TURKEY
Torture - A major concern in 1999

Torture persists as a major concern for Amnesty International in Turkey. Amnesty International has documented hundreds of cases of torture over many years and has campaigned urgently against the risk of torture when people are detained by the security forces. After a law amendment in March 1997 there were tentative signs of a possible improvement. Amnesty International received fewer reports on torture than before. However, this might have been partly due to some people not reporting torture because they were afraid of repercussions. Others had already given up hope that contacting a lawyer or a human rights organization might make a difference, as alleged torturers were only rarely brought to justice. In the light of these considerations, it is not clear that there was a real reduction in torture cases.

Torture cases in 1999

In early 1999 after the arrest of Abdullah Öcalan, leader of the armed opposition group Kurdistan Workers' Party (PKK), and the ensuing protests in different regions of the country mass detentions were reported. Amnesty International again started to receive frequent and regular reports of torture in police or gendarmerie detention and appeals from local human rights organizations, lawyers and relatives to campaign against the risk of torture and "disappearance".

Torture mainly occurs in police or gendarmerie custody in the days following arrest when the detainees are held incommunicado without access to the outside world. In March 1997 the maximum period allowed for police custody and incommunicado detention were reduced. However, people suspected of offences under the jurisdiction of State Security Courts can still be held in police custody without access to family, friends or legal counsel for up to four days. The detention may be increased to10 days in the provinces currently under State of Emergency or to seven days in the rest of the country. During the extended detention period detainees have the right of access to a lawyer under certain conditions. In most cases this right is denied. With no access to the outside world detainees are at the mercy of their interrogators. Torture is regularly applied to extract confessions, to elicit information about illegal organizations, to intimidate detainees into becoming police informers or as informal punishment for presumed support of illegal

organizations. Torture methods in Turkey repeatedly reported to Amnesty International include severe beatings, being stripped naked and blindfolded, hosing with pressurized ice-cold water, hanging by the arms or wrists bound behind the victim's back, electro-shock torture, beating the soles of the feet, death threats, rape and other sexual assaults.

Procedures laid down in the Turkish Criminal Procedure Code for the prompt and proper registration of detainees and for notification of their families are often ignored. This is extremely distressing for the families of detainees and creates conditions in which "disappearances" and torture can occur. Letters or phone calls from human rights organizations can help to prevent the risk of “disappearance” and reduce the risk of torture.

In 1999, Amnesty International received a number of reports of unacknowledged detention and torture of Kurdish villagers. For example, between 8 and 12 June some 50 people from Tilkiler and four other villages in the Kahraman Mara_ province, Törolar, Çöçenler, _all_u_a__ and Musolar, were taken into detention at the Pazarc_k Gendarmerie Command and reportedly severely beaten and otherwise tortured. Methods of torture included being forced to eat human excrement, being suspended by their arms which were tied behind their backs, being truncheoned and being sprayed with pressurized water. One of the detainees disclosed to his lawyer that: “They did not take us to toilets, so that we had to excrete where we were hung. We were covered with excrement as we could not clean ourselves while we were hung. Later, they put excrement on the truncheon, and inserted the truncheon into my mouth. They inserted the truncheon into my anus [...] throughout the eight days they forced me to sit naked on the concrete floor, and without allowing me to lie down”. On 17 June, 35 of them were formally arrested and taken to Kahraman Mara_ prison.[1] Seventeen others who were held in detention were released on 17 June. On 20 June 1999, 63-year-old Ibrahim Alpdo_an was taken into unacknowledged detention in Pazarc_k district of Kahraman Mara_.

[1] According to reports some 32 of them who had been charged with supporting the PKK were acquitted by Malatya State Security Court on 22 October 1999. They had been released in the previous hearing. One of the villagers was charged with membership of the PKK.

Amnesty International believed that he was detained because he had given information to his local branch of the Human Rights Association (IHD) the day before about recent attacks by soldiers in his home village of Tilkiler in Kahraman Mara_ province. He had explained to the IHD that villagers had been tortured, verbally abused and that six of them had been taken into custody. Also, that 15 houses had been destroyed by fire during the attack. After issuing urgent appeals, Amnesty International was informed that Ibrahim Alpdo_an had indeed been arrested. He was later remanded to Kahraman Mara_ prison, charged with helping the PKK.[2]

The case of Cevat Soysal, now imprisoned, charged with separatism and being a leading member of the PKK, is extraordinary insofar as he had been granted political asylum in Germany in 1995 and was reportedly abducted from Moldova to Turkey by the Turkish Secret Service (MIT) on 13 July 1999. He was reportedly interrogated for a total of 11 days in incommunicado detention, first at the headquarters of MIT in Ankara from 13 July to 21 July, and then at Ankara Police Headquarters Anti-Terror Branch from 21 July until 23 July. On 23 July he was brought before a judge and committed to Ankara Central Closed Prison. Cevat Soysal told his lawyer that he was tortured in the custody of MIT. He described methods of torture including electro-shock torture, being hung by the arms, being forced to lie naked on ice, being sprayed with pressurized water and not being allowed to sleep. He also reported being badly beaten and forced to swallow a drug, which made him tearful and subject to mood swings, weakened his resolve and forced him to relax. He described being made to stand in a tiny cell in which it was impossible to sit and water being dripped onto his head, a method known as 'Chinese torture'. Unofficial sources have reported that Cevat Soysal was twice hospitalized while he was in detention because of the severity of the torture he had undergone. Cevat Soysal's lawyer noted needle marks, bruising and other signs consistent with his client's allegations of torture, particularly recent injuries on the legs, back and arms, at his meeting with him on 26 July. The allegations appeared to be further supported by a photograph taken on 21 July by a reporter from the Turkish daily newspaper *Star* who

[2] Further examples of unacknowledged detention are the cases of Fesih Çardak (UA 239/99 on 14 September and update on 21 September 1999) and Mehmet Çelik (UA 237/99 on 13 September and update on 21 September 1999) .

saw Cevat Soysal being brought by police officers for a medical examination at the Forensic Institute in Ankara. Looking drained and lifeless, Cevat Soysal was supported by two police officers because he was apparently unable to walk unaided. Amnesty International called for a full and impartial investigation into Cevat Soysal's allegations of torture and an independent medical examination in order to establish the truth of his allegations. In November 1999, the prosecutor decided not to open a trial against the alleged torturers. The Office of the Prime Minister had informed him that a prosecution would not be appropriate.

In the aftermath of Cevat Soysal's interrogation, mass detentions took place all over the country. Among the detainees were numerous representatives of the legal pro-Kurdish party HADEP whose names were allegedly found in Cevat Soysal's telephone book. Several of them were reportedly tortured in detention. Among them was Muzaffer Ç_nar, candidate for the office of mayor of Baykan in the province of Siirt from the HADEP list. According to Amnesty International's information, 37-year-old Muzaffer Ç_nar was apprehended in Baykan and detained in Siirt police headquarters between 21 and 29 July 1999. He stated that he was beaten in detention, his testicles were squeezed with a rope, he was given electric shocks, suspended on a hanger, forced to lie on ice, hosed with cold water at high pressure and subjected to sexual assaults. After his release from detention he travelled to Istanbul where he reported his torture to the Human Rights Association (IHD). He was unable to make a statement in writing because he could not use his arms and reportedly had difficulty speaking because of the severe torture he had experienced. Medical reports documenting numerous areas of trauma, including to the head, limbs and genitals, appear to support his report of torture. In August he had to be hospitalized. Amnesty International called on the Turkish authorities to fully investigate the torture of Muzaffer Ç_nar, to ensure his future security, and to provide all medical care and rehabilitation necessitated by his torture. As in other cases of alleged torture, Amnesty International also called for those responsible to be prosecuted.[3]

[3] From 4 to 6 October his brother Mazhar Ç_nar was taken into unacknowledged detention in Istanbul. A third brother, Ömer Ç_nar, went missing on 17 November 1999. In January 2000 his dead body was found. He is believed to be one of the people allegedly killed by the armed Islamist organization Hizbullah.

New information has emerged in the case of two Kurdish girls who reportedly were raped and sexually abused in police custody over several days. Around midnight on 5 March 1999, 16-year-old high school student N.C.S. was arrested in Iskenderun in the province of Hatay. Fatma Deniz Polatta_, aged 19, was arrested on 8 March. Both were brought to the Anti-Terror Branch of Police Headquarters in Iskenderun where they were detained and tortured for seven and five days respectively. In detention, the two girls were blindfolded. The police made them strip and stay naked, and told them to stand in exhausting positions for long periods of time. The girls were routinely insulted and threats were made against their parents. N.C.S. was exposed to verbal and sexual harassment, Fatma Deniz Polatta_ was anally raped. A later report by the Turkish Medical Association describes medical symptoms which match the girls' testimonies of sexual torture. A formal complaint was lodged against the police officers and subsequently in November an investigation was opened. In December, the prosecutor decided not to prosecute the police officers. Amnesty International called for an independent investigation, taking also into consideration voluntary psychological reports; that the girls should receive the medical treatment necessary; and that those responsible for the torture should be brought to justice.

Death in Custody

In 1999, several people died in custody possibly under torture. One of them was the trade unionist and journalist Süleyman Yeter. On 5 March at around 3pm, Süleyman Yeter, Bayram Namaz and three other people were taken from the offices of the newspaper *Dayan__ma* and put in neighbouring cells at the Anti-Terror Branch of Istanbul Police Headquarters. When Süleyman Yeter was brought back from interrogation in the early hours of the following morning, he told Bayram Namaz that he had been stripped naked, severely beaten, sprayed with cold water and forced to lie on ice. He could not move his arms. On 7 March, the IHD and Süleyman Yeter's trade union *LIMTER I_* were told he had died in custody, and this was confirmed by Fatih State Prosecutor. On 8 March, his lawyers saw the body at the Forensic Institute morgue and saw marks on his body that they believed to be evidence of torture. His death was even more suspicious since he had just been invited to identify police officers who were on trial for having tortured him and

14 other detainees in early 1997. It is suspected that his final detention was linked to this torture trial and was intended to hamper the identification of the perpetrators. Human rights organizations both in the country and outside urged the Turkish authorities for a comprehensive and impartial investigation into the death of Süleyman Yeter. Amnesty International observed several sessions in the trial against the police officers charged with having tortured Süleyman Yeter and the others in 1997. When finally another trial was opened against three police officers possibly responsible for Süleyman Yeter's death in custody, an Amnesty International observer was again present. Amnesty International will continue to monitor this and other such cases as part of its work against impunity.

Not only politically active people are at risk of being exposed to torture. For example, Alpaslan Yelden was arrested in Izmir on criminal charges. He was held in detention and interrogated from 2 to 3 July 1999. He was not properly registered and his family was not informed. After some 24 hours his physical condition deteriorated so much that he had to be brought to a hospital in coma. He died on 14 July 1999. The interrogating police officers evasively stated that he fell backwards several times because he did not feel well. The autopsy indicates that he died of trauma caused by blows to his head and torture. His father filed a complaint against the alleged torturers; the Bar Association and the Human Rights Association in Izmir took up the case. On 30 September 1999 the State Prosecutor issued an indictment against 10 police officers charged with causing death by torture and unintended killing. The trial against them was opened on 9 December. Three of police officers had been suspended from duty on 2 August 1999. One of them, a superintendent, is said to be a defendant in several torture trials.

Amnesty International will also continue to monitor this case. The organization welcomes the suspension from duty of some police officers in these two cases of death in custody probably a result of torture. Amnesty International believes that security officials under investigation or trial for torture or "disappearance" should be suspended from active duty during the investigation in order to prevent possible further human rights violations. Amnesty International calls upon the authorities to ensure that those responsible for human rights violations are brought to justice. The organization thinks that police or

gendarmerie who believe that being prosecuted is a remote possibility are more likely to ill-treat and torture detainees or cause them to "disappear".

Impunity

There are continued concerns about the failure or reluctance to open investigations into allegations of torture and the fact that alleged torturers are often not suspended from their duties during the course of trials against them, and in some cases have even been promoted. In April 1999, Amnesty International issued a major report on impunity of alleged torturers in Turkey.[4] This report details a series of cases in which complaints of serious human rights violations have not been pursued by the competent authorities. In one particularly tragic case, a man whose attempts to bring his torturers to justice failed was driven to take his own life. Vasfi Karakoç -- an Izmir taxi driver -- was arrested by police in August 1998 and blindfolded, suspended by the arms and subjected to electric shocks and various other forms of torture. Upon release he lodged a complaint, only to be threatened by police officers. His anger and frustration led him to set himself on fire on the Izmir city walls naming the officers who tortured him.

In Turkey law and ingrained practices combine to spoil the trail leading from the crime to the perpetrator. Detainees frequently cannot identify their torturers because they are almost invariably blindfolded during interrogation. They cannot establish who was on duty at the time of their detention because custody records are kept sloppily or not at all. Where there is medical evidence of torture, it is frequently suppressed. Medical officers who falsify reports have been promoted, and doctors who scrupulously carry out their proper duties have been put on trial or imprisoned. A generalised climate of fear and witness intimidation and prosecutors' reluctance to investigate the work of security force officers are among the factors contributing to impunity. The failure of judges to investigate allegations of torture additionally leads to unfair trials, with confessions extracted under torture being frequently used in trials as a basis for imprisonment. The Law on the Prosecution of Civil Servants which dated from the Ottoman era was an

[4] "Turkey: The duty to supervise, investigate and prosecute", April 1999, AI Index: EUR 44/24/99.

extraordinary obstacle to bringing perpetrators to justice. It gave a local administrative board established under the provincial governor the power to decide whether or not to prosecute members of the security forces for any offence other than intentional killing. This outdated law was finally replaced by a new one on 2 December 1999. However, under the new law it is still not possible to open an investigation against a civil servant who commits a crime unless his senior grants permission. Amnesty International strongly recommends that the decision whether or not to prosecute security officials for torture, "disappearance" or extrajudicial executions should be taken only by the judicial authorities.

Even where complaints of serious human rights violations are pursued by the authorities and prosecution of security officers is actually brought about, only a negligible proportion of them are eventually convicted. According to recent official figures, investigations of 577 security officials accused of torture between 1995 and 1999 resulted in only 10 convictions (1.7 %). In the same period, 2851 investigations into cases of ill-treatment ended with 84 convictions (2.9 %).[5] In cases where a conviction occurs, security officials often receive the lightest possible sentences.

Twelve-year-old Halil _brahim Okkal_ ended up in intensive care after interrogation, for alleged theft, at Ç_narl_ Police Station in Izmir in November 1995. Halil Ibrahim Okkal_ reported that he was questioned by two policemen who took him to the toilet where they beat him with a truncheon and kicked him after he fell on the floor. The police commissioner convicted of torturing Halil Ibrahim Okkali (and acquitted in another torture case meantime) was promoted to chief commissioner during the course of the trial, and sentenced, together with another officer, to a fine of 750,000 TL and suspension from duty for two months by Izmir Criminal Court No 2 on 30 October 1996. The Appeal Court overturned the verdict and, after a retrial, the officers were each given a 10-month prison sentence in February 1998, confirmed by the Appeal Court in March 1999. These

[5] Response of the Minister of the Interior to a written interpellation of an MP, dated 12 January 2000. See: Izmir Bar Association Center of Human Rights Law and Law Researches: __kence ve kötü muamele suçlar_n_n soru_turulmas_na ili_kin _çi_leri Bakanl___ verilerinin de_erlendirilmesi", Izmir, 2000.

sentences were suspended. Meanwhile, Halil Ibrahim Okkal_ still suffers from the effects of the torture he was exposed to at a very young age.

In this context, Amnesty International welcomes the law passed on 26 August 1999 to combat torture. With this law, Article 243 of the Turkish Penal Code was amended, increasing the penalties for torture and ill-treatment. It introduced a sentence for torture or cruel, inhuman or degrading treatment of up to eight years' imprisonment and permanent or temporary disqualification from holding public office, and a sentence of up to five years' imprisonment and temporary disqualification from holding public office for ill-treatment or physical harm. The law also provides sentences of from four to eight years for health personnel who conceal torture by issuing untrue reports. In connection with other reforms this amendment might make a major contribution to ending the impunity of perpetrators and thus ending or reducing the practice of torture.

Recommendations against torture

Amnesty International is making recommendations to the Turkish government for measures in addition to those taken in the last three years designed to combat torture and impunity. Amnesty International welcomes the initiatives already taken by the Turkish government, but urges that further reforms should be enacted in a form compatible with international human rights standards and the recommendations of international human rights bodies such as the European Committee for the Prevention of Torture, the UN Committee against Torture, the UN Special Rapporteur on torture, the UN Working Group on Enforced and Involuntary Disappearances and the UN Special Rapporteur on extra-legal, arbitrary and summary executions. Some of the recommendations are very simple and could be implemented immediately.

· **Incommunicado detention**: Incommunicado detention occurs when detainees are deprived of access to lawyers, family and friends, and doctors. The UN Special Rapporteur on torture has stated quite categorically that incommunicado detention should be abolished. Turkey's Law on the State Security Courts permits four days' incommunicado detention. The detention period may be extended by court order, but during the extended period the law grants the

detainee access to a lawyer. This law and the widespread practice of denying access to a lawyer in the extended detention period also violate the right to prompt access to a lawyer, which is a major safeguard against torture and unfair trial. The European Court of Human Rights has acknowledged that the failure to grant access to counsel during the first 48 hours after arrest was a violation of Article 6 of the European Convention.[6] The UN Special Rapporteur on torture has recommended that anyone who has been arrested "should be given access to legal counsel no later than 24 hours after the arrest."[7] Amnesty International recommends that incommunicado detention should be abolished and clear guidelines should be introduced to ensure that all detainees have in practice immediate access to legal counsel.

· **Opening detention records for scrutiny by families of detainees and by lawyers**: Relatives and lawyers should be able to find out immediately where a detainee is held and under which authority. However, Amnesty International has often received appeals from alarmed families or lawyers who believed that a person had been taken into the custody of security officials, but the authorities denied the detention. In some of the cases it could be established after intervention from human rights organizations that the person was indeed detained; in other cases the person remains missing. Scrupulous record-keeping of all detentions is important, not only to establish responsibility for any violations committed during custody but, more urgently, in order to prevent "disappearances". Rule 7 (1) of the UN Standard Minimum Rules for the Treatment of Prisoners requires that all detainees should be registered in a "bound registration book with numbered pages". In Turkey, a standardized pattern of registration form provided for in the Regulation on Apprehension, Police Custody and Interrogation, issued jointly by the Justice and Interior Ministries on 1 October 1998, would be an important innovation if presented in the form of a bound ledger with numbered pages, but this is not mentioned in the regulation.

[6] *Murray v. United Kingdom*, (41/1994/488/570), 8 February 1996.

[7] Report of the UN Special Rapporteur on torture, UN Doc. E/CN.4/1990/17, 18 December 1989, para. 272, see also UN Doc. E/CN.4/1995/34, 12 January 1995, para. 926.

- **No secret or unofficial detention**: As Article 10(1) of the UN Declaration on the Protection of All Persons from Enforced Disappearance states: "Any person deprived of liberty shall be held in an officially recognized place of detention".
- Concrete steps to promote accountability by police and to end torture include ending the practice of **blindfolding** in police custody. The practice of blindfolding was condemned by the UN Committee against Torture in its report on Turkey under the Convention against Torture in November 1993. However, in Turkey the Regulation on Apprehension, Police Custody and Interrogation does not prohibit blindfolding, and the practice continues as a matter of routine. Almost all detainees are blindfolded while giving their statement. This can be considered a form of ill-treatment in itself, and makes the reliable identification of officers responsible for abuses more difficult.
- All officials involved in the custody, interrogation and medical care of detainees and prisoners should be informed that **rape and sexual abuse** are acts of torture or ill-treatment. Forcibly subjecting female detainees to so-called "virginity tests" is a form of gender-based violence constituting torture or cruel, inhuman or degrading treatment. Accountability mechanisms to ensure that these will not be tolerated should be put in place.
- **Investigation of complaints**: Turkish authorities should ensure that complaints and reports of torture or ill-treatment, "disappearance" and extrajudicial execution are promptly and effectively investigated. Even in the absence of an express complaint, an investigation should be undertaken wherever there is reasonable ground to believe that torture or ill-treatment might have occurred. (Article 12 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to which Turkey is a state party). The investigators should be competent, impartial and independent of the suspected perpetrators and the agency they serve. They should have access to, or be empowered to commission investigations by impartial and independent medical or other experts. The methods used to carry out such investigations should meet the highest professional standards, and the findings should be made public.
- Detainees should have immediate access to independent, impartial and competent medical experts. Independent medical or psychiatric reports should be

admissible to the investigation. Appropriate equipment for the medical investigation of different forms of torture and ill-treatment should be provided. Medical examinations should be conducted in private under the control of the medical expert and outside the presence of security or other government officials. In the case of rape and other forms of sexual abuse the examining health personnel should be of the same sex as the victim unless otherwise requested by the latter.

- Alleged victims, witnesses, those conducting the investigation and their families should be protected from violence, threats of violence or any other form of intimidation that may arise pursuant to the investigation. Those potentially implicated in human rights violations should be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as those conducting the investigation.
- **Prosecution**: Those responsible for human rights violations, including those who order it, should be brought to justice. As recommended by the Special Rapporteur on torture after his visit to Turkey, "prosecutors and judiciary should speed up the trials and appeals of public officials indicted for torture and ill-treatment. Sentences should be commensurate with the gravity of the crime."[8]
- Police officers or gendarmes under investigation or trial for ill-treatment, torture, "disappearance" or extrajudicial executions should be suspended from active duty and if convicted they should be dismissed from the force.
- The **Law on Prosecution of Civil Servants** should be amended in order to ensure that any decision as to whether or not to prosecute a government officer for ill-treatment, torture, "disappearance" or extrajudicial execution, or for abuses of authority which might lead to such human rights violations, is taken exclusively by judicial authorities.
- **Statements elicited under torture**: Article 15 of the United Nations Convention against Torture obliges the states parties to "ensure that any statement which is established to have been made as a result of torture should not be invoked as evidence in any proceedings, except against a person accused of

[8] E/CN.4/1999/61/Add.1, 27 January 1999.

torture as evidence that the statement was made." For concluded trials, a body should be established to review the convictions based on evidence alleged to have been extracted under torture and, where appropriate, to arrange for prompt retrial.

- The Ministry of Justice should compile a **list of complaints, prosecutions, convictions and sentences** relating to torture and other human rights violations, and adopt standard reporting forms for forensic medical reports.
- **Compensation and rehabilitation**: Under Article 14 of the UN Convention against Torture victims of torture and their dependants are entitled to obtain fair and adequate redress from the state. This should include appropriate medical and psychological care, financial compensation and rehabilitation.
- **Training**: It should be made clear during the training of all officials involved in the custody, interrogation and medical care of detainees and prisoners that torture is a criminal act. They should be instructed that they have the right and duty to refuse to obey any order to torture.