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Amnesty International Report 2010 - Turkey

REPUBLIC OF TURKEY

Head of state: Abdullah Gül
Head of government: Recep Tayyip Erdogan
Death penalty: abolitionist for all crimes
Population: 74.8 million
Life expectancy: 71.7 years
Under-5 mortality (m/f): 36/27 per 1,000
Adult literacy: 88.7 per cent

Little progress was made on enhancing human rights protections. Reports of torture and other ill-treatment persisted, as did criminal prosecutions limiting the right to freedom of expression. The legitimate work of human rights defenders was hampered by excessive administrative scrutiny and judicial harassment. In many cases alleged human rights violations by state officials were not investigated effectively, and the chances of bringing law enforcement officials to justice remained remote. Unfair trials continued, especially under anti-terrorism legislation which was used to prosecute children under the same procedures as adults. Prison regimes showed little improvement, and access to appropriate medical treatment was commonly denied. No progress was made in recognizing the right to conscientious objection to military service, and the rights of refugees and asylum-seekers continued to be violated. Lesbian, gay, bisexual and transgender people faced discrimination in law and practice, and protections for women and girls subjected to violence remained inadequate.

Background

In January a new state-owned radio and television channel was launched to provide Kurdish-language broadcasting. However, restrictions on the use of languages other than Turkish in political affairs and public and private education for children remained in force.

The Kurdistan Workers' Party (PKK) declared a ceasefire in March that remained in force at the end of the year. Despite the ceasefire, further armed clashes with the Turkish

armed forces resulted in loss of life.

In May, 44 people died after a shooting in the village of Bilge/Zangirt in the south-eastern province of Mardin. According to an official announcement, most of the alleged perpetrators were village guards, a paramilitary force employed by the state to fight the PKK. Guards were also among those killed. The trial of those accused of involvement in the killings began in September.

Parliament legislated in June to enable the clearing of an estimated 600,000 mines along the Syrian border. The law did not resolve the issue of landmines in other areas of Turkey's territory nor of the stockpile of landmines that Turkey maintains.

In July, construction of the Ilisu dam on the Tigris River in eastern Turkey was put on hold after the three European states that had provided export credit guarantees withdrew them. Their decision reflected concerns that the project would not meet agreed standards, including human rights guarantees. The dam was expected to displace at least 55,000 people.

Turkey and Armenia signed an agreement in October aimed at normalizing relations. At the end of the year the agreement awaited ratification by their respective parliaments.

In November parliament began discussing an initiative aimed at addressing the human rights concerns of citizens of Kurdish origin and ending the conflict with the PKK. The government indicated steps to enhance human rights protections but no timeline for implementation.

In December the Constitutional Court ruled to close the pro-Kurdish Democratic Society Party on the grounds that it was a "focus of activities against the independence of the state, its indivisible integrity within its territory and nation". The party was closed under laws that failed to uphold international standards on freedom of association.

Freedom of expression

People who expressed non-violent but dissenting opinions – particularly criticisms of the armed forces or of the position of Kurds and Armenians in Turkey – faced criminal investigation and prosecution. Among those frequently prosecuted were writers, journalists, Kurdish political activists and human rights defenders.

Numerous laws allowed the state to limit freedom of expression. Investigations and prosecutions for insulting the Turkish nation (Article 301 of the Penal Code), punishable by up to two years' imprisonment, continued to be initiated, although most were denied permission to proceed by the Minister of Justice.

- In August prosecutors acting on behalf of the head of the armed forces brought a criminal complaint under Article 301 against journalist Mehmet Baransu. It was based on an article in the national newspaper *Taraf* about an alleged armed forces plot to destabilize the government. Permission for the investigation to proceed was pending at the end of the year.

Conscientious objectors and their supporters continued to be prosecuted under Article 318 of the Penal Code for publicly asserting the right to refuse compulsory military service.

- In May the trial began in Istanbul of Oguz Sönmez, Mehmet Atak, Gursat Özdamar and Serkan Bayrak on a charge of "alienating the public from the institution of military service" (Article 318). They had publicly supported conscientious objector Mehmet Bal in 2008. All four were acquitted.
- The trial of Sami Görendag, Lezgin Botan and Cuneys Canis, on charges brought under Article 318 following similar protests, continued at the end of the year.

A large number of prosecutions under anti-terrorism legislation targeted free expression about the Kurdish issue in Turkey, and frequently resulted in the imposition of custodial sentences.

- Osman Baydemir, Democratic Society Party Mayor of the south-eastern city of Diyarbakir, was convicted of "making propaganda for an illegal organization" (Article 7/2 of the Anti-Terrorism Law) in April. He was charged in connection with a speech he made during a protest against a Turkish military operation into northern Iraq in 2008. An appeal was pending at the end of the year.

Threats of violence from unidentified individuals continued against people who expressed dissenting opinions. Police protection was available to some of those at risk.

- In September anti-racist group DurDe received emailed threats of violence after it brought a criminal complaint against the head of the armed forces.

The authorities closed websites by means of arbitrary administrative orders and court rulings, often without reasons being provided.

Human rights defenders

Human rights defenders were prosecuted for their legitimate work monitoring and reporting human rights violations. Certain prominent individuals were subjected to regular criminal investigations. There was excessive administrative scrutiny by officials, and in some cases judicial proceedings were used to bring closure cases against human rights organizations.

- Ethem Açikalin, head of the Adana branch of the Human Rights Association (IHD), faced seven ongoing prosecutions as a result of his work as a human rights defender. In October he was convicted of "inciting enmity or hatred among the population" and sentenced to three years' imprisonment for criticizing the state government's imprisonment in 2008 of children involved in protests, including against withdrawal of family health care benefits. An appeal was pending at the end of the year.
- In December Muharrem Erbey, Vice-President of IHD and head of its Diyarbakir branch, was arrested on suspicion of membership of the Kurdish Communities Union (KCK) which is alleged to be part of the PKK. The police interrogated him about his work for IHD, and reportedly seized data on human rights abuses from IHD's Diyarbakir office. He remained in pre-trial detention at the end of the year.

Torture and other ill-treatment

Torture and other ill-treatment continued to be reported, with many abuses taking place away from official places of detention. Those accused of ordinary crimes, as well as people accused of politically motivated offences, were vulnerable to ill-treatment.

- In January the trial began in Istanbul of 60 state officials, including police officers and prison guards, on charges connected with the death in custody of Engin Çeber in October 2008. Some of the accused faced charges of torture. The trial continued at the end of the year.
- In October Resul Ilcin died from head injuries after being detained in the south-eastern province of Sirnak. A statement from the governor's office pre-empting the official investigation indicated that the death did not result from ill-treatment.

Impunity

Investigations into alleged human rights abuses by state officials remained largely ineffective and the chances of bringing officials to justice were remote. During the year no independent human rights mechanism or independent monitoring of places of detention was adopted.

In January the parliamentary Human Rights Inquiry Committee reported on prosecutions of law enforcement officials in Istanbul in 2003-8. It found that, in 35 criminal cases against 431 officers, not one conviction had followed. In June the Criminal Procedure Code was amended to allow the prosecution of military officials in civilian courts.

- In October the Supreme Court of Appeals ruled that a gendarmerie officer charged following a fatal shooting in the south-eastern province of Siirt should not face punishment. The shooting occurred when unarmed civilians threw stones at the officers' vehicle and chanted slogans. Although the court recorded that the shooting was disproportionate, it acquitted the officer because of "the gravity of the physical attack ..., the fact that it continued increasingly despite the warnings and the totality of the conditions of the region".
- In September, Ceylan Önkol, a young teenager, was killed in an explosion near her home in the Lice district of south-eastern Turkey. Witnesses said she had been grazing cattle close to Tapantepe gendarmerie station and reported hearing the sound of a mortar immediately before the explosion. Neither a full autopsy nor a prompt crime scene investigation was carried out. The authorities said that "security reasons" prevented them from visiting the scene until three days after the death.
- The prosecution of Ergenekon, an alleged ultra-nationalist network with links to state institutions, continued. Those accused included both serving and retired senior members of the armed forces. The court accepted a second indictment in March and a third in September. However, the prosecution was not broadened to include an investigation of alleged human rights violations.

Prison conditions

Allegations of ill-treatment on transfer to prison persisted and, in a number of cases, prisoners' access to appropriate medical treatment was denied.

- Emrah Alisan, who was serving a three-year prison sentence, made an application for release on medical grounds in April. The application was supported by medical reports stating that his health condition could not be treated while in prison. The reports indicated that his health had deteriorated significantly while he was in prison and that he was paralyzed and dependent on nursing care. He remained in prison at the end of the year.

Prisoners' rights to associate with other prisoners were frequently not enforced.

- In November five prisoners were sent to the high security prison on the island of Imrali where PKK leader Abdullah Öcalan had been imprisoned in isolation for 10 years. It was announced that the six prisoners would be able to associate with each other for up to 10 hours a week, in keeping with regulations applicable to all prisoners in Turkey's high security prisons.

On occasion, children were held in prison alongside adults, and generally prison regimes for children did not differ from those of adult prisoners. Notably, there was no provision for child prisoners to continue their education.

Unfair trials

Protracted and unfair trials persisted, especially of suspects prosecuted under anti-terrorism legislation. Children were prosecuted under the same procedures as adults and

convicted under unfair laws on the basis of unsubstantiated and unreliable evidence for their alleged participation in sometimes violent demonstrations.

- In March, 14-year-old A.Y. was convicted on charges of making propaganda for a terrorist organization and of membership of a terrorist organization. He allegedly participated in a demonstration in October 2008. He was sentenced to three years, one month and 15 days in prison. An appeal was pending at the end of the year.

Prisoners of conscience – conscientious objectors

Conscientious objection to military service was not allowed and no civilian alternative was available. Laws allowing the repeated prosecution and conviction of conscientious objectors remained in force.

- In December, Enver Aydemir was rearrested in Istanbul for refusing to perform military service. He told his lawyer that he was repeatedly beaten at Maltepe Military Prison. At the end of the year he remained in pre-trial detention on charges of persistent insubordination and desertion.
- In November, three soldiers were convicted of beating conscientious objector Mehmet Bal in June 2008 and sentenced to three months and 10 days' imprisonment. All four men had been prisoners in Hasdal Military Prison. Neither the senior officer who allegedly ordered the attack on Mehmet Bal nor any other official at the prison faced prosecution.

Rights of lesbian, gay, bisexual and transgender people

Discrimination in law and practice continued against people based on their sexual orientation and gender identity. Five transgender women were murdered, and in only one case was a conviction secured.

- The trial began in January of the father of a gay man, Ahmet Yildiz, who was shot dead in 2008 in a suspected "honour" crime. Ahmet Yildiz had previously complained of threats from relatives. His father was not arrested and the trial started in his absence.
- The NGO Lambda Istanbul, which supports the rights of lesbian, gay, bisexual and transgender (LGBT) people, won its appeal against closure in the Supreme Court of Appeals in January. However, the ruling left open the possibility that LGBT organizations could be closed for "encouraging others to become lesbian, gay, bisexual or transgender".
- In October prosecutors sought to close LGBT solidarity organization Black Pink Triangle after the Izmir Governor's office said that its statute breached "Turkish moral values and family structure".

Refugees and asylum-seekers

Recognized refugees, registered asylum-seekers and others in need of protection were arbitrarily denied access to the asylum procedure and sometimes detained. Some were returned to countries where they risked persecution.

- In September the European Court of Human Rights found in the case of *Abdolkhani and Karimnia v Turkey* that the refugees had been unlawfully detained for more than a year. The applicants were eventually released in October, but many others detained in similar circumstances remained in detention and the provision declared unlawful in the judgement remained in force.

Violence against women and girls

The number of shelters available for women survivors of domestic violence remained woefully inadequate and far below the one for every settlement of 50,000 people required by domestic law. In September a government protocol was signed to facilitate greater cooperation between state institutions in protecting survivors of domestic violence.

- In June the European Court of Human Rights ruled in the case of *Opuz v Turkey* that the authorities had failed in their obligation to protect the applicant and her mother from violence. The court found violations of the rights to life and the prohibitions on torture and of discrimination. It ruled that the state's failure – even if unintentional – to protect women against domestic violence breached women's right to equal protection of the law, and that general and discriminatory judicial passivity in Turkey created a climate conducive to domestic violence.

Amnesty International visits/reports

- Amnesty International delegates visited Turkey in January, February, March, April, May, July, August and October, including to observe trials.
- Stranded – Refugees in Turkey denied protection (EUR 44/001/2009)
- Turkey: German, Swiss and Austrian governments withdraw financial support for Turkey's Ilisu dam project where human rights violations were a risk (EUR 44/004/2009)
- Turkey: Submission to the UN Universal Periodic Review – Eighth session of the UPR Working Group of the Human Rights Council, May 2010 (EUR 44/005/2009)
- Turkey: Amnesty International welcomes improvement in detention conditions of Abdullah Öcalan after 10 years in isolation (EUR 44/006/2009)
- Turkey: Constitutional Court rules in favour of closure of pro-Kurdish Democratic Society Party (EUR 44/007/2009)

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