



HUMAN
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IN CUSTODY

Police Torture and Abductions in Turkey

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Summary	1
Torture and ill-treatment	1
Abductions and Enforced Disappearances	3
Constraints on Lawyers.....	4
Recommendations.....	6
To the Turkish Government	6
To the Union of Turkish Bars and provincial bar associations	7
To Turkey’s International Partners	7
Methodology.....	8
I. A Background of Impunity and Weak Safeguards	10
Constraints on Defense Lawyers	12
II. Torture Cases	14
Cases Based on Interviews with Relatives of Victims and Court Records	14
Cases of Torture Based on Information Received from Lawyers	23
III. Lack of Effective Investigation of Torture Allegations	30
IV. Abductions, Missing Persons and Enforced Disappearances	33

Summary

In Turkey today, people accused of terrorism or of being linked to the July 2016 attempted coup are at risk of torture in police custody. There has been a spate of reported cases of men being abducted, some of whom were held in secret detention places, with evidence pointing to the involvement of state authorities.

Based on interviews with lawyers and relatives, and on a review of court transcripts, this report looks in detail at ten cases in which security forces tortured or ill-treated a total of 22 people, and an eleventh case in which police beat scores of villagers, 38 of whom lodged formal complaints of torture.

The report also presents details of five individual cases of abduction that likely amount to enforced disappearance by state authorities since March 2017. Enforced disappearance occurs when state authorities take a person into custody, but deny it or refuse to provide information about the disappeared person's whereabouts.

Torture and ill-treatment

The 11 cases of torture or ill-treatment Human Rights Watch includes in this report represent a fraction of the credible cases reported in the media and on social media. Such reports indicate that torture and ill-treatment in police custody in Turkey has become a widespread problem. Official figures show that in the past year well over 150,000 people have passed through police custody accused of terrorist offenses, membership of armed groups, or involvement in the attempted coup in July 2016. The highest number of detentions concerns people suspected of links with the group the government and courts in Turkey refer to as the Fethullahist Terror Organization (FETÖ), associated with US-based cleric Fethullah Gülen. The government says this group was behind the attempted coup. The second largest group concerns people with alleged links to the armed Kurdistan Workers' Party (PKK/KCK). Cases reported to Human Rights Watch show that it is people detained on these two grounds who are at greatest risk of torture.

In all 11 cases of torture presented in this report, which altogether involve scores of individuals, Human Rights Watch gathered accounts of severe beatings, threats, and

insults. Human Rights Watch heard accounts of detainees stripped naked, and in some cases of detainees being threatened with sexual assault, or being sexually assaulted. In many cases, the torture appeared to be aimed at extracting confessions or forcing detainees to implicate other individuals. Detainees who alleged torture were brought before doctors for routine medical reports, but either the doctors showed no interest in physical evidence of torture or the presence of police officers inhibited them from conducting proper medical examinations and made it hard for detainees to describe their injuries or speak about treatment in custody.

In October 2016, Human Rights Watch published a report on the impact of the removal of safeguards against torture and ill-treatment under the state of emergency that was imposed in Turkey after the attempted coup.¹ For example, the government extended the period of police detention to 30 days and restricted the right of detainees to meet with lawyers. The report documented incidents of torture that followed the introduction of these measures. In January 2017, the cabinet issued a decree lifting some of the most severe of these restrictions on detainees' rights. However, the evidence presented in this report indicates that in spite of the easing of restrictions on detainees' rights, the abuse of detainees in police custody has continued.

Although the government of President Erdoğan publicly asserts a zero tolerance for torture, there remains a climate of impunity for the torture and mistreatment of detainees. Human Rights Watch is not aware of any serious measures that have been taken to investigate credible allegations of torture, much less hold perpetrators to account. Human Rights Watch discussed the cases of torture documented in its October 2016 report directly with the Turkish government. However, a year later, lawyers and families have informed Human Rights Watch that there has yet to be any sign that prosecutors have conducted effective investigations into two complaints by named individuals examined in the October report, or complaints by three individuals identified in the report by their initials.

Several individuals whose cases are examined in this latest report also told prosecutors or courts they had been ill-treated. Most of their allegations appear to have been ignored or sidelined. There are scant indications that prosecutors are taking the initiative proactively

¹ "A Blank Check: Turkey's Post-Coup Suspension of Safeguards against Torture," Human Rights Watch report, October 25, 2016, <https://www.hrw.org/report/2016/10/25/blank-check/turkeys-post-coup-suspension-safeguards-against-torture>.

to investigate abuse when they encounter suspects who show signs of having been subjected to ill-treatment.

These developments should be seen in the context of the government's moves since the July 2016 coup attempt to further undermine the already compromised independence of the judiciary. Mass dismissals and prosecutions of judges and prosecutors over alleged Gülenist links and tighter executive control over the judiciary make it increasingly unlikely that prosecutors and judges concerned about their own job security will risk investigating such crimes.

Abductions and Enforced Disappearances

This report also presents details of five cases of abductions which likely amount to enforced disappearances. In one case a man was abducted in Ankara and subsequently found in police custody, after having been held at a secret location for 42 days, during which time he alleges he was tortured. The facts of his case strongly indicate that he was the victim of an enforced disappearance, and was abducted and held in unacknowledged detention with at least the acquiescence of Turkish state agents.

Human Rights Watch documented four other cases of people who were abducted in contexts that lead to the conclusion that they too should be presumed to be victims of enforced disappearances.

Human Rights Watch has information about a sixth case – a man who went missing and was held at a secret place of detention for over two months before being released. We have not presented the details of the case in this report for the individual's own safety.

In most of the cases of abduction documented, witnesses reported the victims were abducted in broad daylight in the street by men who declared to passersby they were from the police. In three cases the same type of vehicle, a VW Transporter, was used to abduct the men. In all cases, the relatives of the disappeared men had difficulty lodging formal complaints with the authorities or with receiving information about the investigation. In one case witnesses to the abduction told relatives they called the police, who said they could not intervene because the individual's apprehension seemed to have been handled by the anti-terror branch of the police.

The evidence of abductions and likely enforced disappearances presented in this report is of particular concern because Turkey has a notorious history of security forces conducting enforced disappearances in the 1990s. The European Court of Human Rights issued repeated judgments that Turkey had violated the rights to liberty and security, and often the right to life of victims who were mainly Kurds, and had forced their families to endure inhuman and degrading treatment.

In August, Human Rights Watch wrote an open letter to the minister of justice, seeking information about the status of investigations into four abductions, but had received no response at this writing. In several cases, families of victims have applied to the European Court of Human Rights, complaining of lack of an effective investigation into the abductions.

Constraints on Lawyers

Despite the January 2017 reforms, several lawyers told Human Rights Watch that they had limited opportunity to speak to their clients in confidence because police officers were often present during their meetings with detainees. Under Turkey's Anti-Terror Law, lawyers' meetings with clients in police detention can be legally restricted for the first 24 hours. However, lawyers reported that in some cases the police still attempted to bar access beyond that period, forcing them to apply to the prosecutor's office to negotiate access.

Some lawyers also reported that they had come under undue pressure from the police when they challenged official written police accounts of police interviews with their clients, at which they (the lawyers) had been present.

Most lawyers interviewed by Human Rights Watch expressed concerns for their own safety. Several commented that provincial bar associations and the Union of Turkish Bar Associations were not offering the support to lawyers they needed, and were not willing to support efforts to document and lodge complaints about detainees' allegations of ill-treatment. Without the institutional support of bar associations and the Union of Turkish Bar Associations to which they belong, the ability of lawyers to protect the human rights of detainees without fear of reprisals is limited.

In November 2016, the government issued a decree under the state of emergency, closing down three Turkish lawyers' associations which had played an important role in promoting fair trial standards and the rights of detainees and defendants.

Several hundred lawyers are in pre-trial detention, the majority accused of links to the group the government and courts in Turkey refer to as the Fethullahist Terror Organization (FETÖ).

The Turkish authorities should urgently demonstrate their commitment to upholding the absolute prohibitions on torture, ill-treatment, and enforced disappearances, and ensure prompt and effective investigations into security forces, intelligence services, and all other public officials alleged to have tortured or ill-treated detainees, or unlawfully deprived them of their liberty. Turkey's international partners, including the European Union and its member states, should put human rights concerns at the center of their engagement with the Turkish authorities; raise with the Turkish authorities in the most urgent terms the increase in complaints of torture in police custody; and publicly call for full investigations into reported cases of torture and ill-treatment in detention, and of enforced disappearances.

Recommendations

To the Turkish Government

- Immediately and unconditionally enforce the absolute prohibition on torture and ill-treatment of detainees, and publicly announce a zero tolerance for violations of the prohibition and what measures it will take to prevent any violations;
- Immediately and unconditionally enforce the absolute prohibition on enforced disappearances and the non-derogable rights to life and physical integrity of all people detained on suspicion of criminal activity, including through public commitments to the same;
- Publicly reiterate and reinforce that everyone has a guarantee to liberty and security, including fundamental safeguards and due process rights such as: any detention should only occur at a recognized place of detention and should be fully recorded and documented from the outset, the right to a lawyer from the outset of detention, the right to be promptly brought before a judge and to have their whereabouts communicated to family members;
- Ensure the prompt and effective investigation into all allegations of torture or other ill-treatment of detainees, as well as allegations of unlawful deprivation of liberty, and the prosecution of any members of the police, security forces, intelligence services, or other public offices implicated in criminal conduct, irrespective of rank or status;
- Remind all prosecutors and judges of the inadmissibility of evidence extracted under torture or ill-treatment, or from persons while in unlawful detention; of their responsibility to investigate all allegations of torture and ill-treatment as well as to question suspects about their treatment in custody in order to determine whether there is a likelihood of violations having occurred, in particular when a suspect brought before them has any visible sign of injury;
- End the practice of transferring remand prisoners back to police custody for questioning, and repeal article 8, decree no. 670, which permits it;
- Rescind the provision (article 9, decree no. 667) protecting public officials from all criminal responsibility for actions undertaken in the discharge of duties carried out in the context of the state of emergency;

- Permit the European Committee for the Prevention of Torture (CPT) to publish without further delay the completed report on the findings of its ad hoc visit to Turkey in September 2016.

To the Union of Turkish Bars and provincial bar associations

- Play a proactive role in training lawyers acting for the legal aid service in how to respond to cases where their clients or other detainees may have been subjected to abuse in detention, including in relation to gathering medical and other evidence;
- Promote a proactive response to upholding the rights of all individuals held in places of detention by filing complaints of torture and ill-treatment on behalf of detainees subjected to such violations;
- Publicly defend the right of all suspects to an effective defense regardless of their profile;
- Publicly reiterate that the government and authorities have an obligation to ensure that no lawyer who defends a suspect is identified with the alleged crimes of his or her client;
- Robustly defend the rights of lawyers to be protected from intimidation and abuse when acting for clients;
- Gather and record all complaints relating to abuse in detention in order to determine how widespread instances of torture and ill-treatment are.

To Turkey's International Partners

- Raise with the utmost urgency the increase in complaints of torture in police custody with the Turkish government, and emphasize the urgent need to stamp out torture and ill-treatment in detention, eliminate enforced disappearances and secret detention and fully investigate all reported cases, including abductions in Ankara, and bring those responsible to justice.

Methodology

This report, researched between February and September 2017, is based on face to face and telephone interviews in Turkish with lawyers, families of detainees, and, in two cases, victims of torture, who were released from police custody and not remanded to pretrial detention. Human Rights Watch informed each interviewee of the purpose of the interview and the way their information would be used. No interviewee received any direct or indirect remuneration for their participation.

The report looks at cases in which the accused are accused of links with terrorist organizations or of involvement in the July 2016 coup attempt. It does not examine treatment in detention of those accused of common crimes such as theft, nor does it address allegations of abuse of individuals in pretrial prison detention or serving prison sentences.

There are huge obstacles to documenting torture in Turkey at present. Because the majority of victims remain on remand in pre-trial detention and not accessible, it is generally not possible for human rights organizations to interview victims of torture and get first-hand testimonies. Most detainees can only convey information about their experience in detention to close family members and lawyers who are able to visit them. Other information comes from records of detainees' statements to prosecutors or judges in court or by letter from prison. In only two cases among the cluster of cases reported to Human Rights Watch below was it possible to speak directly to the victim.

The research presented in this report is based on an examination of records of statements to prosecutors and court records, written complaints to prosecutors, and supporting evidence, such as videos and video grabs from security camera footage, and photographic evidence of torture.

Owing to secrecy orders on most investigations, it was not possible to examine medical reports on detainees who alleged torture in police custody. It has not even been possible to determine whether doctors have been able to document ill-treatment and torture.

All names of lawyers mentioned in this report are withheld for their own security. In two cases the name of detainees who reported ill-treatment and the place of detention have

been withheld at the request of their families. However, Human Rights Watch has communicated the cases directly to the Ministry of Justice.

In most other cases, detainees alleging they were tortured are referred to in the report by the first letters of their names at their own request via their lawyers, or because Human Rights Watch took the decision to do so for their own safety. The relevant file numbers relating to the criminal investigation into detainees – some of whom are now defendants in trials – are included so that the Ministry of Justice can investigate why there was no investigation into their allegations that they were tortured, or to enable the ministry to determine the progress of any ongoing torture investigation. To answer the Ministry of Justice’s concern that most of the case information provided in the October 2016 Human Rights Watch report on torture was vague and could not be investigated, Human Rights Watch has attempted in this report only to include cases with enough detail to permit their investigation.

Where individuals did not want any identifying information included – mainly because they feared reprisals or felt their own situation would be made worse by having their allegations published in any form – a decision was made to omit the case from the report.

I. A Background of Impunity and Weak Safeguards

Over many years, Human Rights Watch and other organizations have documented Turkey's entrenched culture of impunity for public officials accused of serious human rights violations. Turkey has a long history of security forces torturing detainees and, in the 1990s, conducting enforced disappearances. This led to multiple adverse rulings by the European Court of Human Rights, finding that Turkey had violated the absolute prohibition on torture and failed to ensure the effective investigation of torture allegations. The European Court also issued repeated judgments relating to enforced disappearances, finding that Turkey had violated the rights to liberty and security, and often the right to life of victims who were mainly Kurds, and had forced their families to endure inhuman and degrading treatment.

Official figures show that between the declaration of the state of emergency that Turkey's government imposed after the July 15, 2016 attempted military coup and mid July 2017, around 150,000 people passed through police custody accused of terrorist offenses, membership of armed groups, or involvement in the attempted coup.² The highest number of detentions concerns people suspected of links with the group the government and courts in Turkey refer to as the Fethullahist Terror Organization (FETÖ), associated with US-based cleric Fethullah Gülen. The second largest group concerns people with alleged links to the armed Kurdistan Workers' Party (PKK/KCK). Cases reported to Human Rights Watch show that it is people detained on those two grounds who are at greatest risk of torture.

Although the Turkish government publicly asserts zero tolerance for torture, it has failed to take adequate action to stamp out the sharp rise in abusive detention practices since the July 2016 coup attempt or to make sure that allegations of abuse are fully investigated and those responsible brought to justice.

Turkey's former minister of justice, Bekir Bozdağ, who became deputy prime minister on July 19, 2017 has repeatedly denied (most recently on July 12, 2017) that torture happens in prison or police custody, and has suggested that reports of torture were part of a campaign

² Figures based on Ministry of Justice statement, "Adalet Bakanlığı FETÖ ile mücadelenin bilançosunu açıkladı," (Justice Ministry announced numbers in combatting FETÖ), *Hürriyet* newspaper, July 13, 2017: <http://www.hurriyet.com.tr/son-dakika-adalet-bakanligi-feto-ile-mucadelenin-bilancosunu-acikladi-1862017-40518715> (accessed August 1, 2017).

of disinformation by those “collaborating with FETÖ and the PKK”.³ The new minister of justice has yet to comment publicly on reports of torture, though in a speech marking the opening of the judicial year in September 2017 he referred to the government’s zero tolerance for torture policy.⁴ The minister of the interior refuted torture allegations on one occasion, and instead focused on the alleged crimes of the victim, but in general has not responded to the various allegations reported.⁵

In October 2016, Human Rights Watch published a report documenting allegations of torture and looking at the impact of the lifting of safeguards against torture and ill-treatment under the state of emergency, including the introduction of a 30-day detention period and five-day restriction on detainees’ rights to meet lawyers as factors increasing a detainee’s risk of being subjected to police abuse.⁶ The report documented 13 cases of torture, five of which took place following the lifting of these safeguards.

In January 2017, the cabinet issued a decree reducing the police detention period from 30 days to seven, with the possibility of a seven-day extension if granted by a prosecutor, and lifting the five-day restriction on lawyers’ right to meet with detainees.⁷ Positive though these measures were, they appear to have been insufficient to curb the abuse of detainees in police custody. All but one of the torture cases and all the abduction cases examined by Human Rights Watch in this report occurred between March and August 2017.

Human Rights Watch discussed the cases of torture documented in its October 2016 report directly with the Turkish government. The Interior Ministry and Justice Ministry also issued

³ See ‘Bakan Bozdağ: Cezaevlerinde kötü muamele ve işkence iddiaları iftiradan ibaret’ (Minister Bozdağ: Allegations of ill-treatment and torture in prisons are slander”), *Hürriyet* newspaper, July 12, 2017: <http://www.hurriyet.com.tr/bakan-bozdag-cezaevlerinde-kotu-muamele-ve-isk-40517555>, and an earlier statement to an Anatolian Agency reporter, “Adalet Bakanı Bozdağ - Cezaevlerinde İşkence ve Kötü Muamele İddiaları,” (Justice Minister Bozdağ – Claims of torture and ill-treatment in prisons), Haberler website, November 10, 2016, <https://www.haberler.com/adalet-bakani-bozdag-cezaevlerinde-iskence-ve-kotu-8947495-haberi/> (accessed August 1, 2017).

⁴ For minister of justice Abdulhamit Gül’s speech at the start of the judicial year, see “Adalet Bakanı Abdülhamit Gül'den 'adli yıl açılışı' mesajı,” *Habertürk* news report, September 5, 2017, <http://www.haberturk.com/gundem/haber/1620426-adalet-bakani-abdulhamit-gul-den-adli-yil-acilisi-mesaji> (accessed September 10, 2017).

⁵ Comments by Minister of Interior Süleyman Soylu reported on T24 news website, February 24, 2017, “İçişleri Bakanı'ndan 'işkence' yanıtı: Hukuksuzluk yok, yaşlı dediğiniz o adam teröre ev sahipliği yapıyor!”, <http://t24.com.tr/haber/icisleri-bakanindan-iskence-yaniti-hukuksuzluk-yok-yasli-dediginiz-o-adam-terore-ev-sahipligi-yapiyor,390670> (accessed August 1, 2017).

⁶ “A Blank Check: Turkey’s Post-Coup Suspension of Safeguards against Torture,” Human Rights Watch report, October 25, 2016, <https://www.hrw.org/report/2016/10/25/blank-check/turkeys-post-coup-suspension-safeguards-against-torture>.

⁷ See articles 10 and 11, Decree no. 684, *Resmî Gazete* (Official Gazette), January 23, 2017, <http://www.resmigazete.gov.tr/eskiler/2017/01/20170123-3.htm> (accessed August 1, 2017).

a November 1, 2016 joint statement in which they commented briefly on two cases from the report to refute the allegations.⁸ In a January 19, 2017 letter, the Parliamentary Human Rights Commission informed Human Rights Watch that the commission had contacted the Interior and Health Ministries for information on three cases and then directed those cases to relevant prosecutors.⁹ A year later, lawyers and families have informed Human Rights Watch that there has yet to be any sign that prosecutors have conducted effective investigations into the complaints (detailed below in Chapter 3).

Constraints on Defense Lawyers

Despite the January 2017 reforms, several lawyers told Human Rights Watch that they had limited opportunity to speak to their clients in confidence, because police officers were often present during their meetings with detainees. Even though under Turkey’s Anti-Terror Law lawyers’ meetings with clients in police detention can be legally restricted for the first 24 hours, lawyers reported that in some cases the police still attempted to bar access beyond that period, forcing them to apply to the prosecutor’s office to negotiate access.

Some lawyers reported that they had come under undue pressure from the police when they challenged official written police accounts of police interviews with their clients at which they (the lawyers) had been present. In one case, a lawyer told Human Rights Watch he had been detained in police custody overnight along with his client, after challenging a police account of such an interview. He said the police then threatened to include him in the same criminal investigation as his client. He was released the next day by the prosecutor, but told Human Rights Watch that he was unsure in the present context whether lodging a formal complaint wouldn’t simply make matters worse for himself.

Most lawyers had concerns for their own safety, and several commented that provincial bar associations and the Union of Turkish Bar Associations were not offering the support to lawyers they needed, and not willing to support efforts to document and lodge complaints about detainees’ allegations of ill-treatment. Without the institutional support of bar

⁸ Joint statement by the Ministries of Interior and Justice responding to Human Rights Watch report “A Blank Check” (İnsan Hakları İzleme Örgütünün “Açık Çek” isimli Raporuna karşı Adalet ve İçişleri Bakanlıkları Ortak Basın Açıklaması), November 1, 2016, available on Ministry of Interior website in Turkish and English at <https://www.icisleri.gov.tr/insan-haklari-izleme-orgutunun-acik-cek-isimli-raporuna-karsi-adalet-ve-icisleri-bakanliklari-ortak-basin-aciklamasi> (accessed August 1, 2017).

⁹ Letter sent by email on file with Human Rights Watch.

associations and the Union of Turkish Bar Associations to which they belong, the ability of lawyers to protect the human rights of detainees without fear of reprisals will be limited.

In November 2016, the government issued a decree under the state of emergency closing down three lawyers' associations in Turkey, which played an important role in promoting fair trial standards and the rights of detainees and defendants: the Contemporary Lawyers' Association, the Free Lawyers' Association, and the Mesopotamia Lawyers' Association.

Several hundred lawyers are in pre-trial detention, the majority accused of links to the group the government and courts in Turkey refer to as the Fethullahist Terror Organization (FETÖ). Among lawyers in detention is Taner Kılıç, the chair of Amnesty International Turkey.

II. Torture Cases

Human Rights Watch has included for publication in this report evidence of eleven cases of torture. Ten of the cases relate to individuals or small groups, while the eleventh involves an incident in which police beat scores of villagers, 38 of whom lodged formal complaints of torture.

Cases Based on Interviews with Relatives of Victims and Court Records

Case 1

Credible allegations of torture emerged in the trial in the central Anatolian town of Kirikkale, of 64 defendants facing charges of membership of an armed organization (referred to by the Turkish government and courts as FETÖ - Fethullahist Terrorist Organization), and attempting to overthrow the government. At the first hearing on February 16, 2017, seven of the defendants told the court at length that they had been tortured into signing statements which were false, and into naming people they claimed not to know.¹⁰ The 64 defendants include many police officers, as well as teachers and other public officials.

Human Rights Watch has obtained the court record of the hearing and interviewed the wife of one of the seven defendants who allege torture. Hasan Kobalay, 37, was the head of a Kirikkale preschool, which was closed by decree under the state of emergency. Hasan Kobalay told the court on February 16, 2017 that while being interrogated on November 2, 2016 at the anti-terror branch of the Kirikkale police station he was stripped naked, blindfolded, gagged with a cloth, handcuffed and then taken to a bathroom. According to the transcript, Kobalay told the court:

Cold water was sprayed on my body, especially on my testicles and buttocks, which are still painful... They then said “Speak!” and I said: “What shall I say?” They touched me all over, they did something to my

¹⁰ Record of February 16, 2017 hearing at the Kirikkale Heavy Penal Court, court file 2016/352, on file with Human Rights Watch.

anus, but I don't know what. It took up to an hour, and then they said we'll bring your wife and do the same to her. At that point I broke down [at this point the defendant began to cry as he recounted it] because my wife and children are the only thing in my world. Then they took me to a room and mapped out what I needed to say... "You were the 'imam' of the group." "No, I wasn't," I said. "You were," they said. "You gave teachers lessons." "No, I didn't," I said. "You did," they said...¹¹

The transcript records that Kobalay described to the court how he was also slapped and continually threatened. He reported to the court that a doctor had seen the state he was in:

When I got to the hospital I was shaking, and I tried to tell the doctor what had happened, but the police wouldn't let me explain.¹²

According to the transcript, six other defendants at the same hearing told the court they had been ill-treated in custody, in order to force them to give information to the police and sign statements they subsequently retracted at the hearing. Some defendants said that they underwent cursory medical examinations in which the doctor simply looked at them without examining them. Furthermore, they said, they were unable to speak to the doctor because of the presence of police officers.

Human Rights Watch interviewed Hasan Kobalay's wife about his ordeal:

When I visited him in Keskin prison, my husband told me what had happened to him in police custody in Kirikkale. He had lost a lot of weight and was exhausted. He cried and said he felt ashamed. "I am finished," he said. He told me he had been tortured. I wanted to boost his morale but, how could I? He has changed completely.

When he spoke at the hearing of 64 people [defendants] it was hard to hear all he said, but he described the insults, being stripped naked in Kirikkale anti-terror branch, being blindfolded throughout and gagged, having his

¹¹ Ibid, p.29.

¹² Ibid, p.30.

sexual organs squeezed. My husband cried as he recounted it in court. He spoke for half an hour. The judge didn't stop him speaking. He let those who described being tortured speak. The police sitting in the courtroom took notes in detail, and stared at us threateningly.

Everyone watching in court cried at hearing all this and the gendarmes present didn't know what to do. The police left the room. My husband had signed a statement under pressure while in police custody, but he had rejected that statement when he was brought before the prosecutor.¹³

In the interim ruling on February 21, 2017, the Kırıkkale court ordered the prosecutor to investigate the allegations made by seven of the defendants, including Kobalay, and requested the security camera footage during the period they were in police detention.¹⁴ According to Kobalay's lawyer, the prosecutor's investigation is officially on-going but there is a secrecy order in place, so it has not been possible to learn any details, such as whether any police officers allegedly involved in torture have been identified, and what evidence, if any, including the footage, has been acquired by the prosecutor.¹⁵

Case 2

In another case examined by Human Rights Watch, three men allege they were tortured in police custody, after being detained on suspicion of involvement in a mortar attack on a police station. Photos posted on Twitter on June 9 showed the three men beaten up with bleeding faces. The photos appeared in pro-government media and were tweeted by journalist Fatih Tezcan, with the claim that the men were responsible for a mortar attack on the police headquarters in the town of Gevaş, in the eastern province of Van, by the armed Kurdistan Workers' Party (PKK).¹⁶

Those in the photos were later identified as three local men from Van city, who said their vehicle had been forcibly taken from them by members of the PKK. The three men alleged it

¹³ Human Rights Watch Interview with wife of Hasan Kobalay, Ankara, February 21, 2017.

¹⁴ Copy of complaint by Kırıkkale Heavy Penal Court to Kırıkkale Chief Prosecutor's office, February 21, 2017, seen by Human Rights Watch.

¹⁵ Information communicated to Human Rights Watch, July 4, 2017.

¹⁶ See the relevant Tweet from June 9, 2017, <https://twitter.com/fatihtezcan/status/873277074722697217?lang=en> (accessed August 19, 2017).

was taken as they were returning from a trip to the high mountain pastures near Gevaş to collect mushrooms.¹⁷ The authorities say the vehicle was used by the PKK in a mortar attack.

The three men are Cemal Aslan, Abdulselam Aslan, and Halil Aslan. Human Rights Watch interviewed one of the men, Cemal Aslan, 52, owner of a public bath (*hamam*) in Van:

After they [the PKK members] took the van from us and a couple of them held us for a few hours in a cave in the mountains, taking our mobile phones off us, they released us, and we went on our way in our van. We didn't know that it had been used in an attack, and we were planning to complain to the police about the fact they had held us like that for hours and had taken our van and phones. We didn't get our phones back. We entered the town of Gevaş, and two Panzer armoured vehicles were waiting there, and the police stopped us and ordered us out of the van, stripped and then brutally beat us in the road. Then we were taken to the Gevaş police station and the beating continued endlessly although we kept saying we were civilians.

They beat us in a toilet and took photos of us. I've really never seen anything like it in my life. We were handcuffed from behind, then punched, kicked, hit with rifle butts in the back and humiliated from nine at night to four in the morning, with police officers constantly asking us where our weapons were, and trying to make us confess to the attack on the station.

When we were examined by a doctor the police told her we had fallen from a car. We were in no state to talk at that point. Once we were transferred to the anti-terror branch in Edremit, the torture stopped completely. We spent six days there and the court released us, putting an overseas travel ban on us, and with a judicial control on us, which means we have to sign into the police station once a week.

¹⁷ İsmail Saymaz, "'Terörist' diye dövülen o köylüler mantar topluyormuş" (Those villagers who were beaten as 'terrorists' were collecting mushrooms), *Hürriyet* newspaper, June 19, 2017: <http://www.hurriyet.com.tr/terorist-diye-dovulen-o-koyluler-mantar-topluyormus-40494778> (accessed August 19, 2017).

Neither the prosecutor nor the court asked us a single question about the state we were in. A doctor in the Van regional research hospital forensic medicine department documented our injuries in a very detailed report. I have been unable to sleep at night ever since this happened and am in shock.¹⁸

Cemal Aslan's wife informed Human Rights Watch that the family had been extremely worried when her husband and his cousins had not returned from the trip to collect mushrooms. They had complained to the police that they were missing and were shocked when the first news they received of the three were the photos circulating on social media.¹⁹ The three men lodged a formal complaint against the Gevaş police on June 21, 2017.²⁰ Their lawyer informed Human Rights Watch that the prosecutor has requested security camera footage from the police station where the torture allegedly took place, but there have been no further developments in the investigation of the complaint.²¹

Case 3

In another case reported to Human Rights Watch, villagers from Şapatan (Altınsu) village, in the Şemdinli district of the southeast province of Hakkari, reported to the media and to lawyers that on August 6, 2017 dozens of men were rounded up from their homes by the security forces, beaten, and taken to the Şemdinli anti-terror branch where the ill-treatment continued.²² A lawyer acting for the villagers told Human Rights Watch:

After an armed clash on August 5 in which a police officer was killed, the security forces entered the Şapatan village in the night and searched homes. They gathered the villagers in the middle of the village and a unit of 10-15 special team police officers and plain-clothes officers beat everyone mercilessly in the village, and at the Şemdinli Security Directorate.²³

¹⁸ Human Rights Watch interview with Cemal Aslan and his family, Van, June 17, 2017.

¹⁹ Ibid.

²⁰ Copy of complaint on file with Human Rights Watch.

²¹ Information communicated by lawyer to Human Rights Watch, September 22, 2017.

²² First reported by Dihaber newspaper agency, August 7, 2017: <http://dihaber14.net/TUM-HABERLER/content/view/28881> (accessed August 19, 2017, but site subsequently blocked in Turkey after the government closed down Dihaber news agency by emergency decree no. 693, August 25, 2017). A full report on the incident based on a field visit and interviews with victims was published in Turkish by the human rights group İnsan Hakları ve Adalet Hareketi Demeği, İHAK (Human Rights and Justice Movement), August 2017, <https://drive.google.com/file/d/oBxX8wzuz2PobWlgxaksyTUowbm8/view> (accessed September 11, 2017).

²³ Human Rights Watch telephone interview with lawyer, August 7, 2017.

Human Rights Watch has examined three of the complaints lodged by 38 villagers. S.T., 28, told the Şemdinli prosecutor that after being made to assemble in front of the village mosque, he and the other villagers were put into armoured vehicles (Panzers) and taken to Şemdinli Security Directorate:

Four police officers who got us out of the Panzers beat us. They continued to beat us until we got to the third floor of the Security Directorate. I was also insulted. In the corridor of the anti-terror branch on the third floor we were beaten by special team police and plain-clothes police. One of the plain-clothed officers who beat us was 35-50, slightly heavy, bearded, and greying. This man beat the backs of me and the 20 I was with using a hose pipe.

We had been brought to the police station in three groups. The policeman I described beat our group with a hose pipe. I am lodging a complaint against the special team police and plainclothes police who beat and insulted me. I would be able to identify those who beat me.²⁴

Another of the villagers, C.G., complained to the prosecutor's office that the special team police had searched his home and beaten him.

Police officers whose faces I would be able to identify, knocked on the door at around 4 a.m. and, as soon as the door was opened began to beat me, insult, and swear at me. When my 80-year-old mother tried to prevent them, they beat her too. This torture continued till 6. They knocked me unconscious, and threw me onto the balcony. They cursed my wife and left our house thinking I was dead.²⁵

N.Ş., 22, also described being repeatedly beaten while taken to the Security Directorate, and once there. In a room on the third floor a "35-40-year-old plainclothes police officer with greying hair and a beard" had addressed them:

²⁴ Record of complainant S.T.'s statement to Şemdinli prosecutor, August 11, 2017, on file with Human Rights Watch.

²⁵ Complaint to Şemdinli prosecutor, August 10, 2017, on file with Human Rights Watch.

“You haven’t seen anything yet, the beating is just starting,” he told us... Then he made us lie down and beat our backs with a mop stick. I gave a statement about this at the Şemdinli Security Directorate. The police made me identify him. However, I was unable to identify the man who beat me from photographs. I would be able to identify the man who beat me from an identification parade. I am lodging a complaint about the special team and plain-clothes police who beat me.²⁶

Human Rights Watch obtained photographs of some of the Şapatan villagers showing clear signs that they had been beaten in a manner consistent with their allegations. These were also published widely in the Turkish and Kurdish media, and circulated on social media.

The Hakkari governorate issued a statement initially describing the torture claims as “completely baseless and intended as propaganda for a terrorist organization.”²⁷ However, inspectors were appointed to examine the incident and a police officer was suspended from duty on August 11. There is also a disciplinary investigation by the Turkish Medical Association (TTB) into a doctor at the Şemdinli hospital who was heard to insult the villagers, and to allege that they had brought the torture on themselves, and failed in her duty to record their injuries in detail.²⁸

Security forces in Hakkari are operating in a challenging environment. The day before the villagers were beaten, a police officer was killed in an armed clash. However, this context does not justify or excuse members of the security forces or police committing serious human rights violations, such as ill-treatment of detainees and suspects, nor does it negate the obligation to conduct effective criminal investigations into credible allegations of torture and mistreatment, and to impose appropriate disciplinary measures as required under Turkey’s own laws and international law.

²⁶ Record of complainant N.Ş.’s statement to Şemdinli prosecutor, August 11, 2017, on file with Human Rights Watch.

²⁷ Statement by the Hakkari Governorate, August 8, 2017: available at <http://www.hakkari.gov.tr/basin-aciklamasi-2017261> (accessed August 9, 2017).

²⁸ Information communicated to Human Rights Watch by lawyer, August 17, 2017.

Case 4

Human Rights Watch received reports that in the anti-terror branch of a city in Southeast Turkey, police beat and threatened a 40-year-old man who was a school teacher until dismissed under the state of emergency (called here “teacher A”). His name is known to Human Rights Watch, but withheld in this report at the request of his family, who fear repercussions. Human Rights Watch has communicated full details of the case to the Ministry of Justice. The case is distinct from others in this report because the alleged abuses took place after “teacher A” had been transferred back into police custody from pretrial prison custody.

He was detained in August 2016 and remanded to detention in a T-type closed prison, pending trial for alleged links with FETÖ, the group the authorities accuse of being behind the July 2016 attempted coup. On June 3, 2017 “teacher A” was once again transferred to police custody for questioning at the anti-terror branch and, according to his family, held there until July 17 when he was transferred back to the T-type prison.

“Teacher A’s” family reported to Human Rights Watch that they discovered that he had been removed from prison on June 6, when they attempted to visit him and were told by the prison authorities that he had been taken before the prosecutor at the courthouse. On visiting the prosecutor, they discovered he was in fact held at the anti-terror branch, and obtained a written authorization from the prosecutor so that they could visit him there. Granted a meeting in the presence of police officers, the family saw that his face was swollen, and he looked unwell. When they asked him what had happened he told them that he had been hooded, beaten repeatedly, threatened and forced to identify people and “confess” to crimes. The family reported to Human Rights Watch that on hearing this the police officers sitting in on the meeting had intervened and promptly ended the meeting.²⁹

On June 9, the family had lodged a formal complaint with the prosecutor, but on July 27 reported to Human Rights Watch that there had been no investigation they knew of, and that “teacher A” had been held in police custody until July 17 when he was transferred back to prison.

²⁹ Letter to Human Rights Watch from family of victim, July 27, 2017. Human Rights Watch subsequently contacted the family to confirm the veracity of the information contained in the letter.

A six-week period in police custody far exceeds any legal limit, although a state of emergency decree (article 8, decree no. 670) passed in August 2016 permits the prosecutor to grant the police the right to recall a suspect accused of terrorism offenses or crimes against the state for further questioning. The provision does not specify that this includes individuals already remanded to pretrial detention, nor does it mention how long they can be held in police custody for the purpose of giving another statement to the police.³⁰

Cases of remand prisoners being taken out of prison and transferred into police custody for questioning without informing families or lawyers have been reported elsewhere in the media.³¹ Human Rights Watch considers that the case of “teacher A” demonstrates that transferring remand prisoners back into police custody is a dangerous, unnecessary, and potentially unlawful practice, which puts the detainee at risk. The provision that allows this practice to continue (article 8, decree no. 670) should be rescinded immediately. Should the prosecutor authorize the police to recall a detainee for further questioning, the interview should take place at the prison in which the individual is held and not at a police station.

Case 5

Human Rights Watch received a second report regarding torture in the anti-terror branch of the same city in Southeast Turkey, as in case 4. Case 5 concerns a second individual transferred from prison back to police custody for further questioning at the anti-terror branch. “University lecturer A” is a 38-year-old man who was detained after the July 15, 2016 coup attempt, and subsequently dismissed from his university post by state of emergency decree 672 in September 2016. His name is known to Human Rights Watch, but withheld in this report at the request of his family who fear repercussions.³² Human Rights Watch has communicated full details of the case to the Ministry of Justice.

“University lecturer A” had spent almost a year in prison when he was transferred on July 16, 2017 to the anti-terror branch. His family discovered he was not in the prison when he failed to call them at the regular time allocated for a 10-minute telephone call from the

³⁰ See article 8, Decree no. 670, Resmi Gazete (Official Gazette), August 17, 2016: <http://www.resmigazete.gov.tr/eskiler/2016/08/20160817-17.htm> (accessed August 1, 2017).

³¹ For a case from Antalya, see “12 Eylül uygulaması hortlatılıyor: Tutuklulara 'yeniden gözaltı'” (12 September practice resurrected: “re-arresting” pretrial detention detainees), Siyasi Haber news website, January 30, 2017: <http://siyasihaber3.org/12-eylul-uygulamasi-hortlatiliyor-tutuklulara-yeniden-gozalti> (accessed August 15, 2017).

³² Information conveyed to Human Rights Watch by family of “university lecturer A,” September 28-9, 2017.

prison. His lawyer found out from the prosecutor's office that he had been transferred to the anti-terror branch, and visited him there on July 18. However, after that date the police had not permitted the lawyer from visiting his client again over a ten-day period. On July 28 when the police granted a second visit, the lawyer saw that "university lecturer A" had a black eye. His family saw the black eye too during a visit a day after the lawyer's, and on an August 9 visit "university lecturer A" informed his lawyer that the police had beaten him because he had refused to give a statement. He told his lawyer he had been hooded, handcuffed, beaten repeatedly on the head, and subjected to electroshocks. The lawyer had applied to the Constitutional Court on July 11 for an interim measure, because of the imminent risk his client faced, but the court had issued no decision on the case.³³

"University lecturer A's" family informed Human Rights Watch that "university lecturer A" had told them that on two occasions on separate dates the police officers had made him lie down, and applied electroshocks to his leg. He said that the police had also provided ice and ointment to treat the swelling on his head.³⁴

"University lecturer A" was transferred back to prison on July 16, 2017 after spending a month in police custody, well in excess of any legally permitted limit. He has lodged an official complaint with the prosecutor's office, but his family have received no information about whether there is an investigation into the torture or the unlawful detention.

Cases of Torture Based on Information Received from Lawyers

Human Rights Watch spoke to five lawyers who shared their observations about abuses against their 5 clients (cases 6-10) and other detainees in police custody in Ankara in April and May 2017, on suspicion of links with the alleged Fethullahist Terrorist Organization (FETÖ). We also spoke to another lawyer in central Anatolia about abuses against his client accused of links to the PKK in March 2017.

The clients are all in pretrial detention, so Human Rights Watch was unable to speak to them directly.

³³ Copy of the application to the Constitutional Court filed on July 11, 2017 on file with Human Rights Watch.

³⁴ Information conveyed to Human Rights Watch by family of "university lecturer A," September 29, 2017.

Case 6

Lawyer A told Human Rights Watch:

My client B.O. was detained on 26 April and held at the Ankara Financial Crimes Branch, in connection with a FETÖ operation. When I visited him, he was brought into the room and cried because he assumed he was going to be interrogated and tortured. He hadn't believed he would really be meeting with a lawyer. Because there was no police officer present during our meeting, he was able to tell me what the other detainees had been through. He told me that they had been taken in turn for interrogation and had come back recounting how they had been stripped naked, sexually assaulted with a bottle, and beaten. He said that one had been beaten on the head so much that for days he vomited and was very sick. I reported what he said to the Ankara Bar Association because I was afraid for my client. On May 6, the court remanded him to custody and he is held in Sincan F-type [maximum security] prison.³⁵

B.O. testified before the Ankara Criminal Judge of the Peace No. 2 on May 6, 2017, which remanded him and nine others to pretrial detention. The court record (2017/528) shows that among the nine, two men, S.K. and Y.S., told the court they had been ill-treated in police custody. Each said they were stripped naked, threatened with rape, and insulted. The judge asked no questions, and there is no indication that he attempted to initiate an investigation into their claims.³⁶

Case 7

Lawyer C reported to Human Rights Watch:

I visited my client İ.K. at the Ankara Smuggling and Organized Crime Department on May 29. He had been detained on May 25. There was a

³⁵ Human Rights Watch interview with lawyer A (name withheld but known to Human Rights Watch), Ankara, June 2017. B.O. and nine others are under investigation by the Ankara chief prosecutor's office for the investigation of crimes against the constitutional order (investigation no. 2017/68532).

³⁶ Ankara Criminal Judge of the Peace No. 2, May 6, 2017 court record (2017/528) on file with Human Rights Watch and details on allegations made by Y.S. confirmed by lawyer B (name withheld but known to Human Rights Watch), August 23, 2017.

police officer present in the room when I saw İ.K. I saw that my client had been beaten and that there was a mark on his face. He first didn't want to tell me what it was, but then said he had been beaten when he was detained at his home, and in police custody had been beaten and insulted while being interviewed. I saw my client was afraid and reluctant to speak since a police officer was present. My client asked me if I would help the other detainees who had been subject to violence and beaten. I agreed and also saw the others who were in detention with him, M.K., B.K., O.S., and S.E. I saw that all of them had been beaten, and they also reported they had also been sworn at and insulted. Afterwards, I did my duty as a lawyer under the Criminal Procedure Code article 158 and the Penal Code article 279, which state that you have a duty to report a crime you come across, and I informed both the Ankara chief prosecutor and the prosecutor handling the investigation.³⁷

Lawyer C was not aware of any investigation into the allegations.

Case 8

Another case reported to Human Rights Watch was that of O.D., 30, a civil servant who had been dismissed from his position by state of emergency decree. Lawyer D told Human Rights Watch:

Our client O.D. was detained on April 26 at the Ankara Anti-Terror Branch, and then held at the Smuggling and Organized Crime Branch. I visited him twice, and there was a police officer present throughout, except for a few moments during the first visit when my client was able to tell me that he and the other detainees there had been tortured. I didn't see any marks on him at that meeting. He was very nervous. I visited a second time to deliver clothes to him from his family. The court remanded him to Sincan F-1 [prison] on May 5. My client had previously been detained in November

³⁷ Human Rights Watch interview with lawyer C (name withheld but known to Human Rights Watch), Ankara, June 2017. saw İ.K, M.K., B.K., O.S., and S.E. are under investigation by the Ankara chief prosecutor's office for the investigation of crimes against the constitutional order (investigation no. 2017/68532).

2016 and released by the court under judicial control, which meant he had to regularly sign in at the police station.³⁸

According to the court transcript, when brought before the Ankara Judge of the Criminal Peace No. 3 who remanded him to pretrial detention on May 5, O.D. rejected the accusations against him, and said the police interrogating him had physically attacked him on May 1 in the police chief's room at the Organized Crime branch, that "on the same day the physical and psychological assault occurred four times" and that, "On May 4 before seeing my lawyer I was again subjected to violence in the room of the commissaire or a more senior chief."³⁹ Despite this the court took no steps to order the prosecutor to investigate the allegations.

O.D. subsequently provided his lawyers with a detailed six-page hand-written account dated May 17, 2017, in which he alleges he and others were tortured, describing in detail the treatment he had been subjected to in police custody.

O.D.'s lawyers have shared a copy with Human Rights Watch, and have lodged a formal complaint with the prosecutor. In it, O.D. described being detained from his home, taken to the anti-terror department sports hall, and held there with hundreds of others, some of whom were taken away, interrogated, and brought back limping and crying. He claims his interrogation took place at the Organized Crime branch:

I was taken in the afternoon at around 14:00 [on May 1, 2017] to the room of the head of the Organized Crime branch. There were four people, apart from the head in the room. Some were senior. One police man was called "Osman" and one of the senior ones spoke with a Black Sea accent. The head of the branch called...Seven [sic – writes his surname and no first name] was there.

The head asked me questions and I answered, "I don't know, I have no information." On that they made me kneel down and began to slap and

³⁸ Human Rights Watch interview with lawyer D (name withheld but known to Human Rights Watch), Ankara, June 2017.

³⁹ Copy of court record, May 5, 2017, on file with Human Rights Watch. O.D. is under investigation by the Ankara chief prosecutor's office for crimes against the constitutional order (investigation no.2017/ 68532).

punch my head, and at the same time say “What is it you don’t know, you child whose mother’s c... I f..., you son of a bitch.” [he abbreviated these curses] They rained abuses on me and continued to beat me harder.⁴⁰

O.D.’s account states that he was also threatened with rape and rape of his wife, baby and female relatives, and in his written account claims he was subjected to the same treatment again on May 4. It lists the other kinds of torture which other detainees told him they had been subjected to – including electric shocks, sexual assault, and rape with an object.⁴¹

Case 9

Lawyer E told Human Rights Watch that when he visited his client A.K., a police officer, in custody in the Ankara Anti-Terror branch on April 29, he had noticed that A.K. could not stand or sit properly. A.K. had informed him that he had been beaten, stripped, made to squat over a bottle, and been threatened with rape with the bottle.⁴²

The lawyer had filed a complaint on May 8, but on May 30, in a decision seen by Human Rights Watch, the prosecutor refused to pursue a prosecution on the grounds that A.K. had not alleged ill-treatment while he was detained, and that there was no evidence of it from security camera footage and doctor’s reports.⁴³

A.K. has appealed against the prosecutor’s decision. The appeal, seen by Human Rights Watch, focuses on the fact that the prosecutor entirely overlooked the fact that a private medical report obtained immediately after his period in custody identified that A.K. had a broken rib, and that he had stated that his interrogation had taken place in a room with no security cameras.⁴⁴

⁴⁰ Copy of O.D.’s hand-written complaint sent to his lawyer, dated May 17, 2017, on file with Human Rights Watch.

⁴¹ Ibid.

⁴² Communication to Human Rights Watch from lawyer E, June 30, 2017.

⁴³ Copy of May 30, 2017 decision by the Ankara Chief Prosecutor’s office for the investigation of crimes by public officials, (investigation no. 2017/76040).

⁴⁴ Copies of all documents on file with Human Rights Watch.

Case 10

Another case concerns Ö.A., 29, an accountant for a private Istanbul-based company. The record of his interrogation by the Ankara Anti-terror branch on April 13, and then on April 14 before the Ankara Criminal Peace Judge No. 2, which remanded him to pretrial detention, records Ö.A.'s description of having been beaten by the police:

I was hit, and they punched me in the mouth. I was sworn at and insulted. A doctor's report records that my lip was bleeding. I wasn't allowed to go to the toilet. Then when taken to the anti-terror branch a lot of them beat me and the others. They threatened me and my wife with sexual assault. I again got a doctor's report recording that I was beaten on the head. After I met with my lawyer I was hit.⁴⁵

Ö.A. is being held in Amasya E-type closed prison. He sent his lawyers a hand-written undated three-page description of his time in police custody, naming a police officer and the room where he claims he was ill-treated:

We were taken to D Bureau. D Bureau is 60 meters square, and had 7 or 8 tables around the edges and an empty space in the middle of the room. As soon as I entered, Kamil, whom I understood was the head of the D bureau, said, "Go over there, you son of a bitch. Kneel down." He accused me of being a member of FETÖ/Parallel State Structure. They swore at me and beat me to make me accept the accusations, and asked me names of people I had never heard of. I rejected these accusations and incidents because I had no connection with FETÖ/Parallel State Structure. At that they continued to increase the dose of torture. 7-8 people surrounded me and beat me.⁴⁶

His lawyers have filed another formal complaint, although Ö.A. had already complained before the court that had remanded him to pretrial detention.

⁴⁵ Copies of statement to police and court record (Ankara Criminal Peace Judge No. 2, hearing 2017/420) on file with Human Rights Watch. Ö.A. is under investigation for membership of an armed organization by the Ankara chief prosecutor's office for crimes against the constitutional order (investigation no. 2017/23897).

⁴⁶ Copy of letter to lawyers on file with Human Rights Watch.

Case 11

A lawyer from the Mersin Bar Association reported to Human Rights Watch on March 6, 2017 that he met his client Mahsum Aka, charged with links to the PKK, in Kırşehir Security Directorate, central Anatolia, on March 3, two days after Aka had been detained. The meeting was restricted to ten minutes, took place in the presence of the police, and had only been granted at all after a lengthy discussion culminating in the police phoning the prosecutor. The lawyer reported that Aka's face was swollen, bruised, and had wounds on it, and he later filed a complaint about the way in which the Kırşehir police had obstructed him in his duty, and about the signs of ill-treatment on his client. The lawyer reported to Human Rights Watch that months later there had been no investigation into the allegations.⁴⁷

⁴⁷ Human Rights Watch communication from Mersin lawyer, March 6, 2017.

III. Lack of Effective Investigation of Torture Allegations

The lawyers interviewed for this report told Human Rights Watch that they were not aware of any examples where prosecutors or courts responsible for decisions to release or remand suspects to pretrial detention had taken the initiative to ask suspects how they were treated in detention, or question them further when they alleged they had been abused in police custody. Only the Kırıkkale court (see case 1) conducting the trial of 64 defendants months after they had been arrested sought an investigation into the allegations of torture seven men reported at the first hearing.

All states have a positive obligation under customary international law to prevent and punish torture. The European Court of Human Rights has made clear that the absolute prohibition of torture under the European Convention includes a duty to carry out an effective investigation in cases where a person alleges torture or ill-treatment at the hands of state agents.⁴⁸

Despite repeated allegations of torture in police custody over the past year appearing in the media and being made by human rights groups, there has been no public statement from the Ministry of Justice about any conclusions of investigations into allegations, far less any that have resulted in prosecution or even disciplinary action against law enforcement officials responsible.

One legal aid lawyer from Trabzon Bar Association told Human Rights Watch that he had represented a man who alleged ill-treatment and for whom he had filed a complaint. The Trabzon prosecutor dismissed the complaint, issuing a decision on January 5, 2017 not to pursue a prosecution on the highly problematic grounds that, according to a state of emergency decree (article 9, of decree no. 667), public officials bore no criminal responsibility for actions undertaken in the context of the state of emergency.⁴⁹

⁴⁸ For a full discussion, see Aisling Reidy, *The Prohibition of Torture: A Guide to the Implementation of Article 3 of the European Convention on Human Rights*, Council of Europe Human Rights Handbooks No. 6, 2003, <https://rm.coe.int/168007ff4c> (accessed September 11, 2017).

⁴⁹ Human Rights Watch telephone interview with Trabzon lawyer, June 1, 2017. For a copy of the decision, see “Polis sizi tehdit de etse darp da etse bir şey yapamazsınız” (If the police threaten you or beat you, there’s nothing you can do), Oda TV news website, January 1, 2017: <http://odatv.com/polis-sizi-tehdit-de-etse-darp-da-etse-bir-sey-yapamazsiniz-1501171200.html> (accessed September 29, 2017).

In its October 2016 report on torture, Human Rights Watch identified this provision, not only as at odds with Turkey's international legal obligations, but as sending a message to police officers and other officials that they could abuse detainees and violate their rights without fear of legal or other consequences, and called for the provision to be rescinded.⁵⁰ The Trabzon lawyer appealed the prosecutor's decision on the grounds that ill-treatment could never be counted as part of a public official's duties under the state of emergency, but a second prosecutor then issued a decision that there was insufficient evidence to pursue an investigation.⁵¹

Following the coup, over 4,000 judges and prosecutors were arbitrarily dismissed, of whom around 2,400 were remanded to pretrial detention pending trial on terrorism charges for FETÖ membership for their alleged links with the Gülen movement. Turkey's prosecutors and courts were always reluctant to investigate crimes by state perpetrators, but today much tighter government control of the judiciary and deep concerns about job security are making it increasingly unlikely that prosecutors and judges still in their posts or newly appointed will risk taking principled and independent decisions to investigate such crimes.

While Human Rights Watch did not obtain any other examples of prosecutors' attempting to claim public officials enjoy immunity from prosecution for torture and ill-treatment under the state of emergency, there are nevertheless very few indications that complaints are being investigated thoroughly. There are scant indications that prosecutors are taking the initiative proactively to investigate abuse when they encounter suspects who show signs of having been subjected to ill-treatment.

Lawyers and families have informed Human Rights Watch that in none of the three torture cases where the victims were named in Human Rights Watch's October 2016 report has there been any sign that prosecutors have conducted effective investigations into the complaints.⁵²

These include torture complaints lodged by a group of Kurdish men and women detained in Istanbul in August 2016, which have not yet been investigated. Three of the men, İ.B.,

⁵⁰ See Human Rights Watch, "A Blank Check", <https://www.hrw.org/report/2016/10/25/blank-check/turkeys-post-coup-suspension-safeguards-against-torture>.

⁵¹ Human Rights Watch telephone interview with Trabzon lawyer, June 1, 2017.

⁵² See Human Rights Watch, "A Blank Check," *ibid*.

F.P., and K.U., provided Human Rights Watch with detailed written accounts from prison via their lawyers, in which they described the torture they endured at the Istanbul Vatan Street Security Directorate in August 2016. The men each conveyed their allegations of torture to the prosecutor before whom they testified. The men were released by a court at their first trial hearing.

A lawyer for the three told Human Rights Watch he had been unable to obtain copies of the medical reports for his clients prepared during the detention period. In a decision seen by Human Rights Watch, the prosecutor ruled that there was insufficient evidence to warrant prosecuting police officers, on the grounds that the medical reports had recorded İ.B.'s injuries as minor and had recorded no ill-treatment in the case of the other complainants. The lawyer had appealed this, but at this writing there had been no outcome to the appeal.

An investigation by the Antalya prosecutor into allegations by teacher Eyüp Birinci that he was tortured in detention has so far not been concluded. The family informed Human Rights Watch that they have still not been able to get hold of a medical report explaining the cause of the emergency surgery Birinci underwent after being in police custody, and which he claims was the result of being heavily beaten in the stomach.⁵³

In the third case, Human Rights Watch has seen a copy of the Forensic Medicine Institute documenting visible injuries to two young men, Mehmet Ali Genç and Metin Kösemen, who claimed they had been tortured in custody in Urfa in July 2016. The two men's lawyer informed Human Rights Watch that despite this there had been no progress in the prosecutor's investigation into the torture allegations, and to date the prosecutor had not summoned any police officers to testify as witnesses or suspects.⁵⁴

⁵³ Communication from Birinci family to Human Rights Watch, June 19, 2017.

⁵⁴ Communication from lawyer to Human Rights Watch, June 14, 2017.

IV. Abductions, Missing Persons and Enforced Disappearances

Human Rights Watch has examined several cases of abductions which likely amount to enforced disappearances, the majority of them in Ankara. An enforced disappearance occurs when a person is taken into custody, but authorities subsequently deny it or refuse to provide information about the person's whereabouts. In August, Human Rights Watch wrote an open letter to Turkey's Minister of Justice about five cases, but has not received a response.⁵⁵ In several cases documented in this report, families of victims have applied to the European Court of Human Rights complaining of the lack of an effective investigation into the disappeared persons.

The cases of abductions and likely enforced disappearances are particularly concerning in view of Turkey's history of security forces conducting enforced disappearances in the 1990s. The European Court of Human Rights issued repeated judgments that Turkey had violated the rights to liberty and security, and often the right to life of victims who were mainly Kurds, and subjected their families and loved ones to inhuman and degrading treatment.

While in none of the cases presented below were the persons last seen in the custody of people who are definitively proven to have been state agents, there are similarities between all the cases documented by Human Rights Watch. One case – that of Önder Asan - concerned a person who later surfaced in official custody. Human Rights Watch also has credible information about another case concerning a man reported by his family to be missing. The man claims he was released after being held in an undisclosed place of detention for over two months. He told Human Rights Watch he had been held by people who told him they were state agents. He said his captors had interrogated and tortured

⁵⁵Human Rights Watch, "Turkey: Investigate Ankara Abductions, Disappearances," August 3, 2017 press release accompanying open letter to Minister of Justice Abdulhamit Gül, <https://www.hrw.org/news/2017/08/03/turkey-investigate-ankara-abductions-disappearances> and <https://www.hrw.org/news/2017/08/03/letter-human-rights-watch-minister-gul>The Human Rights Association and the Stockholm Center for Freedom have also examined cases: See Stockholm Center for Freedom website (blocked in Turkey), "Enforced Disappearances in Turkey," June 22, 2017, https://stockholmcf.org/wp-content/uploads/2017/06/Enforced-Dissappearances-in-Turkey_22_June_2017.pdf; and Human Rights Association, "Ankara'da Zorla Kaçırılarak Kaybedilenlerin Akıbeti Açıklansın; Failler Yargılansın!" ("Reveal the fate of those abducted and forcibly disappeared in Ankara, prosecute the perpetrators!"), May 30, 2017, <http://www.ihd.org.tr/ankarada-zorla-kacirilarak-kaybedilenlerin-akibeti-aciklansin-failler-yargilansin/> (accessed August 19, 2017).

him, and made threats to try to force him to admit to crimes he had not committed, and to become a protected witness (called in Turkish a “secret witness”) testifying against others. He was also threatened that there would be repercussions for his family if he complained publicly about his secret detention. His name and the details of his case are known to Human Rights Watch, but not published for his own safety.⁵⁶

In the light of accounts provided by two people who have re-appeared after going missing, Human Rights Watch believes that the other cases are also potential cases of enforced disappearance by state agents.

The Case of Önder Asan

Önder Asan, 41, a former teacher dismissed by decree under the state of emergency, is currently in pretrial detention in Balıkesir Burhaniye T-type prison, under criminal investigation for links to the FETÖ group that the authorities accuse of being behind the July 2016 attempted coup.⁵⁷

Asan’s case is particularly significant because he reappeared in detention after being reported missing. Asan alleges he was abducted on March 31, 2017, and held in a secret detention facility for 42 days, where he was tortured by unknown persons whom he suspected were police. He was then forced to call the regular police and turn himself in. His family and lawyer were only able to see him after he was transferred to regular police custody, but he believes it was a unit of the police which held him for 42 days in unlawful detention. In the formal complaint to the Ankara prosecutor his lawyer submitted on June 23 he stated:

Two vehicles stopped the taxi the complainant was travelling in to the Oncology Hospital in front of the Demetevler Anatolian Girls’ High School. A black Transporter vehicle stopped the taxi, and the other vehicle stopped it from behind to prevent it moving on. When the taxi driver protested, the individuals who had got out of the black Transporter vehicle said, “We are

⁵⁶ Information communicated directly to Human Rights Watch by the previously missing individual. Names, dates, locations withheld at present for his own safety.

⁵⁷ Önder Asan is under investigation by the Ankara chief prosecutor’s office for the investigation of crimes against the constitutional order (investigation no 2017/68532).

police, no problem,” and forcibly got the complainant out of the taxi and put him in the black Transporter. The complainant was made to lie face down in the vehicle, his trousers and shirt were removed, his feet bound together, and hands cuffed from behind, and a sack put over his head. The complainant was punched and kicked in the vehicle until it arrived at its destination.

The abducted complainant was put in a cell in the place he was taken to by vehicle. In the cell, only his feet were unbound. He was kept there with his hands cuffed from behind and blindfolded. He found the cell to be just his height in width. He estimates he was given food every 12 hours... When his blindfold was removed a couple of times during the time he was in the cell he saw that walls were covered with a black carpet-like covering, and that there was a camera in the corner.

For the 42 days he was held in the cell, he was blindfolded and taken to the toilet accompanied by one of his captors. For the first 20 days after being abducted he was brought every day to a torture room, was hit, beaten with a baton, threatened with electro-shocks – and an electro shock [instrument] was trailed over his body – and threats were made against his family, he was subjected to psychological pressure and sworn at. The complainant was not the only person in the place he was taken to. He saw that there was an interview room and a torture room. Every day he heard sounds of beating, hitting, shouting from the torture room. He estimated there were 6-8 other people in the same environment. He understood that the person in the cell next to his was called Cengiz when he heard people say: “Come on, Cengiz.” He heard the sound of Cengiz’s screams. The complainant was held like this for 42 days.

During the time he was in the cell, the complainant alleged the following:

- For the first 20 days he was beaten with a baton all over
- He was threatened with electro-shocks with an electric shock implement
- An attempt was made to insert a thick object into the anus. When the anus bled and developed a wound they didn’t do it again.
- When interviewing him they swore at him and his family

- The complainant was repeatedly pressured to give names and when he didn't know the names he was asked, he was hit all over his body with the baton
- In the time he was in the cell he wasn't given a blanket, and was kept only in his underwear

On a date the complainant later learnt was 12 May he was taken out of the cell and put in a vehicle, cuffed from behind, and blindfolded. After travelling for a while he was put in another car. While in this car a telephone was put in his hand, and he was made to call the Ankara Security Directorate. He was made to say he was at Eymir Lake [near Ankara city] and to surrender to those who came from the Security Directorate.⁵⁸

Human Rights Watch spoke to Önder Asan's wife on two occasions, first on April 13, while he was missing, and afterwards when he was in prison. She described her efforts to report his disappearance and to track down witnesses who might have information about what had happened to him.

I first went to the police on April 3 and they sent me to the prosecutor's office, and the prosecutor said: "Go to the police, go to MIT [intelligence services)". On April 4 I went to two police stations in Etimesgut, the second of them the anti-terror branch, and they told me, "Your husband's run off." I went to Bağlıca, where the gendarmerie is in control and asked them. They sent me again to Sincan courthouse. Then I went to Şentepe police station in Yeni Mahalle. On April 7, I went to that neighborhood with my lawyer and we started to look for security cameras to try to trace him.⁵⁹

Önder Asan's wife's hunt paid off. On April 18 she discovered from a taxi driver that Önder had got into his taxi in Şentepe. "The taxi driver told me that in Vatan Caddesi the taxi had been stopped and surrounded and Onder taken out by plainclothes men at gun point and taken away in a black VW Transporter van. I recorded what the taxi driver said on my phone and kept it. I reported it to the prosecutor, and he took the taxi driver's statement."

⁵⁸ Copy of Önder Asan's June 23, 2017 complaint to the Ankara prosecutor on file with Human Rights Watch.

⁵⁹ Human Rights Watch interview with Önder Asan's wife, Ankara, April 13, 2017.

Weeks later, the family heard news of Önder. His wife told Human Rights Watch:

On May 12 in the evening, the police rang my father-in-law from the Ankara Provincial Security Directorate Organized Crime Branch near Anka Mall, to inform us that Önder was in police custody. We went there taking clothes and underwear for him with us. We were not allowed to see him. On May 16 in the afternoon, Önder was transferred to the prosecutor's office, and there me, my father-in-law and mother-in-law saw him. He had a beard and looked very thin. He was handcuffed. He said he had been ill-treated and kept in a small cell, and told us about it. My husband is afraid for me and told me not to go out much because I might be arrested too. It was an illegal abduction. He didn't know where he had been held, but said he was held in a two-meter square room.

In Sincan F-Type prison [where he was held at the time of the interview] he is held in a three-person cell, though there are six of them held. I can see him once every two months in an open meeting, and once every two weeks in a closed meeting for 45 minutes. He is psychologically very badly affected, and has lost a lot of weight and has asked for psychiatric help, and was even sent to a psychologist at Bakırköy hospital. I just thank God he is alive.⁶⁰

Önder Asan's lawyer told Human Rights Watch:

I saw my client Önder Asan on May 13 at the police station. He had trouble walking and held on to the wall. His hands were shaking. He was badly affected and said he needed psychological help. He gave me a detailed account of what he had been through during the 42 days he was held in an unknown place of detention by unknown persons, and we are filing a complaint.⁶¹

⁶⁰ Human Rights Watch telephone interview with Önder Asan's wife, May 25, 2017.

⁶¹ Human Rights Watch telephone interview with lawyer, May 2017.

The Ankara prosecutor has a duty to investigate the full circumstances of Önder Asan's abduction, arbitrary detention, torture, and likely enforced disappearance for 42 days. The investigation should be capable of identifying who was responsible with a view to prosecuting them. Asan has lodged a formal complaint with the prosecutor through his lawyer.

Four Other Cases of Men Abducted

Human Rights Watch has interviewed the families and lawyers of four other men who were abducted between April and June 2017.

Turgut Çapan went missing in Ankara on March 31, 2017, and his wife told Human Rights Watch that she had had no news of him since. Çapan was formerly employed in the administration of Turgut Özal University, which was closed down by decree in July 2016, along with 14 other private universities accused of affiliation with the Gülen movement.

Human Rights Watch interviewed Turgut Çapan's wife on April 13. She had not been able to find witnesses who last saw him but strongly suspected that he had been forcibly disappeared:

On March 31, I was on my way to get my child from school in Ayvalı neighbourhood, Ankara, when someone called out "Sister!" behind me and I turned round to see Önder Asan, whom my husband knew. "We were in Şentepe and they took your husband; he was abducted," he said. "He told us he was going to the barber, but he didn't come back." They were friends, but I didn't really know him. He said this and then went away. I don't know what he saw or who he thought had taken my husband. When I heard that he too had gone missing, I immediately complained to the police.⁶²

Human Rights Watch has received no further information from Turgut Çapan's wife and has been unable to re-establish contact with her.

Mustafa Özben went missing in Ankara on May 9. He had been an instructor in the justice program at the Turgut Özal Vocational High School, until the institution was closed down

⁶² Human Rights Watch interview with Turgut Çapan's wife, Ankara, April 13, 2017.

by decree under the state of emergency. Following the closure, Özben registered as a lawyer with the Ankara Bar Association.

His wife described how her husband went missing:

On May 9, he left to take the girls to school and didn't come home again. I went to the police station on May 10 in Şentepe [neighbourhood of Ankara]. The police there said he was wanted, which I didn't know. They took my statement – registering his disappearance – at the station. I felt terrible and looked for him everywhere, applying to hospitals. Two days later, on May 12, I got a call from a number I didn't know. It was my husband and he said in a hoarse voice that he was fine, and was with friends and working, and that he would call again. I was very shocked and kept asking him if it was him. We searched for him everywhere despite that.

On May 24 we found his car and talked to shopkeepers nearby, who told me and my lawyer that they had seen him being grabbed and taken away by plainclothes men, some of whom were masked in a black Transporter. The shopkeepers said many people saw it and it was like a horror film and they had called the police on 155 to report it but that there had been no response from the police to their call.

We went to the prosecutor on May 24 and reported this and said it was an abduction, which the local shopkeepers had seen. The police were sent there and talked to the shopkeepers. One of them gave a statement to the prosecutor but what he said was much vaguer than what he had said to us. We don't know what the police told them but the second time we went there they were much more afraid and said they had heard my husband was wanted as a member of FETÖ.

I think about it every night. What are they doing to my husband? In the beginning I couldn't sleep or eat at all. I have a five-month-old baby, a six-year-old and a 10-year-old. I have told them we are trying to find out which prison their father is in as they keep asking where he is. Disappearing a

person is nothing more than banditry. I don't want my children to know that their father has been disappeared.⁶³

The Özben family's lawyer informed Human Rights Watch of the great difficulty they had faced in lodging an official complaint with the prosecutor's office as their complaint was passed around from one department to another over several weeks. As far as Human Rights Watch knows, Mustafa Özben is still missing.

Cemil Koçak was dismissed by decree in September 2016 from his position as an agricultural engineer. He was abducted in Ankara on June 15, 2017 shortly after leaving home with his 8-year-old son H.İ. His wife described what happened:

My son H.İ. phoned me from my husband's phone and was very distressed and shocked and managed to tell me "Mum, dad has been kidnapped". At that moment there were male voices in the background saying I should come immediately to a place which is very near where we live as the car was in the middle of the street. I rushed there in a matter of minutes as it was just 200-300 meters from the house. I found my son and people around him and the car in the road. I was in such shock and trying to comfort my son and the police came as the crowd had called them. I assumed they would interview people and get their names.

I managed to trace the camera footage, which shows my husband's car and cars following it and then a dark colored Transporter van. My son said that a car had hit the back of our car and his father had got out to see what had happened. Three or four men in plain clothes had then bundled him into a dark colored Transporter van nearby and driven off and the car that had run into our car also went.

My son is very traumatized by this and has bad dreams about being abducted. He fell out of bed last night – something he has never done before. I feel guilty I am not doing enough to find my husband. Where is he?

⁶³ Human Rights Watch interview with Mustafa Özben's wife, Ankara, June 1, 2017.

I learnt from my lawyer that there are other cases like this with similarities – other men abducted in Ankara in black Transporter vans. Where are they?

He was not under any investigation, there was no arrest warrant for him and our home had never been searched.⁶⁴

Cemil Koçak's wife has lodged an official complaint about her husband's abduction with the prosecutor's office. As this report went to press, Human Rights Watch learned from the Koçak family and their lawyer that in late September Cemil Koçak was released from an unknown place of detention where he had been held for over three months by men who told him they worked for the state.

Murat Okumuş was abducted on June 16, 2017 in Izmir. Okumuş was an accountant who had worked for the Şifa Hospital in Izmir, which was closed down under the state of emergency. His family reported to Human Rights Watch that witnesses had seen five or six men get out of two vehicles in a central street in Izmir. They told onlookers they were police and forced Okumuş into one of the vehicles. One witness called the police to report the abduction and gave a statement to the police describing what he had seen. The family was able to get hold of security camera footage that showed the two vehicles and their number plates.

Murat Okumuş' father told Human Rights Watch:

I spoke to one of the witnesses who owned a freezer servicing business and he told me exactly what he had seen, that my son had shouted "Let me go," and been forced into a car by 5 or 6 men who had said to the astonished onlookers that they were police. The onlookers called the police on 155 and when those police looked at the security camera footage they apparently said that those who had taken my son were from the anti-terror branch and they couldn't intervene. The freezer servicing business witness gave a statement to the police. He was impartial and said he would just tell the police what he saw.

⁶⁴ Human Rights Watch telephone interview with Cemil Koçak's wife, June 20, 2017.

We also went to the prosecutor and there we were able to watch the security camera footage, which showed the actual abduction. Everything was clear. You could see the faces of those who abducted my son. From that footage those men could be identified if the authorities wanted them identified. The prosecutor said he would give us a copy of the footage two days later but when we went back the same prosecutor said the file had been taken away from him and had been allocated to another prosecutor now. We weren't even offered a seat. We learnt that there was now a secrecy order on the investigation. Now we can learn nothing about it at all and cannot get hold of the footage, which shows the abduction itself.

All my wife and I want is to know where our son is, to know that he is in the state's hands as we believe he is. We are feeling finished by this. May God spare anyone this.⁶⁵

On October 1, the father of Murat Okumuş informed Human Rights Watch that his son was still missing.

⁶⁵ Human Rights Watch interview with the father of Murat Okumuş, August 16, 2017.

IN CUSTODY

Police Torture and Abductions in Turkey

Since the July 2016 coup attempt in Turkey, over 150,000 individuals have passed through police custody detained for crimes punishable under Turkey's Anti-Terror Law. Courts subsequently remanded over 50,000 of them to prison. Despite the government's avowed zero tolerance for torture, there have been widespread reports of torture and ill-treatment in police custody, with those detained for alleged links to terrorist organizations most at risk. There has also been a spate of reported cases of men being abducted, some of whom were held in secret detention places, with the evidence pointing to the involvement of state authorities.

In Custody: Police Torture and Abductions in Turkey details eleven cases of torture in police custody, involving scores of victims, and five cases of abductions that could amount to enforced disappearances. Since most victims of torture remain in pretrial detention and therefore not accessible for interview, the report relies on interviews with lawyers, victims' families, written complaints, and an examination of victims' statements to prosecutors and court records. The report paints a disturbing picture of the dramatic rise in coercive interrogation in police custody and unlawful detention practices.

The main groups targeted appear to be individuals detained for alleged association with two groups - the group the Turkish courts have labelled the Fethullahist Terrorist Organization (FETÖ), which the government holds responsible for the attempted coup, and those detained for alleged links with the armed Kurdistan Workers' Party (PKK/KCK).

The report calls on the Turkish government to uphold the prohibition on torture and enforced disappearances and carry out prompt and effective investigations into allegations of torture, abduction and unlawful detention by state agents. Turkey's international partners, including the European Union and its member states, should press Turkish authorities to take urgent steps to curb torture in police custody and unlawful detentions, and ensure those responsible are held to account.



Police detain an individual in Diyarbakır, Turkey, October 2016.

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