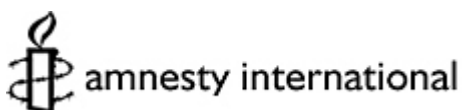


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Amnesty International Annual Report 2011 - Turkey

Head of state: Abdullah Gül
 Head of government: Recep Tayyip Erdogan
 Death penalty: abolitionist for all crimes
 Population: 75.7 million
 Life expectancy: 72.2 years
 Under-5 mortality (m/f): 36/27 per 1,000
 Adult literacy: 88.7 per cent

Constitutional amendments and revisions to the Anti-Terrorism Law represented a step towards upholding human rights, but fell short of the fundamental change required. Criminal prosecutions violating the right to freedom of expression continued. Proposed independent human rights mechanisms were not established. Reports of torture and other ill-treatment continued, and criminal investigations and prosecutions of law enforcement officials remained ineffective. Numerous unfair trials were held using anti-terrorism legislation. Bomb attacks claimed the lives of civilians. The rights of conscientious objectors, lesbian, gay, bisexual and transgender (LGBT) people and refugees and asylum-seekers remained unsecured in law. Minimal progress was made in preventing violence against women.

Background

Constitutional amendments were approved by Parliament in May and by referendum in September, with an approval rating of nearly 60 per cent. Amendments included changing the composition of the Constitutional Court and the powerful Higher Council of Judges and Prosecutors, allowing military officials to be tried in civilian courts, the establishment of an Ombudsman office and positive measures to combat discrimination.

The Kurdistan Workers' Party (PKK) renewed ceasefire declarations throughout the year but clashes with the Turkish armed forces continued. In November, talks were reported to have taken place between the state and imprisoned PKK leader Abdullah Öcalan.

In October, the trial began of 152 activists and elected officials in Diyarbakir accused of membership of the PKK-linked Kurdistan Communities Union (KCK). of these defendants, 104 were in pre-trial detention. Concerns were raised that much of the evidence against

the defendants was based on their attendance at meetings and demonstrations, and on press releases they had published.

The prosecution in connection with Ergenekon, an alleged ultra-nationalist network with links to state institutions, continued. Progress in investigating the link between the suspects and past human rights violations remained slow.

No progress was made in removing the legal barriers that prevent women wearing the headscarf in universities, although implementation of the ban relaxed during the year.

In May, the UN Human Rights Council considered Turkey's human rights record under the UN Universal Periodic Review. The government committed to complying with many of the recommendations, but notably rejected those calling for the greater recognition of minority rights and those to amend or abolish articles of the Penal Code that limit freedom of expression.

Freedom of expression

There was more open debate regarding previously taboo issues. However, people were prosecuted under different articles of the Penal Code because they had criticized the armed forces, the position of Armenians and Kurds in Turkey, and ongoing criminal prosecutions. In addition, anti-terrorism laws, carrying higher prison sentences and resulting in pre-trial detention orders, were used to stifle legitimate free expression. Kurdish political activists, journalists and human rights defenders were among those most frequently prosecuted. Arbitrary restrictions continued to be imposed, blocking access to websites, and newspapers were issued with temporary closure orders. There were continued threats of violence against outspoken individuals.

- In April, journalist Veysi Sarisözen was convicted under Article 7/2 of the Anti-Terrorism law for "making propaganda for an illegal organization" and sentenced to 15 months in prison for an article he wrote in *Gündem* newspaper. At the end of the year this was one of four convictions under the Anti-Terrorism Law pending at the Supreme Court of Appeals.
- *Taraf* journalists continued to face threats and intimidation due to articles they had published in the newspaper. In November, the Justice Ministry permitted the opening of an investigation under Article 301 of the Penal Code, "denigrating the Turkish nation", against Rasim Ozan Kütahyalı for a series of articles criticizing the armed forces. In the same month, threats of violence against Orhan Miroglu were posted on a website, HPG online, allegedly controlled by the PKK. Orhan Miroglu was also being prosecuted under Article 216 of the Penal Code "causing enmity or hatred among the population" following an article he wrote in 2009 regarding the situation of Turkish citizens of Kurdish origin.
- In November, arrests were made in a police operation targeting the Turkish Revenge Brigades Union, a clandestine group that had previously claimed responsibility for threats and acts of violence against prominent human rights defenders and others.
- In September, the European Court of Human Rights ruled in the case of *Dink vs. Turkey* that the authorities had failed to take reasonable measures to protect the life of journalist and human rights defender Hrant Dink. They had failed to act on information that could have prevented his murder in January 2007, or to conduct an effective investigation following the murder; in particular the Court noted the failure of the authorities to examine the role of the security services. The Court also concluded that Turkey had violated Hrant Dink's right to freedom of expression in relation to cases brought against him under Article 301 of the Penal Code.

Torture and other ill-treatment

Allegations of torture and other ill-treatment persisted, especially outside places of detention, including during demonstrations, but also in police custody and during transfer to prison. In November, the UN Committee against Torture issued a series of recommendations to the authorities to combat "numerous, ongoing and consistent allegations of torture" for which the Committee expressed grave concern during their review of Turkey.

- In January, Murat Konus died after being held in police custody in Istanbul on suspicion of aggravated theft. Video camera footage showed him entering the police station in good health and being carried out three hours later. An official autopsy recorded injuries to his body and found that his death was due to cerebral bleeding. In May seven police officers were charged with causing his death through torture. The trial was ongoing at the end of the year.
- In June, a landmark judgement saw 19 officials, including police officers and prison guards convicted for their part in the torture that resulted in the death of political activist Engin Çeber in Istanbul in October 2008. Of those convicted, three prison guards and a prison manager were sentenced to life imprisonment following an investigation and prosecution that contrasted starkly with other cases involving alleged torture committed by state officials. The convictions remained pending at the Supreme Court of Appeals at the end of the year.

Impunity

Investigations of alleged human rights abuses by state officials remained flawed and, when opened, criminal cases were routinely drawn out and ineffectual. The losing of evidence by state officials, and counter-charges being issued against those who alleged human rights abuses, contributed to the perpetuation of impunity. Independent human rights mechanisms proposed by the government were not established. For example, civil society was not effectively consulted over the draft law to establish the Human Rights Institution (a body proposed to protect human rights and prevent violations), which failed to provide the necessary guarantees of independence.

- No progress was made in the prosecution of a police officer for intentional killing following the death in custody of Nigerian asylum-seeker Festus Okey in 2007. Following a flawed investigation, the prosecution remained stalled due to disputes regarding the victim's identity. In November, the presiding judge rejected an application by members of the Migrants' Solidarity Network to intervene in the case and issued a criminal complaint against them on the grounds that their submission to the court amounted to libel.
- In June, the prosecutor investigating the death in custody of Resul İlçin in October 2009 in the south-eastern province of Sirnak ruled that no officials should face criminal charges. The decision was based on an official autopsy report which found that Resul İlçin's death was due to a heart attack, despite the report also recording severe injuries to the head and other parts of his body. An appeal against the decision to close the case was rejected by the local administrative court in July.

Prison conditions

Allegations of ill-treatment in prisons persisted, especially of remand prisoners directly following transfer. Denial of effective access to medical treatment and arbitrary limitations applied to prisoners' rights to associate with each other continued.

- In July, leukaemia patient Abdullah Akçay died in prison following the refusal of requests for his transfer from custody on health grounds. The requests were based on medical reports stating that he could not be treated effectively while in prison.

- In July, the European Committee for the Prevention of Torture published a report based on a visit in January to the high security prison on the island of Imrali where PKK leader Abdullah Öcalan is imprisoned. The report recorded an improvement in some aspects of the prison regime, notably due to the transfer of five prisoners, ending his 10-year isolation. A report concerning another Committee visit to places of detention in 2009 remained unpublished pending government permission.

Unfair trials

Unfair trials under anti-terrorism legislation continued. In such cases, excessive pre-trial detention without consideration of alternatives by the judicial authorities remained routine, and lawyers had no effective mechanism to challenge the lawfulness of the detention in practice.

In July, important legal amendments ended the prosecution of children under anti-terrorism laws solely for their participation in demonstrations. However, the amendments allowed adults to be prosecuted under the unfair laws and failed to address the vague and overly broad definition of terrorist crimes in law.

- In August, Erdogan Akhanli was remanded in custody pending trial under anti-terrorism laws. The prosecution case was primarily based on a statement later retracted by the witness, who alleged that it had been obtained under torture. Defence lawyers' applications for Erdogan Akhanli's release were denied by the court on the basis of the weight of the evidence against him. In December, he was released from detention pending the outcome of the trial.

Abuses by armed groups

Bomb attacks resulted in the death and injury of civilians.

- In July, four activists travelling to the scene of an attack on an oil pipeline were killed when their vehicle hit a mine. A statement made by the PKK indicated that its members were responsible for laying the mine.
- In September, nine people were killed when a civilian minibus hit a mine while travelling on a road close to the village of Geçitli/Peyanis in the south-eastern province of Hakkari. No group claimed responsibility for the attack. Eyewitnesses claimed that two military bags and munitions were recovered from the scene.

Workers' rights

Long-standing demands by trade unions for Istanbul's central Taksim Square to be opened for demonstrations on 1 May were granted for the first time in recent history, and the demonstrations passed peacefully in contrast to previous years. Constitutional amendments granted the right of collective bargaining for public sector employees but the right to strike was still denied to all civil servants. As a result, Turkey failed to comply with ILO conventions to which it is a party.

Children's rights

Following legislative amendments (see Unfair trials above) the vast majority of children prosecuted for their participation in demonstrations were released. However, flaws in the juvenile justice system, notably the absence of Children's Courts in some provinces, were not addressed, nor were steps taken to rehabilitate children previously held in extended detention or to investigate the widespread claims of ill-treatment.

Prisoners of conscience – conscientious objectors

The right to conscientious objection to military service remained unrecognized in domestic law. Conscientious objectors were repeatedly prosecuted for their refusal to perform military service, and those who voiced their public support for this right were subjected to criminal prosecution and conviction.

- In June, conscientious objector Enver Aydemir was released after six months in military custody. Multiple charges resulting from his refusal to perform military service remained pending at the Military Supreme Court of Appeals. In the same month, human rights defender Halil Savda and three other activists were convicted under Article 318 of the Penal Code for "alienating the public from the institution of military service" following their attendance at a public demonstration in support of Enver Aydemir. The case remained pending at the Supreme Court of Appeals. A prosecution brought following Enver Aydemir's alleged ill-treatment in military custody was also continuing at the end of the year.
- In August, conscientious objector Inan Süver was detained due to his refusal to perform military service. He was released in December but remained in prison due to previous convictions. His trial for "violation of leave" continued at the end of the year.

Refugees and asylum-seekers

Access to the temporary asylum procedure continued to be arbitrarily denied, resulting in people being forcibly returned to places where they may face persecution. Immigration detention regulations ruled unlawful by the European Court of Human Rights in 2009 remained in force at the end of the year. Civil society organizations were consulted over three new laws relating to asylum but the drafts had not been published by the end of the year.

Rights of lesbian, gay, bisexual and transgender people

Constitutional amendments improving protections against discrimination failed to address discrimination on grounds of sexual orientation and gender identity. Discrimination continued in law and practice.

- In March, the Minister for Women and the Family stated that homosexuality was a disease and required treatment. The government failed to distance itself from the remarks and no apology was issued.
- In April, LGBT solidarity organization Black Pink Triangle won its legal battle against closure following a complaint from the Izmir Governor's office that its statute breached "Turkish moral values and family structure".
- In May, five transgender women, all members of the NGO Pembe Hayat, which supports LGBT people's rights, filed criminal complaints against police officers who had reportedly harassed and assaulted them in Ankara after stopping their car. The police officers filed counter charges, alleging that the activists had resisted arrest. A criminal case was opened but all the activists were acquitted at the first trial hearing. No charges were brought against the police officers.

Violence against women and girls

The government's National Action Plan 2007-10 to combat domestic violence failed to record significant progress, due in part to a lack of co-ordination, insufficient resource allocation and the lack of measurable goals. Critically, the number of shelters for women victims of domestic violence remained far below the number required in domestic law. According to official records, 57 existed in Turkey, an increase of eight over the previous year. In July, the CEDAW Committee issued a series of recommendations including the enactment of comprehensive legislation on violence

against women.

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