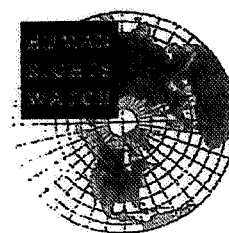


Tyrkiä (55)

229



Eradicating Torture in Turkey's Police Stations: Analysis and Recommendations

Human Rights Watch Briefing Paper

September 2004

Summary	2
Background	2
Enhancing Internal Supervision of Detention Facilities	3
Improving the Administrative Response to Allegations of Torture.....	5
Developing an Interim Independent Monitoring Mechanism.....	7
Conclusion	8

Find out more at <http://www.ecoi.net>
AKL 301104

"The legislative and regulatory framework necessary to combat effectively torture and other forms of ill-treatment by law enforcement officials has been put in place; the challenge now is to make sure that all of the provisions concerned are given full effect in practice." — European Committee for the Prevention of Torture report on Turkey¹

Summary

Turkey has made significant progress in reducing torture and other ill-treatment by the security services through successive legislative reforms since 1997. There are continuing problems implementing these laws, however, as the Turkish government itself concedes. The key to ensuring security forces' compliance with safeguards against torture and ill-treatment is to intensify internal supervision, sharpen the state's response to individual allegations of torture and other mistreatment, and permit independent monitoring of places of detention. This paper suggests actions that could be taken within weeks. If fully adopted, such measures could bring Turkey close to eliminating torture in police custody.

Enhanced supervision is required at three levels:

- 1) effective routine internal supervision of police stations and gendarmeries by provincial governors, sub-governors, and prosecutors;
- 2) a readiness on the part of the justice, interior, and prime ministries to respond rapidly whenever there are individual allegations of torture, including with the dispatch of ministry inspectors;
- 3) independent visits by representatives of nongovernmental organizations to police stations and gendarme detention facilities. These measures would also show that the Turkish government is ready to back up its promise of "zero tolerance for torture" in preparation for December 2004, when the European Council will decide, on the basis of a report from the European Commission, whether or not Turkey has met the necessary human rights standards and can proceed with its European Union candidacy.

Background

Torture remains common in Turkey today. In the twenty years following the 1980 military coup, successive governments maintained a system of detention and interrogation that encouraged torture and protected the perpetrators. As a result, more than four hundred Turkish citizens died in custody apparently as a result of torture, with 45 deaths in 1994 alone. In the past five years, changes to laws and procedures have significantly reduced the frequency and severity of torture to the extent that it is now realistic to hope that such deaths in custody may be a thing of the past.

The most important changes were improvements to medical checks, shortening of pre-trial detention periods and, in 2003, recognition of the right of immediate access to legal counsel for all detainees. It is well-established that access to legal counsel is the single most effective safeguard against abuse in custody. This last step significantly raised the standard of formal procedural and legal protections against torture in Turkey. Its formal protections are now among the strongest in Europe.

¹ Report of the Committee for the Prevention of Torture (CPT) on its visit to Turkey from 7 to 15 September 2003, published June 18, 2004 (CPT/Inf (2004) 16).

Torture and other ill-treatment persist in Turkey because in some detention facilities police and gendarmes (soldiers who police rural areas) ignore the new safeguards. Certain police units deny or delay detainees access to a lawyer, fail to inform families that their relatives have been detained, and attempt to suppress or influence medical reports which record ill-treatment. The special protections for child detainees are still not reliably applied by the police.

Governmental as well as nongovernmental organizations interested in this issue continue to receive substantial numbers of torture allegations. In the first four months of 2004 the Human Rights Directorate of the Office of the Prime Minister recorded that it had received fifty complaints of torture and ill-treatment in police custody. The Turkish Human Rights Association reported 692 incidents of torture and ill-treatment by police in the first six months of 2004.² During the first eight months of 2004, 597 people applied to the Turkish Human Rights Foundation for medical attention for torture, ill-treatment as well as illness arising from prison conditions.³

In recent months, most detainees reporting ill-treatment describe beatings, threats and insults, but some also complain of blindfolding, sexual assault, hosing with cold water, electric shocks, and hanging by the arms. The European Commission's assessment of progress in combating torture in its *2003 Regular Report on Turkey's progress towards accession* is entirely accurate when it says: "While implementation has led to some concrete results, the situation is uneven and torture cases persist."⁴ Turkey's performance this year is likely to earn a similar assessment. It will be difficult for the European Commission to declare in outright terms that Turkey has met the Copenhagen Criteria⁵ while significant numbers of Turkish citizens are still being abused in police custody.

The Turkish government concedes that there are problems with implementation, and has declared zero-tolerance for torture.⁶ The question is whether the government is prepared to do what is necessary to impose this zero-tolerance in practice. Strong public statements condemning torture, training police officers, and effectively prosecuting perpetrators are important and necessary actions but they are unlikely to achieve the desired measurable results in the very near future, and certainly not by December 2004. The government could, however, improve implementation within weeks by stepping up its supervision of places of detention and interrogation. Lack of supervision allows security forces to disregard the law and regulations. In fact, lack of supervision is really the last vestige of the old system which permitted and encouraged torture.

Enhancing Internal Supervision of Detention Facilities

Internal supervision of detention facilities is a crucial safeguard to combat torture and other abuse in custody. Provincial governors and prosecutors have had a formal duty to monitor police stations since

² Turkish Human Rights Association press release: *İşkence Yaygın ve Sistematiktir* (Torture is widespread and systematic), September 10, 2004. This figure includes reports of ill-treatment outside police stations, including, for example, police ill-treatment in demonstrations.

³ Human Rights Watch telephone interview with Dr. Metin Bakkalıcı, deputy president of the Human Rights Foundation of Turkey, September 13, 2004.

⁴ European Commission, 2003 Regular Report on Turkey's progress towards accession, November 2003, para. 1.3.

⁵ The economic and political criteria for EU membership were determined at the Copenhagen meeting of the European Council in 1993. The political criteria require that candidate countries should have achieved "the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities."

⁶ "Our government has adopted a policy of zero tolerance to torture and ill-treatment," Interior Minister Abdulkadir Aksu, speaking to a group of provincial governors in Istanbul, *Abhaber*, EU-Turkey News Network, March 1, 2004.

the 1980s. However Turkey's appalling record on torture during the 1980s and 1990s indicates that they neglected this duty, leaving police and gendarmes to deal with detainees as they pleased without any external oversight. This provided the perfect conditions for torture.

Initial progress in opening up the inner workings of police stations came from outside the government: from 1990 onwards the European Committee for the Prevention of Torture (CPT, a Council of Europe body) began to conduct unannounced visits to detention facilities, and from 1998 to 2000 the Turkish Parliamentary Human Rights Commission, under the presidency of Dr. Sema Pişkinsüt, also conducted an energetic program of police station visits. In the course of methodical investigations, the CPT and Dr. Pişkinsüt uncovered medical evidence of ill-treatment, secret interrogation rooms and instruments of torture. Their corroboration of the longstanding allegations made by victims and nongovernmental organizations was extremely valuable, but their principal achievement was to crack open the closed world of the police station. By the end of the 1990s, abusive interrogators could no longer feel quite so confident that they could carry on their business without intrusion.

In June 1999, the Office of the Prime Minister recognized the importance of supervision in maintaining standards of behavior when it issued a circular requiring prosecutors and provincial governors to carry out impromptu visits to police stations and gendarmeries. The circular instructs governors and prosecutors to submit reports of these inspections to the justice, interior, and prime ministries every three months. The CPT considered this compliance monitoring procedure to be "of the greatest importance" and urged its "full and rigorous implementation."⁷

Since there is no public reporting of this process, it is difficult to assess whether governors and prosecutors are diligent and probing in their investigations, or are merely performing a routine tour of the cells. In June 2004, the justice ministry made available a sample of twelve reports on police station visits conducted in 2003 and 2004. The reports provide welcome confirmation that such visits are actually taking place. In some cases, the visiting prosecutor had clearly gone to some trouble to assess the standard of compliance at the police stations, and some visits were reportedly unannounced.

The reports were not entirely satisfactory, however. Visits were conducted in the mid-afternoon, despite the fact that most allegations of torture and ill-treatment arise during the hours of darkness. References to irregularities in the custody book and shortcomings in prisoner accommodation lacked detail, and there was no indication that the visiting prosecutors were interviewing detainees. Moreover, a sample of reports cannot confirm that governors and prosecutors throughout Turkey are carrying out visits with sufficient frequency for all custody units to feel that they subject to a serious monitoring process.

It is essential that thorough and comprehensive internal monitoring visits are conducted throughout the country. To ensure that the visits actually contribute to improvements in police station management, it is also vital that the results are fed back to the relevant ministries and made public.

The revised Accession Partnership of May 2003, which lays out the European Commission's expectations for Turkey to proceed with its candidacy, requires the government to "implement measures

⁷ CPT, Report on July 2000 visit to Turkey, published on November 8, 2001 (CPT/Inf (2001) 25), paragraph 59.

to fight against torture and ill-treatment by law enforcement officials, in line with ... the recommendations of the European Committee for the Prevention of Torture [CPT].”⁸

The CPT has recommended that police stations should be monitored by an independent body, and has made general recommendations about how this monitoring should be carried out: “visits ...should be both regular and unannounced, and the authority concerned should be empowered to interview detained persons in private. Further, it should examine all issues related to the treatment of persons in custody: the recording of detention; information provided to detained persons on their rights and the actual exercise of those rights ...; [and] compliance with rules governing the questioning of criminal suspects; and material conditions of detention.”⁹ The CPT considered Turkey’s internal compliance monitoring procedure to be “of the greatest importance” and urged its “full and rigorous implementation.”¹⁰ The internal monitoring system currently in place may have contributed substantially to the reduction in torture over the past five years, and even in its current shape the system seems to be valuable. Nevertheless, it is clear that the government could do more to ensure that this system works, and is seen to work, in practice, and that it complies fully with CPT recommendations.

Recommendation

To increase the effectiveness of the internal monitoring system, the government should produce a report every three months compiling information about the methods, frequency, and findings of such visits on a province-by-province basis. The reports should, at a minimum, indicate which police stations and gendarmes were visited and when, with as much detail as possible of the findings of those visits. Any report of serious failure such as irregularities in the custody book or obstruction of access to legal counsel should be accompanied by details of the remedial steps taken, including disciplinary measures.

Improving the Administrative Response to Allegations of Torture

Compared with the mid-1990s, it is far easier today for victims of torture to bring complaints against alleged perpetrators. However, even when evidence is very strong, convictions of offenders and appropriate sentences are rare. Plaintiffs are often intimidated. Prosecutions of persons accused of torture usually last several years, and sometimes more than a decade. In recent years, a number of serious cases involving torture have exceeded the maximum time period allowed for prosecutions (eight years in one recent case) and as a result the charges were dropped.

The long delay between the actual abuse being committed and the eventual punishment a perpetrator may receive seriously undermines the effort to end torture. Individual officers alleged to have committed abuses are innocent until proven guilty and must be afforded all rights to due process. But when one or more detainees allege torture, this ought to trigger an investigation into the management of the police station in which they were interrogated. The investigation should not be dependent on the outcome of a court case. Unfortunately, at the moment the interior ministry seems content to permit trials to drag on without attempting to find out if there were systemic failings in a particular unit that should be remedied immediately.

⁸ European Commission, Revised Accession Partnership

⁹ CPT, 12th General Report of the CPT’s activities (CPT/Inf (202) 15), September 3, 2002.

¹⁰ CPT, Report on July 2000 visit to Turkey, published on November 8, 2001 (CPT/Inf (2001) 25), para. 59.

The detention of five children in February 2004 provides a good example. The children, ages twelve to sixteen, were detained in the province of Siirt on February 14, 2004, after a protest concerning the imprisonment of PKK leader Abdullah Ocalan. The children alleged that Siirt police ill-treated them in custody. The police failed to refer the children promptly to the prosecutor after their arrest, as the law requires them to do. There were other serious procedural shortcomings, including the failure to provide copies of medical examination reports to the children or their guardians.

The incident was reported in the press, and the Office of the Prime Minister was presumably aware of the allegations. Two weeks after the arrests, the families had still not been contacted by the Office of the Prime Minister, the interior Ministry or the Ankara police authorities, according to Ms. Vetha Aydin, president of the Siirt branch of the Human Rights Association, and as far as she was aware no steps had been taken to investigate or correct the slack procedures at Siirt Police Headquarters.¹¹

When challenged about its poor administrative response to allegations of human rights violations, such as the Siirt case, the government responds that it will meet this need through its system of provincial and local human rights boards coordinated by the Human Rights Directorate of the Office of the Prime Minister. This network is an ambitious attempt to respond to patterns of violations by providing district boards composed of government and civil society representatives to which citizens can complain if they believe their rights have been violated. Established in 2001, the boards may well perform a useful ombuds role in the future, and could play a useful interim role in monitoring of detention facilities, but as yet they do not offer an effective administrative response to patterns of human rights violations. Their investigations are insufficiently independent and insufficiently searching, judging by their performance on a recent case brought to their attention by Human Rights Watch.

In February 2004, Istanbul police detained A.C., a young male, and questioned him on allegations of auto theft, first at Küçükçekmece Police Headquarters, and later at Gayrettepe Police Headquarters. A.C. reported that he was blindfolded, hosed with water, suspended by the arms, beaten in the genitals, and given electric shocks to the hand, foot and neck. Human Rights Watch raised the case with the Human Rights Directorate of the Office of the Prime Minister. The directorate referred the case for investigation to the Istanbul Provincial Human Rights Board, who in turn referred it to the Küçükçekmece Local Human Rights Board. In spite of the seriousness of the allegations, neither the Küçükçekmece board nor the Istanbul board interviewed the alleged victim, but simply referred the case for investigation by the police—the very unit allegedly responsible for the original abuse.

The Küçükçekmece police chief and the governor examined the case on the basis of a paper file, without speaking to the detainee and concluded that his account was “without foundation.” Istanbul Police Headquarters, on the other hand, did call A.C. in for an interview, but when he and his lawyer arrived for the meeting, they were disturbed to find that the investigation was being carried out by the Anti-Terror Branch. The original case was not terror-related, and anti-terror branches have an alarming reputation for disregarding detainees’ rights and welfare. The CPT has noted, for example, that detainees in anti-terror branches are usually unable to gain access to legal counsel,¹² and that certain forms of ill-treatment were “prevalent” at Istanbul Anti-Terror Branch in particular.¹³ According to the lawyer, the Anti-Terror

¹¹ Human Rights Watch telephone interview with Vetha Aydin, February 7, 2004.

¹² CPT, Report on September 2003 visit, published June 18, 2004 (CPT/Inf (2004) 16), paras 20 and 21.

¹³ CPT, Report on September 2001 visit, published April 24, 2002 (CPT/Inf (2002) 8), para 20.

Branch officers who interviewed A.C. claimed that they had been delegated to investigate the case "for personnel reasons."

Documents forwarded by the provincial and local boards to the Human Rights Directorate did not mention A.C.'s allegation that he had been denied access to legal counsel. Nor did the documents mention the fact that the man's father and his lawyer had been denied access to him while in custody at Gayrettepe Police Station. Copies of medical reports carried out after A.C.'s release and consistent with the allegations of ill-treatment were omitted from the documents sent to the directorate. However, the documents did include a standard form informing detainees of their rights, which wrongly stated that detainees held for State Security Court offenses may not speak to a lawyer. Despite the fact that the law was changed to ensure access to legal counsel for all detainees in June 2003, the form is apparently still in use at Küçükçekmece police station.

A.C.'s case demonstrates that currently, human rights boards cannot provide an effective administrative response to allegations of ill-treatment in custody.

Recommendation

Local human rights boards should be supplemented by a much stronger pro-active response from the interior and justice ministries. Allegations of torture that reach the public arena are invariably reported in, for example, the daily bulletin of the Human Rights Foundation of Turkey, which the Office of the Prime Minister receives. Whenever such well-documented allegations of torture or ill-treatment arise, the relevant ministries should dispatch a team of investigators to establish whether the unit in question is operating in accordance with law and regulations. The team should ensure that officers in the station of concern properly register detainees in the custody book, inform them of their rights, ensure their prompt access to legal counsel, notify their kin, and provide accommodation meeting international standards. Police who fail to carry out these procedures should be disciplined. Such firm action will very quickly alert the entire police and gendarmerie network of the need scrupulously to comply with laws and regulations and encourage them to raise their performance in this area.

Developing an Interim Independent Monitoring Mechanism

An effective system of supervision must also include genuinely independent monitoring by an external body. Those who carry out internal supervision have close ties to the police. Governors and prosecutors, for example, often have to rely on the police in the course of their daily work, and this professional relationship may in some circumstances limit the monitors' willingness to conduct visits in a sufficiently probing manner. Monitoring by competent outside bodies or individuals who are convincingly independent has benefits for the government and police because it publicly demonstrates their confidence in the integrity of their system.

In 1999 the U.N. Special Rapporteur on Torture recommended to the Turkish government that "a system permitting an independent body, consisting of respected members of the community, representatives of legal and medical professional organizations and persons nominated by human rights organizations, to visit and report publicly on any place of deprivation of liberty should be set up as soon as possible."¹⁴

¹⁴ United Nations Committee on Human Rights, *Report of the Special Rapporteur on Torture on his 1998 visit to Turkey* (E/CN.4/1999/61, 113 (I)) January 27, 1999.

Since then, Human Rights Watch has urged the Turkish government to establish a nation-wide system of visiting boards to inspect police stations (along the lines of systems in place in Australia, Hungary, the Netherlands, Nepal, South Africa and the United Kingdom), and to permit provincial bar and medical associations unfettered access to places of detention.¹⁵

The interior ministry recently informed Human Rights Watch that it was planning E.U. funded research with a view to establishing visiting boards along the lines of those currently running in the United Kingdom. This is welcome news. Now that the ministry has recognized the need for independent monitoring, it should provide interim measures to provide this form of supervision until the new system is up and running. Human Rights Watch suggested that bar and medical associations should have access to places of detention during a June 9, 2004 meeting with the Turkish government's European Union coordination group.¹⁶ The interior ministry spokesperson responded by pointing out that the law establishing the human rights boards provides that bar association and medical chambers are automatically represented on those boards, and that the boards have the right to visit places of detention. With proper access, training and direction, local human rights boards have the potential to provide an interim independent monitoring mechanism until such time as a formal visiting board system can be established.

Recommendation

The Human Rights Directorate of the Office of the Prime Minister should ensure that human rights boards are aware of their right to visit places of detention and should encourage them to exercise this right. Human rights boards should regularly visit all detention units in their area, including rural gendarmeries and anti-terror branches. The bar and medical association representatives on the boards should be present at all such visits. The human rights directorate should provide advice on effective monitoring visits, in consultation with the CPT if necessary, and use its website to provide the public with detailed information about the findings of the monitors and government response.

Conclusion

The measures suggested above use existing mechanisms, and could all be implemented within weeks. Strengthening supervision and monitoring can have a significant impact in further reducing the incidence of torture and ill-treatment in Turkey, and will demonstrate to observers in the rest of Europe that the Turkish government is doing everything in its power to make its zero tolerance policy a reality.

¹⁵ The Izmir Bar is already running an impressive police station monitoring project which is actively following up allegations of torture, collecting medical evidence, providing legal support and advice to victims, following up allegations through correspondence with the police and governorate, and publishing its proceedings in a regular bulletin. So far the monitoring group has been monitoring local police stations from the outside, and has not been permitted to make impromptu visits.

¹⁶ The coordinate group is a cross-ministry forum that meets regularly to discuss implementation of the Copenhagen Criteria.