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HUMAN RIGHTS DEVELOPMENTS

At last European Union (E.U.) pressure for Turkey to meet its political and human rights criteria for membership began to produce substantial results. In February and August, the government passed legislative packages that provided improved access to legal counsel for police detainees, abolished the death penalty, and permitted broadcasting and education in minority languages. The August legislation was pushed through by the then-ruling coalition partners Democratic Left Party and Motherland Party, but fiercely opposed by the third partner, the extreme right-wing Nationalist Action Party, which condemned the E.U.'s demands for change as identical to those of illegal armed organizations. The legislative changes left serious constraints on free expression unaddressed, however, and torture continued to be widespread.



In November, the conservative and religious Justice and Development Party (AKP) won the general election. AKP party leader Recep Tayyip Erdogan (breve) an was excluded from the election and could not be appointed prime minister because he had been stripped of political rights after serving a ten-month prison sentence imposed for a non-violent speech made in 1997.

The state of emergency was lifted in the provinces of Tunceli and Hakkari in July, and in the last two provinces, Diyarbakır and Şırnak, in November. The mainly Kurdish southeast had been under martial law or state of emergency since 1978.

In August, the Turkish parliament voted to abolish the death penalty for peacetime offences. The sentences of eighty-seven prisoners on death row were commuted to life imprisonment. Turkey carried out its last judicial execution in 1984.

Parliament tentatively reformed laws inhibiting freedom of expression, but courts still imprisoned those who insulted state institutions or addressed sensitive questions about Kurdish minority rights or the role of the military or religion in politics. Ahmet Ünlü was imprisoned on a two-and-a-half-year sentence in January for "incitement to religious hatred" for comments he made describing the 1999 earthquake as a "heavenly warning" to a society that had departed from Islamic principles. Kurdish villager Tayyar Taş was arrested in July for "insulting" the military by accusing them of burning his village. He was released in September but his trial continued.

Minority languages, particularly Kurdish, were a controversial issue. From December 2001 onward, police detained more than a thousand school and university students for submitting petitions calling for optional courses in Kurdish. Prosecutors indicted hundreds of the students on charges of supporting an armed gang, claiming the students' campaign for Kurdish language courses was run by a new illegal movement called Kurdistan Freedom and Democracy (KADEK), formed in April out of the dissolved Kurdish Workers' Party (PKK). In April, Diyarbakır State Security Court handed down a suspended sentence of forty-five months of imprisonment to minibus driver Sulhattin Önen for repeatedly playing a cassette tape of a song in Kurdish. The court was unswayed by the fact that the tape was legally authorized for publication.

The August legislation lifted restrictions on minority language courses and broadcasting, including in Kurdish. The change seemed to represent a new respect for linguistic diversity, but the reforms were hedged with qualifications that could block effective implementation. Kurdish still could not be taught in universities, or broadcast by independent radio or television stations.

Restrictions on other aspects of free expression remained. Governors throughout the country continued to ban plays, films, and exhibitions, while courts confiscated many newspapers and scores of books for "separatism." State educational institutions continued to apply the ban on women wearing the headscarf for religious reasons. Thousands of female students were denied access to high school and university education because they wore the headscarf. Teachers and doctors were also dismissed for wearing the headscarf on duty.

Torture and ill-treatment remained widespread in police stations and gendarmeries, facilitated by the continued practice of holding detainees without access to legal counsel. Those detained for common criminal offenses had a legal right to see a lawyer throughout police custody but this was commonly denied. The provision that those detained for offenses under the jurisdiction of state security courts could legally be held without access to a lawyer for four days was in place until February, when this was reduced to two days.

Even after this change, many detainees reported torture by beating, sexual violence, death threats, hosing with cold water, and electric shocks. Blindfolding also continued unchecked. Victims included people detained for common criminal offenses and women, many of whom reported rape or other sexual violence. One detainee, accused of supporting an illegal organization, reported that during four days' interrogation without access to legal counsel at Istanbul Police Headquarters in March, she was blindfolded, stripped naked, sprayed with cold water through a hose forced into her vagina, and forced to sit in excrement. In the same month, another female detainee reported that during interrogation for her alleged links with an illegal armed organization police officers at the Anti-Terror Branch of Mardin Police Headquarters stripped her naked, hosed her with cold water, and inserted a truncheon in her anus. Medical reports were consistent with her allegations of torture.

Again, victims of torture and other human rights violations encountered many obstacles to obtaining a remedy through Turkish courts. In January, the public prosecutor dismissed formal complaints made by eight male prisoners that gendarmes anally raped them with truncheons on arrival at Kandžra F-type Prison in December 2000. According to the plaintiffs' lawyer, the prosecutor did not question some of the plaintiffs or consult medical reports. Several potential prosecutions were blocked under the Law on the Prosecution of Civil Servants, permitting local governors, even though they are not members of the judiciary, to halt prosecutions. Courts continued to prefer to convict torturers on the less serious charge of ill-treatment. In April, Istanbul Criminal Court found two Istanbul Anti-Terror Branch officers guilty of hanging Abdurrahim Demir by the arms and squeezing his testicles, beating him on the soles of the feet, and giving him electric shocks. The court decided that this was merely ill-treatment. Since convictions for ill-treatment (unlike those for torture) were covered by a conditional amnesty, the officers had their sentences suspended.

Tension continued in the new F-type prisons, where prisoners remanded or sentenced for offenses under state security court jurisdiction were held in one- and three-person cells, replacing the large ward-based prisons traditional in Turkey's prison system. Prisoners continued to hunger-strike in protest against killings by security forces during the original violent transfers in December 2000, the strict regime in F-type prisons, and the restricted opportunities for association with other prisoners. At the time of writing, fourteen hunger-strikers had died during 2002, bringing the total number to sixty-four since the 2000 transfer. Relatives and lawyers reported that prisoners were suffering health problems associated with small group isolation, including sensory loss, skin complaints, tinnitus, stomach disorders, and severe mental disturbance. The Justice Ministry announced but failed to implement a program in F-type prisons of out-of-cell activities and a weekly period of five hours' association.

Violence by armed illegal political organizations continued to abate, but there were isolated reports of attacks on civilians. In June, the Workers' and Peasants Liberation Army of Turkey (TIKKO) reportedly abducted and killed Muharrem Hız from Sırçal village, Tokat province.

Most villagers forcibly displaced from their homes in the southeast during the 1990s were unable to return, despite increased stability in the region. In some cases local governors obstructed returns, villagers were turned back by gendarmerie, or found that neighboring paramilitary village guards had occupied their lands. The government's Return to Village and Rehabilitation Project moved so slowly and was so poorly designed and funded that it offered little benefit to the displaced.

Asylum seekers arriving in Turkey were frequently denied proper protection. Under a geographical reservation to the 1951 Refugee Convention, Turkey continued to recognize only refugees from Europe. Non-European asylum seekers were required to register with the police, who were then supposed to carry out an assessment to determine whether their claim to require asylum was well-founded. The assessment did not include the minimum safeguards required by international law for fair refugee status determination. Only those who passed this police assessment were referred to the offices of the United Nations High Commissioner for Refugees (UNHCR), and those who were recognized as refugees by UNHCR then had to await resettlement to a third country, sometimes for lengthy periods during which many remained at risk. During 2001, the Turkish authorities reported that they had arrested ninety-four thousand migrants who were transiting or being smuggled across the country, at great hazard to their own lives, including many would-be asylum seekers entering from Iran and northern Iraq and heading toward the more secure protection afforded by Western European states. According to the United States Committee for Refugees, many such migrants, often arrested during urban sweeps, were summarily returned to Turkey's neighbors, and around a hundred clear cases of refoulement (forced return to a country where one's life or freedom is threatened) were documented during 2001.

The August reform legislation added Turkish criminal code provisions that imposed heavy prison sentences for the smuggling or trafficking of persons, but Turkey continued to lack services for victims. Turkey provided no shelter or protection to trafficking victims, deporting all foreigners found in commercial sex work without screening to identify trafficked persons. Turkey signed the Trafficking Protocol supplementing the Convention Against Transnational Organized Crime, but at this writing, the government had not ratified the protocol. Despite a 1998 law creating protection orders, domestic violence continued unabated. Women for Women's Human Rights, a nongovernmental organization in Turkey, called violence against women "one of the most widespread violations of human rights in Turkey." Honor killings also threatened women throughout Turkey. In March, twenty-year-old Pınar Kaçmaz died when her father and brother riddled her with bullets in a southeastern Turkish city. According to news reports, the police had arrested Kaçmaz's father after she had reported that he threatened her life, but he was released pending trial.

Landmines laid by the government along the borders, and by both sides in the conflict between the security forces and the PKK, killed eleven people, including four children. Following Turkey's 2001 declaration that it would join the Ottawa Convention banning antipersonnel mines, it took important steps toward accession but had not completed procedures by late October.

DEFENDING HUMAN RIGHTS

Turkish human rights defenders still faced numerous hazards in their work. They were subjected to a hail of judicial investigations and prosecutions under the repressive and unwieldy law on associations, as well as the Anti-Terror Law, the Law on Demonstrations, and various articles of the criminal code. At this writing, Istanbul Human Rights Association (HRA) members faced eighty-eight ongoing trials, most relating to press statements protesting violations. The lawyer Osman Baydemir, president of Diyarbakır HRA, faced thirty-one ongoing trials carrying a possible total of nearly ninety years of imprisonment. Police and local governors repeatedly prohibited or intervened to disperse meetings and peaceful demonstrations by human rights organizations.

In June, Dr. Alp Ayan and Mehmet Barındık of the Izmir Treatment Center of the Turkish Human Rights Foundation were sentenced to a year's imprisonment for making a press statement critical of the Justice Ministry's handling of the F-type prison crisis. The defendants appealed.

THE ROLE OF THE INTERNATIONAL COMMUNITY

United Nations

Several years after his first request for a visit, U.N. Representative of the Secretary-General on Internally Displaced Persons Dr. Francis Deng, was finally permitted to visit Turkey in May. In a brief public statement in June, Dr. Deng called on the government to formulate a clear, transparent policy on return and encouraged the government to involve intergovernmental organizations and civil society in the process.

The special rapporteur on extrajudicial, arbitrary, and summary executions, Asma Jahangir, published a report on her February 2001 visit to Turkey, noting that there were violations of the right to life even while she was in the country. The rapporteur made inquiries into the "disappearance" of Serdar Tan p and Ebubekir Deniz, officials from the People's Democracy Party (HADEP) after they had presented themselves at the Silopi district gendarmerie in p rnak in January 2001, and she reported that she "did not get a sense that the civil authorities had sufficient power to investigate the District Gendarme Commander."

With respect to "honor" killings, the special rapporteur criticized the provisions of the penal code reducing the sentence of the perpetrators of such crimes to a token punishment if the court considers that there was "grave provocation." She noted that the longstanding conflict in the southeast had overshadowed and marginalized the issue of women's right to life in that region.

The rapporteur concluded that state agents had been able to commit extrajudicial executions, confident that their crimes would not be investigated. She recommended that the government set up a high-level commission with strong powers to undertake fact-finding in cases where people have allegedly been killed by the security forces.

Council of Europe

The Committee for the Prevention of Torture (CPT) visited Turkey in March and September, and maintained its vigilance concerning conditions in F-type prisons as well as torture in police custody. In its report on the March visit, the CPT criticized the Justice Ministry's decision to make access to weekly association conditional on participation in the program of out-of-cell activities and recommended that the link be dropped. In September, the justice minister removed the formal condition, but problems in implementation persisted.

The CPT indicated that it had received "a considerable number of allegations of ill-treatment" in Diyarbak r during its March visit and attributed this in great part to police interference with detainees' right to legal counsel. The CPT discovered that almost all of those detained at the Anti-Terror Branch and the Narcotics Section at Diyarbak r Police Headquarters in the nine months prior to its visit (amounting to hundreds of detainees) were recorded as having waived their right of access to a lawyer.

The European Court of Human Rights (ECHR) issued judgments against Turkey in more than forty cases. The cases involved the imprisonment of people for their non-violent opinions or after unfair trials, as well as unlawful killings and arbitrary house destruction by the Turkish security forces.

In May, the Committee of Ministers publicly and strongly urged Turkey to comply with its "repeated demands" to respond to the July 2001 ruling of the ECHR, which found that Kurdish former parliamentary deputies Hatip Dicle, Orhan Dog(breve)an, Selim Sadak, and Leyla Zana had been sentenced to fifteen years of imprisonment in 1994 after an unfair trial. The government of Turkey failed to comply with the committee's demands. In fact, a provision of the August legislation deliberately blocked the possible release of the deputies. The new legislation required Turkish courts to review verdicts that the ECHR finds violate the European Convention on Human Rights, but a proviso denied this right to past applicants to the ECHR, who included the four jailed former parliamentarians.

In July, the Committee of Ministers adopted a further resolution calling on Turkey to take steps to respond to the succession of judgments at the ECHR concerning killings, torture, "disappearances," and destruction of property committed by the Turkish security forces.

The Parliamentary Assembly (PACE) retained its human rights monitoring mechanism for Turkey. In March, John Connor, the rapporteur of the PACE Committee on Migration, Refugees and Demography, published his report on his October 2001 visit to Turkey to examine the situation of internally displaced people. The rapporteur called for the government to increase the pace of returns and to involve the displaced, as well as international humanitarian organizations and local municipalities, in preparing and implementing return and reintegration projects. Connor's recommendations broadly reflected the committee's 1998 recommendations, which the Turkish government had largely ignored.

European Union

The process of Turkey's accession to the E.U. remained the most important catalyst of reform in Turkey. The E.U.'s progress report for 2001 had made it clear that Turkey was lagging behind in its efforts to meet the E.U. accession conditions of "democracy, the rule of law, human rights and respect for and protection of minorities." Civil society bodies ranging from human rights organizations to the employers' federation, TUSIAD, as well as President Ahmet Necdet Sezer, put considerable pressure on the government to produce results. Parliament finally enacted the February and August legislation in order to maintain the credibility of its candidacy for E.U. membership. The E.U. Presidency gave a warm welcome to the August abolition of the death penalty and language reforms, but on an appropriate note of skepticism, added that Turkey should implement the changes as soon as possible in order to demonstrate the genuine character of the reforms. The October regular report on Turkey's progress toward accession pointed to the need for further progress in protecting freedom of expression, combating torture, and reducing the influence of the military.

United States

Turkey remained a critical U.S. ally in the war against terrorism, taking the lead of international peacekeeping forces in Afghanistan. The U.S. was a strong public supporter of Turkey's application for membership in the E.U. and persistently used quiet diplomacy to encourage the reforms necessary for that application to progress.

The State Department's *Country Reports on Human Rights Practices for 2001* surveyed continuing abuses, including restrictions on speech, the press, and the wearing of the headscarf; "disappearances"; and extrajudicial killings. The report stated that torture remained widespread, attributing slight declines to the decreased use of incommunicado detention and the reduction in the number of detentions. Human Rights Watch's inquiries and those of the CPT cited above suggested that detention without access to counsel remained the general rule.

Turkish Justice Minister Hikmet Sami Turk responded to the State Department report saying that it contained "extremely unfair allegations" and said that the Foreign Ministry would take initiatives to correct suggestions that some minorities were exposed to discrimination.

The State Department's annual trafficking in persons report gave Turkey its lowest ranking, concluding that Turkey made almost no efforts to combat trafficking. In August, however, the U.S. ambassador to the Organization for Security and Cooperation in Europe (OSCE) described the new anti-trafficking law, which contained no measures to protect adult or child victims of trafficking, as "a major step forward in the Turkish government's anti-trafficking policy and enforcement."

RELEVANT HUMAN RIGHTS WATCH REPORTS:

Turkey: Close Scrutiny of Elections Warranted (Briefing Paper), 10/02

Displaced and Disregarded: Turkey's Failing Village Return Program, 10/02

Hits and Misses on Turkey's E.U. Accession Targets: Backgrounder on the European Union Regular Report on Turkey, 10/02

Questions and Answers: Freedom of Expression and Language Rights in Turkey, 4/02

Human Rights Watch Analysis of the 2001 Regular Report on Turkey, 12/01

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