

# Turkey

**IHF FOCUS: Freedom of expression and the media; freedom of association and peaceful assembly; judicial system, the independence of the judiciary and fair trial; torture, ill-treatment and misconduct by law enforcement officials; conditions in prisons and detentions facilities; death penalty; protection of ethnic minorities; human rights defenders.**

The human rights situation in Turkey saw no major changes in 1999. Freedom of expression was seriously restricted, and it remained dangerous to write on issues such as the situation of the Kurdish minority, the armed forces and Islam. Journalists were harassed and prosecuted on dubious charges. Freedom of association was limited, although the spectrum of NGOs and political parties was diverse.

There continued to be violations of the right to a fair trial. The State Security Courts continued to operate and hand down heavy sentences for questionable "crimes." Torture and ill-treatment remained amongst the most serious human rights problems. The capture of the Kurdish Workers' Party leader, Abdullah Öcalan, triggered an intense debate on the death penalty, which remained in Turkish legislation. The government did not take any systematic measures to improve the situation of the Kurds, and continued to violate the rights of other minorities, including the Greeks and the Armenians. Human rights monitors, as well as lawyers and doctors involved in human rights work, continued to be harassed for their legitimate activities.

## Freedom of Expression and the Media

### Freedom of Expression

There was a general awareness on behalf of the government that legislation and practice both restricted the expression of opinions or criticism that was seen as offending certain state policies. Public debate – particularly on issues touching upon the Kurdish minority, Islam or the security forces – was suppressed as "terrorist propaganda" or as an attempt to "insult and weaken the state organs" (article 159 of the penal code). Criticism of the government's policies on the Kurds or other minorities was not officially acknowledged, and teaching and publishing in the minority languages, or writing on Islam or any other religion, was deemed to "incite hatred among people" (article 312 of the penal code), or more directly, to "disseminate separatist propaganda" (article 8 of the anti-terror law).<sup>1</sup>

A ruling by the General Penal Board of the Supreme Court of Appeal in May 1999 increased the sentences regarding freedom of opinion, commuting an accusation of "disseminating the propaganda of illegal organizations through the media" into "aiding or abetting terrorist organizations." This decision also stipulated that those journalists and writers tried under article 7(2) of the anti-terror law could now be tried under article 169 of the penal code, which provided for heavier prison sentences of up to five years.

Turkey, a country which recognizes the jurisdiction of the European Court of Human Rights, lost all 18 cases to which it was a party in 1999, and was fined nearly U.S.\$ 3 million. Most of the cases pertained to free expression crimes that had occurred in the early 1990's.

<sup>1</sup> Human Rights Association (HRA) and Human Rights Foundation of Turkey (HRFT), *Briefing on Human Rights in Turkey, OSCE Review Conference Istanbul, November 9, 1999.*

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In March, the President of the Constitutional Court, Ahmet Necdet Sezer, called for the lifting of restrictions on freedom of expression, including language rights – thus stimulating a lively debate on human rights and government policies. In September, at the official opening of the judicial year and in the presence of the president and the prime minister, the President of the Appeal Court, Dr. Sami Selcuk, said that the constitution enjoyed “almost zero” legitimacy and should be replaced. He expressed the hope that Turkey would not enter the 21st century under a regime that continued to “crush minds and stifle voices”.<sup>2</sup>

## Freedom of the Media

Domestic and foreign periodicals that provided a broad spectrum of views and opinions, including intense criticism of the government, were widely available. Most of the largest TV stations and newspapers were monopolized despite legal provisions against monopolization.<sup>3</sup>

According to the Human Rights Foundation of Turkey (HRFT), the Turkish media frequently applied self-censorship and it was nearly impossible to report on human rights violations and situations regarding the Kurdish issue in an objective and independent manner.<sup>4</sup> One important restraint in that respect was the banning of journalists from a large number of towns and villages.

■ In the state of emergency region, the left-wing newspaper Evrensel was banned

in January, and the pro-Kurdish Özgür Bakis was banned in April. Other publications were also banned.<sup>5</sup>

■ In June, journalist Nadire Mater’s book – entitled “Mehmet’s Book: Soldiers Who Have Fought in the Southeast Speak Out” – was banned and confiscated for “insulting and weakening the army.” The book contained statements by recruited soldiers on their experiences in fighting in southeastern Turkey. In September, the government began proceedings against Mater and her publisher. She faces a six-year prison sentence if convicted.<sup>6</sup>

■ In May, the Istanbul State Security Court sentenced *Cumhuriyet* columnist Oral Calislar to 13 months imprisonment for disseminating separatist propaganda in a book he wrote that was based on previously published interviews with Abdullah Öcalan, the leader of the Kurdish Workers’ Party (PKK) and Kemal Burkay, head of the Socialist Party of Kurdistan.<sup>7</sup> He had planned to appeal the decision, but his sentence was suspended under a new law.

■ Istanbul Mayor Recep Tayyip Erdogan was released from prison in July after having served a four-and-a-half-month sentence for a speech he made in 1997 that was deemed to have “incited ethnic, racial, and religious enmity”, based on article 312 of the penal code. His sentence, which was reduced from ten months, included a lifetime ban from politics.<sup>8</sup>

The High Board of Radio and Television (RTÜK), which was created in 1994 to reg-

<sup>2</sup> *Human Rights Watch, World Report 2000; HRFT, Human Rights Yesterday & Today, 7 September 1999.*

<sup>3</sup> *HRFT, Human Rights Situation in Turkey: New Trends, 17 February 2000.*

<sup>4</sup> *Ibid.*

<sup>5</sup> *Human Rights Watch, World Report 2000.*

<sup>6</sup> *Ibid., HRFT, Human Rights Yesterday & Today, 25 June 1999; International Press Institute (IPI), 1999 World Press Freedom Review.*

<sup>7</sup> *HRFT, Human Rights Yesterday & Today, 19 May 1999.*

<sup>8</sup> *HRFT, Human Rights Yesterday & Today, 26 July 1999.*

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ulate private television and radio frequencies, suspended the broadcasting of a number of radio stations for periods ranging from one day to one year, usually because they had allegedly violated laws prohibiting the broadcast of “separatist propaganda.”

■ The Istanbul radio station FOREKS was banned from broadcasting for 30 days as of October 30 for having rebroadcast a program of the BBC’s Turkish-language service on Kurdish issues.<sup>9</sup>

■ During its October 6 meeting, the RTÜK suspended five television stations and four radio stations for a total of 225 days. During an October 13 meeting, four television stations and four radio stations were suspended for 311 days.<sup>10</sup>

Journalists, including those from mainstream and Western media, were periodically harassed and subjected to police abuse while covering stories, particularly in the Southeast.

■ On February 23, two journalists from Diyarbakir; cameraman Ibrahim Atesoglu from the private TV channel NTV; and reporter Adnan Simsek from the Ihlas (IHA) press agency were severely beaten by eight police officers on their way to the scene of confrontations between striking shopkeepers and law enforcement officers. They were violently hit with rifles. The police then ran over Atesoglu, who had been lying on the ground. He suffered serious head injuries, and his colleague needed stitches.<sup>11</sup>

■ During the November OSCE Review Conference in Istanbul, several journalists working at leftist or pro-Kurdish publications were detained. Some of them were allegedly ill-treated at the hands of police.<sup>12</sup>

## Law on Suspending Sentences

In September, the government passed legislation suspending for three years the sentences of those convicted of freedom of expression crimes in the media – including journalists, writers, and party officials who published articles. The Islamic Fazilet party challenged the constitutionality of the law because it did not apply to those who had committed similar crimes through speech. For example, lawyer and human rights activist Esber Yagmurdereli remained in prison because his 1998 conviction was based on a speech he gave at a 1991 HRA meeting<sup>13</sup>. Hasan Celal Güzel, head of the small Rebirth Party (YDP) and a former Education Minister, began serving a one-year sentence for a speech he gave in 1997. Moreover, charges were only dropped if the journalists or writers agreed not to commit the same crime again within a three-year period. This decision amounted to compulsory self-censorship. In addition, the law did not provide for acquittals, i.e. the writers had no opportunity to clear their names or to fight bans imposed on their written work.<sup>14</sup>

The law led to the release of over 25 persons, and the suspension of hundreds of trials.

<sup>9</sup> HRFT, *Human Rights Yesterday & Today*, 1 November 1999; International Press Institute (IPI), *1999 World Press Freedom Review*.

<sup>10</sup> International Press Institute (IPI), *1999 World Press Freedom Review*.

<sup>11</sup> *Ibid.*

<sup>12</sup> HRFT, *Human Rights Yesterday & Today*, 11 November 1999.

<sup>13</sup> See also IHF *Annual Report 1999*.

<sup>14</sup> Human Rights Watch, *op.cit.*

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■ Author Ismail Besikci, imprisoned since 1993, was released in September under the law suspending the sentences of journalists. His 79-year sentence on over 50 charges was based on articles he wrote on Kurdish issues. He faced at least another 50 similar charges, some of which may be subject to suspension.<sup>15</sup>

## Freedom of Association and Peaceful Assembly<sup>16</sup>

NGOs and political parties were active and diverse in Turkey. However, freedom of association was strictly limited. A large number of NGOs were dissolved for political activities or for speeches given at their public meetings. NGO executives have often been prosecuted for inviting foreign guests to their activities, issuing public statements, or organizing activities outside their premises without obtaining prior permission from the administrative authorities. An NGO could only be affiliated to an international NGO with the permission of the Council of Ministers, and external grants for NGOs were subject to permission from the Ministry of Interior. Moreover, legal norms were generally applied by the police and political authorities in an arbitrary fashion – favoring certain organizations while oppressing others.<sup>17</sup>

The police and Jandarma also continued to limit freedom of assembly. The police harassed, beat, abused, and detained a large number of demonstrators.

■ The Saturday Mothers, who had held weekly sit-in vigils in front of the Galatasaray High School in Istanbul for

over 3 years to protest the disappearances of their relatives, ceased their gatherings in March in the face of ongoing police harassment, abuse and detention of the groups' members. They announced their decision after attending the "Forest of the Disappeared" on 20 March.<sup>18</sup>

## Judicial System and Independence of the Judiciary

Violations of the right to a fair trial remained a serious problem in Turkey. The State Security Courts (SSCs), dealing with cases of "security offenses against the indivisible integrity of the State with its territory and nation, the free democratic order, or the Republic (whose characteristics are defined in the Constitution), and offenses directly involving the internal and external security of the State" continued to exist. The SSCs were created under the military regime in 1982 and were heirs of the infamous martial law courts.<sup>19</sup> They were heavily criticized in 1998 by the European Court of Human Rights, which ruled that the inclusion of military judges in the SSCs constituted a violation of the right to a fair trial. As a result, on 18 June 1999, after the trial against PKK leader Abdullah Öcalan had begun, the law was amended in order to exclude military judges from the bench. But the problematic institution, SSC, continued to exist. Defendants and their lawyers were only informed of the charges and the evidence in the first session of the trial, and lawyers were subjected to strict rules of conduct during the trial; for example, it was disrespectful towards judges to drink water during the trial. Thousands of children have also been put on trial, re-

<sup>15</sup> HRFT, *Human Rights Yesterday & Today*, 13 and 16 September 1999.

<sup>16</sup> For pro-Kurdish parties and associations, see *Protection of Ethnic Minorities*.

<sup>17</sup> Helsinki Citizens' Assembly, "Freedom of Association & The Right to Peaceful Assembly"; HRFT, *Human Rights Situation in Turkey: New Trends*, 17 February 2000.

<sup>18</sup> HRFT, *Human Rights Situation in Turkey: New Trends*, 22 March 2000

<sup>19</sup> Human Rights Watch, "Turkey Must Uphold Öcalan's Right to Defense – Background Information on Turkey's State Security Courts", 28 May 1999.

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manded and convicted by the SSCs despite the existence of special courts for children.<sup>20</sup>

A persistent problem in court proceedings in general was the fact that the prosecution was deemed to be part of the judiciary, while lawyers were identified with the defense. Also, indictments were based merely on police accusations and the “confessions” of the defendants, even when extracted under torture.<sup>21</sup>

The constitution provided for an independent judiciary and, in practice, the general law courts acted independently of the executive and legislative branches. However, even state officials stated that the independence of the judiciary had to be strengthened. The HRFT criticized the High Council of Judges and Prosecutors for endangering the independence of the judiciary.<sup>22</sup> The President appointed the High Council, which has the Minister of Justice as one of its members. The High Council selected the judges and prosecutors for the higher courts and was responsible for the oversight of those in the lower courts. It effectively controlled the career paths of judges through appointments, transfers, and promotions. According to the U.S. State Department, the composition of the High Council undermined the independence of the judiciary, and its decisions were not subject to review. Further, the government and the National Security Council periodically issued announcements or directives regarding threats to the state, which could be interpreted as instructions to the judiciary.

## Abdullah Öcalan<sup>23</sup>

On 29 June, PKK leader Abdullah Öcalan was sentenced to death. He was tried under article 125 of the penal code for a “crime against the state” in a trial that violated several due process standards.

When Öcalan was brought to Turkey after his abduction from Kenya in February, he was held in *incommunicado* police detention for nine days – far in excess of international standards, and even of the limits imposed by Turkish domestic law. Later, Öcalan was permitted only limited access to legal counsel and only in the presence of at least one security force member. During the initial stage of the investigation, lawyers were not permitted to bring notes to interviews with their client. The SSC dealing with the case refused to hear any of the witnesses proposed by the defense, and barred at least one piece of evidence from being read to the court on the grounds that it constituted “propaganda.”

Human Rights Watch noted that Öcalan was not directly charged with any of the hundreds of PKK killings of unarmed Kurdish villagers, teachers or prisoners, but rather with a “crime against the state.” While devoting a lot of time to presenting the PKK as an example of Turkey’s foreign enemies, the court neglected to uncover the chain of command, which linked Öcalan to those members of the PKK who had committed the crimes.

The IHF denounced the death sentence and recommended that the Turkish government abolish the death penalty regardless of the nature of the crimes involved.<sup>24</sup>

<sup>20</sup> HRFT, *Human Rights Situation in Turkey: New Trends*, 17 February 2000

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> Based on Human Rights Watch/Europe and Central Asia Division, “Grave Shortcomings in Öcalan Trial,” 29 June 1999.

<sup>24</sup> IHF, “Helsinki Federation Denounces Turkish Court’s Death Penalty Decision,” 25 November 1999.

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## Rule of Law<sup>25</sup>

According to the HRFT, a widely ignored issue regarding human rights abuses in Turkey has been the involvement of high state officials in the operation of criminal gangs active in organized crime, abductions and extrajudicial killings. Many of the victims were left-wing students and intellectuals. The members of such gangs included gendarmes and police special teams officers, state officials, village guards, and former PKK repentants,<sup>26</sup> all of whom appeared to have enjoyed wide impunity from prosecution. Even when judicial proceedings were initiated against members of such gangs, the proceedings dragged out and mainly involved low-ranking persons.

One such gang was the so-called Yuksekova gang, headed by a gendarme colonel and the chief of a local village guard<sup>27</sup> with political connections. The gang's activities allegedly included drug trafficking, abductions, "disappearances," and extrajudicial killings. The illegal activities in the Yuksekova region were reportedly led by Mustafa Zeydan (MP) and Tahir Adiyaman (who had been accused of killing gendarmes in the past, but was never arrested). Only some lower officers involved in the activities of the Yuksekova gang have been arrested and charged.

It was revealed that some members of the gang belonged to the National Action Party (MHP); the second largest party in parliament in 1999. Some of their deputies were indicted for political killings and

mass murders committed prior to 1980 (i.e. the military coup). The MHP youth organization, known as the Grey Wolves, was accused of involvement in Mafia and paramilitary activities, violence against left-wing and Kurdish students and organizations, and non-Muslim communities – all allegedly committed under police protection. Its active members were regularly recruited by the police force, particularly as gendarmes, prison officials, and members of special police teams.

One of the most prominent victims was Musa Anter, a Kurdish intellectual, writer, and founder of HEP, who was killed by "unidentified perpetrators" in Diyarbakir on 20 September 1992. Another victim was the DEP deputy Mehmet Sincar. Cem Ersever, a former head of the Intelligence and Anti-Terror Unit (JITEM) of the gendarme – who was accused of being a key figure in organizing such gangs – revealed that Sincar had been killed by a counter-guerilla gang led by a PKK repentant. Ersever himself was killed by "unidentified perpetrators" in Ankara in October 1993.

It appeared that Turkish authorities had no genuine interest in making any sincere attempts to resolve the 30-year problem of such activities, which have resulted in the killings of 1,500 Kurdish nationalists, journalists, politicians and others, or to punish the perpetrators. Rather, they decided to cover up the incidents. All such cases were officially committed by "unknown assailants", and remained "unsolved."

<sup>25</sup> Based on information from the HRFT to the IHF, May and August 1999. For details, see the IHF Report to the OSCE Review Conference on Human Dimension Issues, Vienna-Istanbul, 1999.

<sup>26</sup> Former PKK militias who, after giving confessions under the law of repentance, enjoyed some privileges under the law, and participate in armed security operations. There was no control mechanism to monitor their activities.

<sup>27</sup> See the Kurds.

## **Torture, Ill-Treatment and Misconduct by Law Enforcement Officials**<sup>28</sup>

### **Police Misconduct**

■ Three persons died in a house raid in Canli village, Bayindir, Izmir, on 23 August. The police claimed that the persons in question were “PKK militants” and that they had opened fire after the “call for surrender.”<sup>29</sup>

■ On 5 October, the police in Adana entered the wrong apartment during a raid and killed Murat Bektas in front of his wife and son. The police were unable to substantiate their first charge that the man had been armed. They also shot Erdinc Aslan, whom they had been looking for. A trial was launched against six police officers.<sup>30</sup>

### **Torture and Ill-Treatment**

Torture and ill-treatment remained systematic in Turkey in 1999 despite a prohibition in the constitution. The successive governments have officially denounced the use of torture and cooperated with foreign inspection teams. The new government of Prime Minister Bülent Ecevit issued a circular on “Respect for Human Rights” on 25 June, announcing that security officers who committed torture would be punished.

According to the Human Rights Association of Turkey (HRA) and the HRFT, deaths in custody suddenly increased after the release of the circular, apparently as an unintended side effect.<sup>31</sup>

Further reasons for the ineffectiveness of initiatives taken by state authorities were the continuing reports of the use of torture.

■ In March and April 1998, the Parliamentary Inquiry Commission on Human Rights inspected detention places in eastern and southeastern Turkey. The commission observed that torture was almost the rule in detention in the state of emergency region; but torture equipment was also found in detention centers in other regions. The report of the commission was not published. One member of the commission stated publicly that the report had not been published because the government considered the report to be “harmful to the state’s prestige.”<sup>32</sup>

In 1999, the HRFT received about 700 credible applications for torture rehabilitation treatment, compared with 706 in 1998. However, it believed that the real number of torture cases was much higher. The problem was particularly serious in southeastern Turkey where thousands of detainees were tortured during the year. Human rights activists believed that only 5–20 percent of the victims reported torture because they feared retaliation or believed that their complaints would be futile. The activists also reported that the number of torture victims in the southeast decreased during the year, explaining this by a decrease in detentions; reduced PKK violence, which eased the conduct of security officials; better training of security officers; and increased concern about the problem. Nevertheless, the improvements were not uniform throughout the region, and torture remained widespread in the Southeast.<sup>33</sup>

<sup>28</sup> See also *Human Rights Defenders*.

<sup>29</sup> HRFT, *Human Rights Yesterday & Today*, 24–25. August 1999.

<sup>30</sup> HRFT, *Human Rights Yesterday & Today*, 12, 13 and 15 October 1999, 6 January 2000, and 2 March 2000.

<sup>31</sup> HRA and HRFT, *Briefing on Human Rights in Turkey*, OSCE Review Conference, Istanbul, 9 November 1999.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

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According to the HRFT, at least 18 persons were killed in detention centers in 1999.<sup>34</sup> Most persons detained for, or suspected of, political crimes suffered torture or ill-treatment at the hands of police or gendarmerie during their incommunicado detention before being brought before a court, illustrating that the removal of the practice of *incommunicado* detention was crucial to combating torture.<sup>35</sup>

Methods of torture reported by the HRFT included systematic beatings; stripping and blindfolding; exposure to extreme cold or high-pressure cold water hoses; electric shocks; beatings on the soles of the feet and genitalia; hanging by the arms; food and sleep deprivation; heavy weights hung on the body; water dripped onto the head; burns; hanging sandbags on the neck; near-suffocation by placing bags over the head; vaginal and anal rape with truncheons and, in some instances, gun barrels; squeezing and twisting of testicles; and other forms of sexual abuse.

The major obstacle in fighting torture was the prevailing impunity enjoyed by officers accused of torture and ill-treatment.

## Impunity

■ Süleyman Yeter, a trade union education specialist detained during the raid of a journal's office on 5 March, died in police custody in Istanbul on 7 March 1999. The autopsy report by the Forensic Medical Institute stated that he had "died as a result of pressure on his neck." Yeter's lawyers revealed that he had been detained by the same police team that had been on trial for torturing Yeter and 15 other persons in 1997. A trial was launched against three

police officers at Istanbul Heavy Penal Court No. 6 on 29 November 1999.<sup>36</sup>

■ On 20 January 2000, the Supreme Court Penal Board No. 1 upheld the original verdict handed down to ten policemen in the case of journalist Metin Goktepe, who was killed in 1996,<sup>37</sup> but overturned the verdict of Security Chief Seydi Battal Köse. Thus, only five of those initially convicted were sentenced to seven and a half years imprisonment for "unintentional murder/manslaughter." Goktepe, a correspondent for the left-wing newspaper *Evrensel*, died from wounds inflicted whilst in detention in Istanbul in 1996. Initially, his detention was completely denied. It was later said that he had died from a fall, and, only after large public demonstrations and parliamentary criticism, an investigation led to the arrest of 48 officers. In 1997, the courts decided to separately try 11 of the police officers for premeditated murder; five were convicted of manslaughter in 1998, and the remaining six were acquitted. However, the Court of Appeal subsequently overturned both the convictions and the acquittals and sent the case back to the Afyon court. The other 37 officers, who were charged with excessive use of force in controlling the demonstration, were acquitted due to a lack of evidence, as the court could not determine which police officers might have beaten detainees and which might not have. The detainees asked for leave of appeal, but no court date had been set as of this writing.<sup>38</sup>

A further obstacle was the fact that the arresting officer was also responsible for interrogating the suspect, explaining why some officers resorted to torture in order to obtain a confession that would justify the arrest.

<sup>34</sup> *Ibid.*

<sup>35</sup> HRFT, *Statement on Human Rights, OSCE Review Conference, Vienna 1999.*

<sup>36</sup> HRFT, *Human Rights Yesterday & Today*, 8 March 1999, 17 March 1999, 18 June 1999, 24 November 1999, and 23 February 2000.

<sup>37</sup> See also IHF *Annual Report 1997.*

<sup>38</sup> HRFT, *Human Rights Yesterday & Today*, 7 May 1999 and 24 January 2000.



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The IHF recommended the rapid establishment of an independent National Committee for the Prevention of Torture.<sup>39</sup>

## Conditions in Prisons and Detention Facilities

The conditions in prisons, whether for political or ordinary prisoners, did not meet the minimum standards established by the Council of Europe or by the UN.<sup>40</sup> According to the Turkish Justice Minister, Hikmet Sami Turk, there were almost 70,000 prisoners in Turkish jails, ten thousand of whom were convicted of terrorism.<sup>41</sup>

Major problems in prisons included the lack of medical care, and widespread diseases and illnesses. Only 288 of the 24,000 prison personnel in Turkey were health professionals. The prisons in 17 provinces in Turkey had no health personnel whatsoever. A significant number of deaths in prisons reportedly resulted from the lack of medical intervention or treatment.<sup>42</sup>

■ In 1999, at least four inmates suffering from progressive brain disease due to long hunger strikes in 1996 were released under article 399 of the criminal procedure code (CMUK). However, there were still approximately 30 prisoners suffering from the same problem.<sup>43</sup>

For people being held in special type prisons for political prisoners, only the Ministry of Justice could authorize the release of seriously ill prisoners, or transfer them to hospitals.<sup>44</sup>

A large number of remand prisoners accused of offences that fell under the purview of the SSCs often awaited judgment for years. Many of these prisoners had health problems resulting from torture or ill-treatment in detention, and required medical or psychological help. The prevention of transfers to hospitals, and even to courts, and the ill-treatment of prisoners by gendarmes during transfers were commonplace.<sup>45</sup>

Following a declaration by the Ministry of Justice, political prisoners were increasingly confined in new (F-type) prisons, in an apparent attempt to enact the provisions of article 16 of the Anti-Terror-Law – which stated that the “sentences of those convicted under the provisions of this law will be served in special penal institutions built on a system of cells constructed for one or three people ... Convicted prisoners will not be permitted contact or communication with other convicted prisoners.” The declaration also stated that remand prisoners should be subjected to small-group isolation.<sup>46</sup>

The mission of the Council of Europe Committee for the Prevention of Torture

<sup>39</sup> IHF, *The Application of Human Rights Standards Adopted by Turkey as a Member State of the Council of Europe and the OSCE, Draft Conference Report, OSCE Review Conference, 10-11 December 1999, Istanbul, prepared in cooperation with Helsinki Citizens Assembly Turkey and the Council of Europe.*

<sup>40</sup> HRFT, *Statement on Human Rights, OSCE Review Conference, 1999, Vienna.*

<sup>41</sup> BBC News, June 13, 1999,

<http://news2.thls.bbc.co.uk/ji/en...europe/newsid%5F368000/368204.stm>

<sup>42</sup> HRFT, *Statement on Human Rights, OSCE Review Conference, 1999, Vienna.*

<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> Human Rights Watch, *Memorandum to the Turkish Government on Small Group Isolation and Kartal Soganlik F-type Prison, 29 July 1999*

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(CPT) found that very small isolation units existed in some new constructions, and recommended their closure. A manual for prison officers promoted the isolation of political prisoners as a central policy.<sup>47</sup>

The above-mentioned measures towards the increased isolation of prisoners are the latest measures in a move away from Turkey's traditional system of holding prisoners in very large wards with up to 100 prisoners, where prison staff only supervised the corridors and perimeters of the prisons, but were not normally present in the wards. This practice provided an environment in which gang-like structures, whether criminal or political, could develop.<sup>48</sup>

■ On 26 September, the gendarmerie at the Ankara Closed Prison – responsible for guarding the external perimeters of the prisons – used excessive force in calming unrest that had broken out in the prison. They used firearms and beat prisoners with heavy truncheons to force their way into wings of the prison. Eleven prisoners died as a result and many others were seriously injured. The authorities did not allow the victims' lawyers to be present during the autopsies. According to the official autopsy report, seven of the victims had bullet wounds, three of them apparently from shotguns. According to one interpretation of the autopsy findings, some of the bullets could have been fired at close range.<sup>49</sup> Official statements attributed the disturbance to the discovery of an escape tunnel by the

guards, but the prisoners' relatives believed that their protests at overcrowding had sparked the intervention.<sup>50</sup> According to the People's Law Bureau in Istanbul, the tension stemmed from the Justice Ministry's refusal to recognize the prisoners' representatives as negotiation partners, and its insistence on introducing the cell model in the prisons to replace the big dormitories, which the prisoners were accustomed to.<sup>51</sup> One hundred protesters were detained on 28 September and several protestors were beaten by the police. Thirty members of the Istanbul branch of the HRA were beaten by the police on 29 September when they tried to send protest telegrams from the Sirkeci post office to the President, Prime Minister and Justice Minister. The police then raided the Istanbul branch of the HRA on orders from the Istanbul Governorate, and remained there for two hours.<sup>52</sup>

## Death Penalty

The death penalty remained a delicate issue in Turkey in 1999 as the possible execution of the issued death penalties was put on the agenda with the conviction of PKK leader Abdullah Öcalan.

There have been no executions in Turkey since 1984. The first steps to fully abolish the death sentence were taken in the bill for a new penal code, prepared by a parliamentary commission in 1996–97. In early 1999, the then Turkish government informed the Council of Europe that "this

<sup>47</sup> HRFT, *Statement on Human Rights, OSCE Review Conference, 1999, Vienna*.9

<sup>48</sup> Human Rights Watch, *Memorandum to the Turkish Government on Small Group Isolation and Kartal Soganlik F-type Prison*, 29 July 1999.

<sup>49</sup> International Association for Human Rights of the Kurds, *IMK Weekly Information Service*, No. 37, 7 October 1999.

<sup>50</sup> Human Rights Watch, *Rights Group Condemns Deaths in Turkish Prison*, 27 September 1999.

<sup>51</sup> International Association for Human Rights of the Kurds, *IMK Weekly Information Service*, No. 36, 30 September 1999.

<sup>52</sup> *Ibid.*

<sup>53</sup> *Ibid.*

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bill is one of the priority items on the Parliament's order of business."<sup>53</sup> However, no steps had been taken to that end by the end of 1999.<sup>54</sup>

A State Security Court sentenced Öcalan to death on 29 June 1999, and on 25 November the Appeal Court ratified the sentence, by which time at least 47 death sentences had been ratified by the Appeal Court and could be carried out as soon as they were confirmed by the Turkish parliament.<sup>55</sup>

The IHF issued a press release denouncing the death penalty handed down to Abdullah Öcalan and recommended that the Turkish government abolish the death penalty regardless of the nature of the crimes involved.<sup>56</sup>

## Protection of Ethnic Minorities

### Kurds

The Turkish government made no systematic efforts in 1999 to resolve the "Kurdish question."<sup>57</sup> The government failed to take the opportunities offered by the capture of PKK leader Abdullah Öcalan, and the public announcement of the PKK to end its armed activities, to adequately address the question. Free and public debates on the issue were not even possible given Turkey's political climate.

In southeastern Turkey, the traditional homeland of the Kurds, the state of emergency was renewed for four months in No-

vember 1999 in five provinces – Diyarbakir, Hakkari, Sirnak, Tunceli and Van. The Kurds had not been targeted by the security forces because of their ethnicity *per se*, but rather because of their attempts to assert political or cultural rights based on Kurdish identity. Turkish authorities continued to deem such activities treasonous and a threat to the very foundations of the Turkish state.<sup>58</sup>

The denial of cultural and political rights has provided a fertile basis for the establishment of illegal radical armed organizations – in particular the PKK, which began its militant activities against state institutions in 1984. In turn, those attacks have provoked the fierce repression of Kurds with mass arrests and interrogation under conditions of torture, whether they were PKK activists or not. This situation has led to two decades of hardship, instability, and fear among the Kurdish population, particularly in villages in southeastern Turkey, which have been subjected to frequent security raids, abuse, torture, "disappearances" and extrajudicial executions. In the mid-1980s, the Turkish government started arming Kurdish villagers as "provisional village guards": they were officially hired to defend villages against PKK attacks, but were in fact used by the security forces as auxiliaries for raids in neighboring villages. The village guard system was voluntary in theory, but any village that refused to join the paramilitary system was suspected of being sympathetic to the PKK and therefore subjected to frequent security raids,

<sup>54</sup> HRA and HRFT, *Briefing on Human Rights in Turkey*, OSCE Review Conference Istanbul, November 9, 1999. See also the Rule of Law.

<sup>55</sup> Amnesty International, *Turkey: Death After Unfair Trial – the Case of Abdullah Öcalan*, AI – Summary of Report – EUR 44/40/99, August 1999, <http://www.amnesty.org/ailib/aipub/1999/SUM/44404099.htm>

<sup>56</sup> IHF, "Helsinki Federation Denounces Turkish Court's Death Penalty Decision," 25 November 1999.

<sup>57</sup> HRA, *Briefing on Human Rights in Turkey*, Istanbul, November 9, 1999.

<sup>58</sup> Human Rights Watch, "Turkey Must Uphold Öcalan's Right to Defense - Background Information on Turkey's State Security Courts," 28 May 1999.

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or forcibly evacuated and burned to the ground.<sup>59</sup>

According to a 1999 announcement by the Turkish government, 362,915 people were evacuated from 3,236 villages and hamlets throughout 1999. Over 26,000 persons were reportedly resettled with government assistance, and a further 61,987 applied to return. The exact number of people who were displaced, not in an orderly evacuation procedure but as a punitive measure, remains unknown because no independent group has been freely able to conduct research in the region: the estimated figures range between 560,000 and 800,000. A parliamentary committee that investigated the situation in the Southeast in 1998 noted that the state had failed to adequately compensate the villagers who had lost their homes and lands in the region. The European Court of Human Rights often ruled in favor of villagers who had been forcibly evacuated, and the government continued to pay assessed damages in those cases. However, generally, it did not give damages to evacuated villagers and did little to help those who had resettled in urban areas.<sup>60</sup>

The regional governor of the emergency state areas had the right to censor news, ban strikes, impose internal exile, and

double the sentences of those convicted for “cooperation with terrorists”. Only limited judicial review of the state of emergency governor’s administrative decisions is permitted.<sup>61</sup>

Since 1971, every party that has explicitly voiced the need to tackle the problems of the Kurdish minority has been closed down as “separatist” under article 81 of the law on political parties. In the 1990’s alone, eight parties were closed down,<sup>62</sup> although none of them ever promoted any territorial separation for Turkey’s Kurds – but rather focused on their cultural rights. The People’s Labor Party (HEP) and its successor parties (DEP, HADEP) have been subjected to relentless persecution by the state and its security forces for over a decade.<sup>63</sup> For example, the prominent DEP party leaders Leyla Zana, Hatip Dicle, Orhan Dogan and Selim Sadak (among others) continued to serve their 15-year prison sentences for allegedly supporting the PKK.

■ Fifty-seven members and officials of HEP and its successors (DEP, HADEP) have been killed since 1991 by “unknown perpetrator” and HADEP remained a frequent target of harassment.<sup>64</sup> The party has been widely perceived as sympathetic to the PKK in spite of its repeated calls for peace and its public rejection of political violence.<sup>65</sup>

<sup>59</sup> *Ibid.*

<sup>60</sup> U.S. Department of State, *op.cit.*; Human Rights Watch, “Turkey Must Uphold Öcalan’s Right to Defense - Background Information on Turkey’s State Security Courts,” 28 May 1999.

<sup>61</sup> Human Rights Watch, “Turkey Must Uphold Öcalan’s Right to Defense – Background Information on Repression of the Kurds in Turkey,” 28 May 1999.

<sup>62</sup> The Socialist Party IP was closed in 1992; People’s Labor Party HEP in 1993; Freedom and Democracy Party OZDEP in 1993; Turkish United Communist Party TBKP in 1993; Democracy Party DEP in 1994; Socialist Union Party SBP in 1995; Democracy and Achange Party DDP in 1996; Democratic Mass Party DKP in 1999.

<sup>63</sup> Human Rights Watch, “Turkey Must Uphold Öcalan’s Right to Defense – Background Information on Repression of the Kurds in Turkey,” 28 May 1999.

<sup>64</sup> However, amendments passed by parliament in August made it more difficult to prove allegations of anti-constitutional activities and close political parties.

<sup>65</sup> Human Rights Watch, “Turkey Must Uphold Öcalan’s Right to Defense – Background Information on Turkey’s State Security Courts,” 28 May 1999.

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■ More than 3,350 people, many of them HADEP supporters, were arrested within one week in February 1999. Following the arrest of Abdullah Öcalan, HADEP buildings were attacked by mobs. Two HADEP members were beaten to death in police custody.<sup>66</sup>

■ HADEP politicians asserted that, especially prior to the April elections, they had been subjected to arbitrary arrests and harassment aimed at weakening their chances in the elections. They claimed that they were hindered from carrying out rallies and other activities, and from reaching their constituents. Allegedly, the state of emergency governor withdrew permission for a large rally in Diyarbakir only 20 minutes before the rally was due to begin, leading to mass confusion and the detention of hundreds of HADEP supporters. The party's national chair was prevented from entering the state of emergency region during the election period, and some HADEP officials were barred from entering certain villages during that period.<sup>67</sup>

■ In December, police raided HADEP party offices in seven provinces. Some HADEP officials have been barred from international travel for years.<sup>68</sup>

■ The Constitutional Court closed down the Democratic Mass Party (DKP) in February, citing "separatism", because its program defended Kurdish rights. The DKP emphasized a peaceful and democratic solution to the Kurdish question and publicly criticized the PKK for its violent methods. As the decision had not been published officially by the year's end, party members were in legal limbo and could not form or join another party.<sup>69</sup>

The Kurds' cultural rights were seriously repressed, with the Kurdish language remaining a key issue. The 1983 Law 2932, which outlawed all communication in Kurdish without referring to the language explicitly, was repealed in 1991, allowing Kurds to speak their language in public places more or less freely. However, it was forbidden to use the language in election campaigns, education, politics, broadcasting, and in some cultural activities, such as weddings. Music in the Kurdish language appeared to be tolerated, although authorities imposed restrictions on certain songs. Further, the army's southeastern radio station, "Voice of Tigris", tried to gain support from the Kurdish population by broadcasting in the two main Kurdish dialects. However, all attempts to establish a radio or television station that operated legally, and which had an explicitly Kurdish character, have been blocked.

It was legal to publish Kurdish-language printed materials, but the governor of the emergency region banned certain Kurdish-language newspapers and had the right to censor the news. Only a handful of small weekly newspapers or journals were published entirely or partly in Kurdish. As Kurdish-language magazines inevitably tended to analyze the broader issues surrounding the Kurdish minority, they soon became targets of the press prosecutor and the police Anti-Terror Branch.<sup>70</sup> In fact, it was dangerous to write about Kurdish politics in any language.

■ The activities of organizations such as the Mesopotamian Cultural Center (MKM), a corporation with branches in several cities that was established to promote Kurdish language and culture, faced police

<sup>66</sup> Human Rights Foundation of Turkey, *Press Release*, 3 March 1999.

<sup>67</sup> HRFT, *Human Rights Yesterday & Today*, 14 April 1999.

<sup>68</sup> HRFT, *Human Rights Yesterday & Today*, 5 January 2000, 10 January 2000.

<sup>69</sup> Human Rights Watch, "Turkey Must Uphold Öcalan's Right to Defense – Background Information on Turkey's State Security Courts," 28 May 1999.

<sup>70</sup> See also *Freedom of Expression*.

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pressure, particularly in the Southeast: police often monitored or interrupted their cultural events and MKM was not allowed to sell Kurdish-language music cassettes.<sup>71</sup>

■ A group of Turkish and Kurdish academics, politicians, and intellectuals (TOSAV), held discussions on the situation of the Kurds, and explicitly explored non-violent solutions within a democratic context. The authorities completed an inconclusive investigation of TOSAV, citing potential “separatist” connections, and confiscated its publication entitled “Document of Mutual Understanding” in March.<sup>72</sup>

## Greeks, Armenians<sup>73</sup> and Jews

The Turkish authorities considered the Greek minority to be “Rum”, i.e. Greek Orthodox: they could not simply call themselves Greeks and claim they were an ethno-national, rather than a religious, minority. The Turkish authorities also interfered in the internal religious affairs of the Orthodox Churches by attempting to limit the jurisdiction of the Greek Patriarchate to the Greek Orthodox community in Turkey. The Patriarchate still lacked a legal personality.<sup>74</sup>

There was a prevalent feeling of insecurity among the few Greeks still domiciled in Istanbul. Recent hostile actions also included the desecration of graves in Christian cemeteries.<sup>75</sup>

■ A pipe bomb exploded in October, causing damage to the Greek Minority High School Zographeion Lyceum in Istanbul. An extremist right-wing organization claimed responsibility for the incident. The organization had already claimed responsibility for planting explosive devices at the Eastern Orthodox Ecumenical Patriarchate and other Greek community churches.<sup>76</sup>

According to the Armenian Patriarch Mesrob II, Armenian citizens belonging to religious minorities enjoyed equality under the law, with other Turkish citizens, in terms of economic, social and religious freedoms. However, the same freedoms did not always extend to the institutional basis of their minority communities.

The government frequently confiscated property belonging to the Armenian communities’ trusts, citing a 1974 Supreme Court of Appeal ruling that defined such foundations as “non-Turkish,” and therefore forbid the buying or selling of real estate acquired since 1936. In that year, the foundations had to submit to the government a list of their property and unmovable assets. Any land, building or real estate donated to or purchased by Armenian religious trusts since that time have been legally reverted to the state, without any remuneration – albeit following lengthy judicial proceedings lasting up to 10 or more years. The same applied to the Greek and Jewish minorities.

<sup>71</sup> U.S. Department of State, *op.cit.*

<sup>72</sup> U.S. Department of State, *op.cit.*

<sup>73</sup> Barbara G. Baker, “Turkey’s Armenian Community Reiterates ‘Institutional’ Dilemmas”, *Compass Direct*, 20 August 1999; *Human Rights Without Frontiers*, 24 September 1999, <http://www.hrwf.net>

<sup>74</sup> Panayote Elias Dimitras, “Dwindling, Elderly and Frightened?, the Greek Minority in Turkey Revisited,” *AIM Athens*, 31 January 2000, <http://www.aimpress.org/dyn/trae/...ata/200002/00201-001-trae-ath.htm>

<sup>75</sup> *The Constantinopolitan Society*, “Explosive Device Against Greek Minority High School in Istanbul”, October 1999) / *Human Rights Without Frontiers*, 3.11.1999, <http://www.hrwf.net>

<sup>76</sup> *Ibid.*

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The Turkish legal restrictions constituted further problems, making those who moved away from their original neighborhoods no longer eligible to vote for, or serve on, the administrative boards of the respective trusts. This jeopardized the existence of the foundations: elections were barred and transactions were blocked. The same applied to the Greek and Jewish minorities.

Armenian religious trusts also had to pay five-percent tax for government inspections and audits – from which Greek, Christian, Jewish and all Muslim foundations were exempt. They also had to pay corporate income taxes, although all these trusts were debit organizations subsidized from within the community.

The government also refused to approve elections for the school board of the Holy Cross High School, which was originally opened to train the Armenian clergy. In 1999, only a few school board members were still alive, and it did not seem likely that the government would give permission to elect new administrators and thus keep it in operation.

## Human Rights Defenders

Human rights monitors, as well as lawyers and doctors involved in documenting human rights violations and treating their victims, continued to be harassed for their legitimate activities, particularly by security officials. Such harassment occurred despite the statement of the State Minister for Human Rights, Ali İrtemelçelik, that he wanted to “strike a sound and honest communication” with NGOs, and with the HRA in particular.<sup>77</sup>

<sup>77</sup> Human Rights Watch, “Abuse Continues as Turkish Premier Visits U.S.,” 1 October 1999.

<sup>78</sup> International Federation of Health and Human Rights Organizations, “Report of the Visit to Turkey as an Observer of the Trials of Dr. Alp Ayan in Aliaga (17 February) and Dr. Zeki Uzun in Izmir (24 February),” by Prof. Dr. Evert J. Dorhout Mees”, March 2000.

<sup>79</sup> HRFT, *Information Note*, 12 April 2000.

■ Dr. Zeki Uzun, a volunteer gynecologist for the Izmir branch of the HRFT, was arrested in his office on 19 October. He was tortured for three days and nights; threatened with death if he refused to sign a paper; and was prevented from sleeping. A medical report by the Forensic Medical Institute stated that he had not been tortured, although he had not been examined by, or even spoken to, a medical doctor. On 28 October, three days after his release, he was examined by specialists from the Izmir Medical Chamber. They issued another report documenting both psychological and physical signs of torture, which were consistent with Uzun’s reports, including beatings to the head and breast, kicking, squeezing of the testicles, and the placing of a plastic bag over his head.<sup>78</sup> He was later accused of “helping members of an illegal organization” because he provided medical treatment to two patients who were alleged members of an illegal organization. In the third hearing of his trial on 11 April 2000, the prosecutor asked for Dr. Uzun’s acquittal on the grounds of insufficient evidence.<sup>79</sup>

■ The Diyarbakir branch of the HRA remained closed in 1999 for the third year running since its closure in May 1997. The Mardin and Gaziantep branches were ordered to be closed down for three months.

■ Former Chairman of the HRA, Akin Birdal, was imprisoned in June 1999 as a result of a conviction dating back to 1998 for a speech he made at the Meeting for Peace on 1 September 1996. The accusation had been based on article 312.2 of the penal code (“explicitly inciting people to hostility by recognizing differences based on class, race and religion”). He had said

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that the consequences of the failure to resolve the Kurdish question were reflected in every aspect of life in Turkey.<sup>80</sup> In September, the government commuted his sentence to a six-month suspended sentence because he still suffered from injuries stemming from the May 1998 attempt on his life. On 28 March 2000, he was imprisoned again for the rest of the term, i.e. ten months. In April, the Court of Appeal upheld another prison sentence against Birdal on similar accusations; thus Birdal is still required to serve 10 months for confirmed convictions.

■ In January 2000, Ankara State Security Court No. 1 began judicial proceedings against Nazmi Gür, Secretary General of the HRA, for his article in a special bulletin published by the HRA on the World Peace Day, on 1 September 1999. He was charged with “helping an armed organization” (article 169 of the penal code and article 5 of the anti-terror law No. 3713, which foresee prison terms of 3–7,5 years). The indictment was based mainly on expressions such as “the peoples of this country” and “a dirty war waged for the last 15 years,” referring to the fact that there were nationalities (including the Kurds) other than Turks in Turkey.<sup>81</sup>

■ Günseli Kaya and Dr. Alp Ayan, a secretary and psychiatrist respectively working for the HRFT in its Izmir treatment and rehabilitation center were detained on 30 September together with 66 other persons. They were all beaten by the gendarmerie for wanting to attend the funeral procession of convicted PKK member Nevzat Ciftci, one of the prisoners killed in the prison massacre at Ankara Ulucanlar

prison on 26 September 1999. Allegedly, they had violated the law on meetings and demonstrations. They were held in detention for three months and 21 days, under poor conditions, and released after the first hearing on 20 January 2000 because the courts dealing with their cases either did not authorize the case or withdrew it. However, both cases were still pending in March 2000.<sup>82</sup>

■ Prof. Veli Lök, representative of the HRFT Izmir treatment and rehabilitation center, gave several press statements to convey his opinions about the ill-treatment, detention and subsequent remand of human rights defenders, including his colleagues Günseli Kaya and Dr. Alp Ayan. After one of his statements was published in an article entitled “They are Made to Pay for Their Fight Against Torture,” judicial proceedings were initiated against him and the *Cumhuriyet* editor-in-chief in Izmir Penal Court No. 2. Prof. Lök faced a prison term of one- six months, and a fine.<sup>83</sup>

■ The branches of Sanliurfa and Malatya of Mazlum Der – the Organization of Human Rights and Solidarity for Oppressed Peoples – which monitored Islamic issues in particular, were indefinitely closed in January and May respectively. In June, police raided the headquarters, branch offices and homes of its members, allegedly under a search warrant by the Interior Ministry, stating that Mazlum-Der “works against the republican regime.”<sup>84</sup> In August, the headquarters were searched again and the bank accounts were frozen on the grounds that it had illegally been collecting aid allocated to earthquake victims. ■

<sup>80</sup> HRA, *press release*, 28 July 1998; HRFT, 29 July 1998.

<sup>81</sup> HRA, “A Court Action Was Launched Against the Secretary General of the Human Rights Association,” 20 January 2000.

<sup>82</sup> HRFT, *Information Note: Human Rights Defenders on Trial*, 27 March 2000.

<sup>83</sup> HRFT, *Information Note*, 27 March 2000.

<sup>84</sup> The Kurdish Human Rights Project, “KHRP Condemns Recent Raids On Mazlum Der,” 6 July 1999. HRFT, *Human Rights Yesterday & Today*, 21 June 1999.