did not assume direct control, its influence was pervasive, particularly through the decisions of the National Security Council (MGK).

## Judicial Developments

The legislation inherited from the 1980s was superficially improved through several amendments to the constitution, the Code of Criminal Procedure (CPC), and the Law on Political Parties. One of the most significant developments during this period was the enactment of the **Anti-Terror Law (Terörle Mücadele Kanunu – TMK)** in 1991, which repealed the **highly controversial Articles 141, 142, and 163 of the former Turkish Penal Code**. However, the essence of these articles was preserved and incorporated into the new Anti-Terror Law, now framed around a **broad definition of “terrorism.”** As a result, “thought crimes” were effectively replaced by “terror crimes.” The offense of **“propaganda of separatism,”** previously covered under Article 142 of the former Penal Code, was redefined under Article 8 of the Anti-Terror Law. In response to criticisms, the penalties were eased, but other articles of the Turkish Penal Code were then increasingly used. Article 312 of the former Penal Code, which criminalized **“inciting the public to hatred and hostility,”** as well as Articles 168 and 169, which addressed **“membership in or aiding an illegal organization,”** became more commonly employed. The first clause of Article 6 of the Anti-Terror Law (**“targeting public officials involved in the fight against terrorism”**), which is interpreted today in a way that encompasses even criticism of members of the judiciary within the scope of the **“fight against terrorism”**, has been applied since the legislation’s inception.

With these regulations, opinions, legitimate criticism, and demands that deviated from the official state ideology on issues deemed “sensitive” —such as the Kurdish issue or the Armenian genocide— were criminalized. Human rights defenders, including journalists, writers, publishers, academics, artists, and politicians, frequently faced judicial harassment and punishment. Despite this, demands for human rights and peace continued to grow, and the struggle for rights strengthened and diversified.

## 2001-2005: Democratization on the Horizon

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### Political Agenda

The EU integration process, initiated in 2001, the Justice and Development Party’s (AKP) coming to power as the sole governing party in 2002, and the rise of securitization-oriented laws globally in the aftermath of the 11 September



2001 attacks were among the key milestones of this period. **The restrictions on fundamental rights and freedoms imposed by the 12 September 1980 coup laws and regulations were subsequently relaxed through a series of legal reforms known as "harmonization packages,"** while steps were taken towards democratization. Reforms were made in various areas, including freedom of thought and expression, freedom of association and assembly, the fight against torture, the abolition of DGMs and the death penalty, cultural rights, non-Muslim community foundations, the mandate of the National Security Council, and the process for closing down political parties. Turkey also became a signatory to numerous international human rights conventions, albeit with certain reservations and interpretative declarations. After Turkey gained EU candidate status in 1999, key issues highlighted in the EU progress reports included democracy and the rule of law, human rights and the protection of minorities, and the Cyprus issue.

Though this wave of democratization created space for public debate on various issues, the "national security approach" remained dominant and restrictive. Many reforms largely remained on paper, and restrictions on freedom of expression persisted. In the context of the Kurdish issue, although there were cautious and unofficial steps towards an "opening," calls for the democratic resolution of the issue and demands for cultural rights, including language rights, were not fulfilled.

## Judicial Developments

The offense of **"propaganda for separatism"** which was transferred from the previous Turkish Penal Code to Article 8 of the Anti-Terror Law in 1991, was relocated during this period. Article 8, abolished in 2003 to align the law with international human rights standards, was replaced by Article 7 of the Anti-Terror Law, this time with the phrase **"propaganda for a terrorist organization"** instead of "separatism." While charges that were common in the earlier period such as **"inciting the public to hatred and hostility," "membership in or aiding an illegal organization,"** and **"praising crime and criminals"** were brought before the judiciary less frequently during this period, the reform era introduced new alternatives to the punitive mentality, such as the Article 301 of the Turkish Penal Code (formerly Article 159) on "denigrating Turkishness, the Republic, or the institutions and organs of the State" along with Article 216 (formerly Article 312) on "inciting or denigrating the public to hatred and hostility." Despite the introduction of a new penal code in response to calls for reform, the core of the problematic articles remained intact, and legal practices remained largely unchanged.

Even after the (relative) removal of barriers to using the Kurdish language through judicial reforms, the use of Kurdish in public spaces, demands for Kurdish-language education, and even naming children in Kurdish could still lead to investigations and prosecutions under charges such as **"aiding and abetting an illegal organization"** (formerly Article 169 of the Turkish Penal Code) and **"propaganda for a terrorist organization"** (Article 7 of the Anti-Terror Law). Kurdish-language broadcasts also continued to face suspension orders by the Radio and Television Supreme Council (RTÜK) on the grounds that they violated the **"principle of the indivisible integrity of the state."**

## 2006-2011: From Democratization Discourse to Authoritarian Governance

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### Political Agenda

During the AKP's second term in power, although steps were taken under the banner of democratization and openness, security policies continued to intensify. **During this period, the EU accession process ceased to be the driving force.** The government began to challenge military tutelage more openly. Legal reforms and trials, such as the **Ergenekon and Balyoz cases against high-ranking Turkish Armed Forces officers, weakened the influence of military tutelage but new power centers emerged to fill the void.** The 2010 referendum on constitutional amendments, which allegedly aimed to erase the legacy of the 1982 constitution, marked the beginning of judicial appointments aligned with the ruling party.

Starting with the Mersin Newroz in 2005, anti-Kurdish sentiments and a nationalist wave targeting minorities intensified, culminating in the 2007 murder of Hrant Dink, the founding editor-in-chief of Agos newspaper. On the one hand, there were steps towards the **"Democratic Resolution Process,"** and high-level politicians emphasized democracy and peace in their rhetoric. On the other hand, despite claims of an "opening", pressure on the Kurdish political movement persisted; many were prosecuted on terrorism charges; and restrictions on the use of the Kurdish language in the public sphere remained. The Kurdistan Communities Union (KCK) operations and the revocation of the parliamentary seats of the Peace and Democracy Party (BDP) politicians further eroded hopes for a democratic resolution to the Kurdish issue.

## Judicial Developments

In 2006, a comprehensive amendment to the **Anti-Terror Law** broadened the definition of terrorism offenses and increased the related penalties. Numerous children were prosecuted under this law, tried on terrorism charges, and incarcerated. Procedural safeguards against torture were weakened. At the same time, amendments to the **Law on the Duties and Powers of the Police (PVSK)** further entrenched security policies in legislation and reinforced the authority of the police force. These amendments granted the police extensive powers, including stopping individuals, requesting identification, and conducting preventive searches based on vague criteria such as “reasonable grounds” or “sufficient suspicion.” Similarly, the police’s authority to use force and firearms was expanded under similarly vague terms. The authority to shoot even unarmed individuals for disobeying a “stop warning” heightened the risk of right to life violations and arbitrary use of force by the police.

The judiciary increasingly relied on both the Anti-Terror Law and the Turkish Penal Code to punish individual acts, deeming charges like **“propaganda for a terrorist organization”** and **“membership of a terrorist organization”** which were frequently used in previous periods, insufficient. Articles 216 and 301 of the Turkish Penal Code, along with charges such as **“praising crime and criminals”** (Article 215), **“attempting to influence a fair trial”** (Article 288), and **“insulting a public official in the course of duty”** (Article 125), were often invoked to target the actions and statements of journalists, academics, rights defenders, and politicians. Numerous newspapers and magazines were confiscated, publication and broadcasting bans were imposed. With the expansion of the digital sphere and the rise of online journalism, **“access bans”** became increasingly common.

Despite the introduction of judicial reforms within the framework of the **“resolution process”** by 2012, there was little improvement in human rights between 2006 and 2011. The deepening of security policies and judicial rulings that infringed on human rights heightened concerns that the AKP regime was becoming increasingly authoritarian.

# 2012-2015: An Attempt at Democratization?

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## Political Agenda

In May 2013, the Gezi Park protests sparked widespread social momentum against government policies. The police's heavy-handed response led to numerous human rights violations, including violations of the right to life. The rift between the Gülen movement and the AKP deepened following the corruption investigations in December 2013, which further increased the government's control over the judiciary. The resolution process, which began with the PKK's declaration of a ceasefire and Abdullah Öcalan's call for peace, progressed with the adoption of **the Law on the Termination of Terrorism and Strengthening Social Integration** in 2014, but it came to an end in 2015. Meanwhile, the civil war in Syria and Turkey's open-door policy brought a large influx of refugees seeking asylum in Turkey.

The AKP's democratization efforts during this period were contradictory and complex. It was known that the Gülen movement, now labeled a "parallel structure" within the state, resisted the government's steps toward Kurdish democratization. At the same time, the AKP continued to build military fortifications in Kurdish provinces despite the ongoing peace process and ceasefire, making the situation increasingly fragile. Tensions further escalated when ISIS besieged Kobanê, a predominantly Kurdish city in northern Syria, and Turkey provided logistical support to ISIS. **On 6–8 October 2014**, 46 people were killed across the country **during protests held in solidarity with Kobanê**, due to violence perpetrated by groups backed by Hûda-Par and the use of armed force by the police. Around the same time, investigations into gross human rights violations committed by JİTEM in the 1990s began one after another.

## Judicial Developments

Following their victory in the 2011 general elections with 49.83% of the vote, the AKP established a **"Constitutional Reconciliation Commission"** comprising equal representation from each party, with the objective of drafting a new constitution. The commission **drafted 170 articles** and reached a consensus on 60, but failed to agree on key issues such as the definition of citizenship, education in the mother tongue, and the relationship between religion and the state. In 2013, the commission dissolved after AKP members stopped attending meetings due to the deadlock in the process.



Between 2011 and 2013, five judicial packages were enacted under the **2009 Judicial Reform Strategy and Action Plan**. These reforms aimed to ensure judicial independence and meet citizens' demands for justice in line with international norms and the expectations of the EU accession process. In 2013, an amendment to the Anti-Terror Law sought to align the offense of **"propaganda for a terrorist organization"** with the standards of the European Convention on Human Rights (ECHR) but there has been no improvement in practice.

Concurrently with the implementation of judicial reforms that expanded civil liberties, this period also saw legislative measures that reinforced authoritarianism. The 2015 **"Internal Security Package,"** which was adopted "to prevent the recurrence" of the Gezi Park and Kobanê protests, significantly expanded police powers. The amendments granted the police broader authority to search, detain, suspend, and use weapons; increased their powers to intervene in meetings and demonstrations; and introduced vague and far-reaching powers, such as the ability to conduct wiretapping for 72 hours without a judge's order. Unlike in earlier periods, the counter-terrorism legislation was neither replaced nor reformulated, but was instead used to criminalize and prosecute large groups through **"omnibus cases", such as the Ergenekon, Balyoz, and KCK cases.**

## 2015 and Onwards: The Human Rights Crisis of an Authoritarian and Ambiguous Regime

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### Political Agenda

The end of the peace process and **the AKP's alliance with the Nationalist Movement Party (MHP) following the 7 June 2015 general elections** marked the beginning of a new era in Turkey. During this time, the repression on civil society and the opposition intensified, becoming state policy.

Prolonged **curfews** in Eastern and Southeastern Turkey during 2015–2016 led to significant violations of fundamental rights, particularly of the right to life. In 2016, **parliamentary immunity of numerous MPs was lifted** through a constitutional amendment passed by the Turkish Grand National Assembly. Many MPs, including former co-chairs of the Peoples' Democratic Party (HDP),

Selahattin Demirtaş and Figen Yüksekdağ, faced trials, arrests, and were stripped of their parliamentary mandates.

On 15 July 2016, a **State of Emergency** was declared following a coup attempt by a group affiliated with the Gülen movement, lasting for two years. During this period, numerous decrees were issued, public officials were dismissed, associations and media outlets were shut down, and **trustees were appointed to HDP and DBP municipalities**. While the state of emergency was in effect, an April 2017 referendum resulted in a transition to a "**Presidential System of Government**". This new system, which granted the President broad powers, has faced criticism regarding the separation of powers and judicial independence.

**During the COVID-19 pandemic**, these measures were further misused, with the activities of associations and foundations suspended, and arbitrary bans on meetings and demonstrations enforced. Executives of the Turkish Medical Association (TTB) who criticized public health policies faced intense pressure and targeting. In March 2021, Turkey announced its withdrawal from the Istanbul Convention, leading to targeted actions against women's and LGBTI+ organizations that criticized the government's decision and conducted public campaigns in opposition. In this ongoing period, pressure on rights defenders and opposition remains severe, with security policies being implemented with increasing violence.

## Judicial Developments

In the post-2015 period, we witness that the Anti-Terror Law has become a direct tool for the perpetuation of the authoritarian regime. Alongside this arbitrary application of the Anti-Terror Law, the term "terrorist" is now widely and abusively applied to encompass a broad range of situations and groups.

The widespread use of the Anti-Terror Law has led to varying charges that violate the right to freedom of expression while gradually eroding the principle of legal predictability. Charges such as "**making propaganda for a terrorist organization**" and "**targeting those involved in the fight against terrorism**" are systematically used to exert pressure on journalists and rights defenders. The definitions of offenses such as "**membership in a terrorist organization,**" "**establishing an armed organization,**" and "**committing crimes on behalf of an organization**" in the Turkish Penal Code and the Anti-Terror Law remain vague, allowing for arbitrary interpretations. One such ambiguous provision, "**committing a crime on behalf of an organization without being a member,**"

was annulled by the Constitutional Court in 2023, but the law was subsequently revised in a similar manner. The European Court of Human Rights (ECtHR) has similarly noted that the offense of **"knowingly and willingly aiding an illegal organization without being in the hierarchical structure"** is unpredictable.

Following the 15 July 2016 coup attempt, the concept of **"being in contact or affiliated with terrorist organizations"** was employed as justification for dismissals from public office and convictions under the State of Emergency Decree Laws, with its scope gradually expanding. Individuals alleged to be affiliated with the Gülen Movement were often accused of links such as membership in associations, holding Bank Asya accounts, and attending *dershanes* (private tutoring centers). In 2023, the ECtHR stated that these practices were excessively broad and arbitrary.

The second clause of Article 7 of the Anti-Terror Law, which addresses the offense of **"propaganda for a terrorist organization,"** continued to be applied frequently and broadly during this period. On 15 October 2015, **Tahir Elçi**, then President of the Diyarbakır Bar Association, was investigated under this article for statements he made about the PKK during a live broadcast. An intense smear campaign was launched against Elçi, who faced a potential seven-and-a-half-year prison sentence. Elçi was ultimately targeted and killed a month later.

On 8 January 2016, teacher **Ayşe Çelik** was charged with terrorist propaganda and sentenced to prison for stating, "children should not die, mothers should not cry" during a live telephone broadcast to draw attention to the curfews in Diyarbakır. In 2019, the Constitutional Court ruled that Çelik's freedom of expression had been violated. Additionally, **HDP MPs** and members of **Academics for Peace**, who released the declaration "We will not be a party to this crime!" calling for the restoration of peace, were also prosecuted and sentenced on propaganda charges. These charges continue to be levied against various groups, despite the ECtHR ruling that these provisions are unpredictable and arbitrary.

The offense of **"targeting public officials involved in the fight against terrorism"** (Article 6 of the Anti-Terror Law), initially used against Kurdish media in 1991, has resurfaced in recent years and is now frequently employed against journalists and rights defenders. These cases are brought on the grounds that criticism and news reports target public officials deemed to participate in the fight against terrorism. However, the arbitrary interpretation of this provision, which encompasses a wide range of public officials—from the Director of Communications to members of the Constitutional Court, judges,

and prosecutors—creates significant legal uncertainty and broadens its impact on many individuals.

## Conclusion

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For over 40 years, the counter-terrorism legislation and related laws have been used in various ways to associate thoughts and expressions deemed undesirable by the state with “terrorism.” The evaluations presented above highlight key patterns that have contributed to the continuity of this trend in judicial regulations and social life. In the final section of this report, we outline these patterns.

One significant issue in this context is **the preservation of the essence of laws and regulations that were abolished during reform processes through the introduction of new laws and regulations.** For instance, after extensive deliberations throughout the 1980s regarding the abolition of Articles 141, 142, and 163 of the former Penal Code, which restricted freedom of thought, expression, and association, these articles were ultimately repealed in 1991 when the Anti-Terror Law was enacted. However, in the 1990s, following this reform, the crime of “propaganda for separatism” was relocated from Article 142 of the former Penal Code to Article 8 of the Anti-Terror Law. During the wave of democratization that began in 2001, Article 8 of the Anti-Terror Law was repealed, but its essence persists in clause 2 of Article 7 of the revised Anti-Terror Law. Despite the numerous amendments made to this clause between 2001 and 2005 to align it with international human rights standards, its essence remains unchanged.

Another issue is that **laws and regulations subject to significant criticism are often set aside until the criticism subsides or alternative solutions are found.** For instance, when the use of Article 8 of the Anti-Terror Law in place of Article 142 of the former Penal Code faced considerable criticism, the penalties stipulated in 1995 were relaxed, resulting in a temporary halt in the implementation of the aforementioned article. Yet, as these penalties were eased, similar charges emerged, such as “inciting the public to hatred and hostility” under Article 312 of the former Penal Code and “membership in or aiding an illegal organization” under Articles 168 and 169. In 2005, the new Turkish Penal Code came into effect, but as this legislation largely preserved the essence of its predecessor, common charges from the previous period—such as “inciting the public to hatred and hostility,” “membership in or aiding



an illegal organization,” and “praising crime and criminals”—also reappeared in the new legislation.

Finally, we observe that **certain articles gain prominence during specific periods**. For instance, the accusation of “denigrating Turkishness, the Republic, or the institutions and organs of the State” has been widely used, particularly since 2005, when it was included in Article 301 of the current Penal Code, replacing Article 159 of the former Penal Code. A more recent provision, the first clause of Article 6 of the Anti-Terror Law, which addresses “targeting public officials involved in the fight against terrorism,” is now frequently employed to suppress public criticism of judicial decisions and is used much more systematically and strategically today than it was in the early years following its adoption.