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Turkey: End sexual violence against women in custody! SUMMARY

This document summarises Amnesty International's concerns presented in the report *Turkey: End sexual violence against women in custody!*

Every day women across Turkey experience sexual and other physical violence. Women from all social and cultural backgrounds have been abused, assaulted and raped by state security forces, acquaintances, complete strangers, and by family members, including their partners.

Although all women are at risk of violence, due to specific patterns of discrimination in Turkey Amnesty International is concerned that Kurdish women, particularly those living in the south-east, and women who hold political beliefs that are unacceptable to the government or the military, have been at increased risk of violence at the hands of agents of the state.

Amnesty International is concerned that when agents of the state perpetrate violence against women a clear message is sent condoning violence against women, and encourages a culture of discrimination that places all women at risk.

The report will focus on violence perpetrated by state actors, but will also look at the state's responsibilities in protecting women from other perpetrators of sexual violence. It will examine how patterns of discrimination perpetuated by the state can contribute to violence and compound the consequences of sexual violence for women. It will also examine the state's failure to provide redress.

Discrimination against women and the sexual assault of women are linked. When individuals representing the state express discriminatory attitudes, this not only falls far short of upholding women's rights, but Amnesty International is concerned that it may contribute to violence against them. Discrimination, which devalues women, has the effect of making violence against them seem less significant than it is. Research in Turkey on the views of a number of professions on rape found that, in general, of those working with survivors of rape police officers were more likely to have misconceptions about rape, including the beliefs that: women's appearance and behaviour predispose them to being subjected to rape; not every woman can be raped; it is less serious if a woman is raped by someone that she has previously had a sexual relationship with; and that one should be suspicious of the statement of a sex worker who alleges rape.

International human rights treaties not only regulate the conduct of states and set limits on the exercise of state power; they also require states to take action to prevent abuses of human rights by

private individuals. States have a duty under international law to take positive measures to prevent and prohibit rape, for example, and to respond to instances of rape, regardless of where they take place and whether the perpetrator is an agent of the state, a husband or a total stranger.

In addition to its obligations to protect its citizens from torture at the hands of agents of the state, Turkey also has an obligation under international law to ensure that women are free from violence in their homes and communities. These obligations are not merely limited to legislating against and criminalizing violence, but require that the state adopt a whole range of measures including the training of state personnel and the adoption of practical policies and mechanisms to protect women's rights.

In addition to the physical and psychological effects of rape, women who have been sexually assaulted risk death, further violence, forced marriage or ostracism by their families or communities as a result of their experiences. In Turkey, the concept of "honour" is used as an excuse for inaction and as a means of silencing survivors of sexual violence. Secrecy and non-intervention keep sexual violence "private" whilst the state continues to perpetrate and tolerate sexual violence against women by failing to act to protect their rights

Women who live in communities which hold to notions of "honour", find it very difficult to speak out against sexual violence. They are perceived as "shameful" for bringing up matters that should be kept "private", and may be looked upon as guilty for simply disclosing sexual assaults, for, despite the fact that these assaults occurred against their will, blame is somehow still attached to the women.

However, codes of "honour" are not merely widespread in society. "Honour" has significantly impacted on the lives of women as a result of being codified into law. The Turkish Criminal Code is constructed so that crimes involving sexual violence against women are defined as "Felonies against public decency and family order", as opposed to other forms of assault against the person, which are classified as "Felonies against Individuals". This definition has been carried forward to the draft criminal code currently before parliament. Amnesty International is concerned that this classification has the consequence that when a woman is sexually assaulted, the family or community, and not the individual, is defined as the wronged party, and the "honour" of that family or community is deemed to have been harmed. This has the effect of making women's physical and psychological integrity less visible before the law.

Given this construction of "honour", the use of sexual violence against women by agents of the state is particularly invidious. "Honour" is abused by the state when agents of the state sexually assault women. A community's attachment to the "honour" of its women as represented by their sexual "purity" becomes a tool by which state agents can control dissent - torturing and degrading women as a means of attacking the woman, her family, group, and community. "Honour" is also abused by families and communities when women are locked in their homes, ostracized, and even murdered for their perceived wrongdoings in being raped, having extramarital affairs, choosing their own marriage partner, speaking to men, having songs played about them on the radio, or visiting the cinema. So-called "honour" crimes, the murder of women to cleanse a family's honour, are anything but honourable. They are acts of violence which compound injustices already perpetrated against women.

Rape is a crime of violence, domination and coercion, which affects women disproportionately. Rape causes severe physical or mental suffering, is a deliberate act by the perpetrator and is a discriminatory act carried out with the intention to intimidate, degrade or humiliate the victim. It has also been held that to formulate a definition of rape in international law, one should assume that "the central elements of the crime of rape cannot be captured in a mechanical description of the body parts".

As the Turkish Criminal Code currently stands, the definition of rape has been interpreted by the Turkish Supreme Court of Appeals as penetration of the vagina by the penis, or as anal rape of a man or woman by the penis. This definition and the relevant commentary has been carried forward to the draft criminal code currently before parliament. This definition of rape is extremely limiting when compared with

definitions of rape and torture implicitly accepted in international humanitarian and human rights law. For example, under current Turkish law, rape with a foreign object and forced oral sex are not defined as rape, and women cannot be considered to be perpetrators of rape.

Amnesty International continues to receive reports of the sexual assault of detainees in police custody in Turkey. Reports received by Amnesty International indicate that women detained are frequently stripped naked by male police officers during periods of questioning in police custody or in prison. Reports received by Amnesty International also suggest that the majority of women who report sexual violence by state security forces are Kurdish, or express political opinions that are unacceptable to the military or the government. Sometimes a woman is subjected to sexual violence in the presence of her husband or family member, apparently as a means of forcing her husband or family member to "confess", or, in a cynical utilization of the concept of "honour", as a way of demeaning her family and her community.

When rape is acknowledged, the impact of the rape on the woman can impact on the perceived "honour" of all the members of her family and community. Hence the perpetrators have been effective in targeting both the survivor and her community, and in committing their crimes with impunity.

Reports received by Amnesty International indicate that women deprived of their liberty in Turkey have been frequently strip-searched in a manner which is not consistent with international standards. The use of the word "search" is disingenuous in any situation where male officials are within sight, and women are at high risk of exposure to violence and humiliation.

Reports received by Amnesty International also indicate that detainees have frequently been stripped naked during questioning.

Violence against women is rooted in discrimination, and reinforces discrimination. When state officials express discriminatory attitudes, this not only falls far short of effectively upholding women's rights, but also contributes to a climate in which violence against women is seen as acceptable. Demonstrating the way in which tacit state support for sexual violence against women encourages private individuals to maintain a culture of violence against women, Eren Keskin, a human rights defender who acts for women who have been subjected to sexual violence in custody, has been the subject of personal threats of a sexual nature. After Eren Keskin was reported to have made a statement at a conference in Germany that members of the military had raped and sexually assaulted women, newspaper columnist Fatih Altayli stated in a radio interview, "If I do not sexually assault Eren Keskin at the first opportunity, I would be a coward," and "I think that when Eren Keskin comes she's owed some abuse". Whilst Fatih Altayli was merely issued with a warning by the media group, Eren Keskin continues to stand trial for insulting the state security forces.

Individuals of Kurdish origin are being actively discriminated against. Amnesty International considers that discrimination against ethnic minorities contributes to violations of the rights of women belonging to ethnic minorities in Turkey, including the rights to health, education and freedom from violence.

Amnesty International considers that discrimination and sexual assault by agents of the state are linked. Some women, such as Kurdish women, are at particular risk of sexual violence by the state. The organization is concerned that inaccurate beliefs - such as, for example, the beliefs that speaking Kurdish is an indication of "terrorism" or "separatism" or that domestic violence only occurs in Kurdish communities - may contribute to the perpetuation of sexual violence against Kurdish women by agents of the state, and to impunity for such actions.

Discrimination against women also results in gender-specific forms of violence. In Turkey women face forced "virginity tests" as a form of punishment or humiliation. The consequences of "virginity testing" for many women whose hymens have been reported to be absent following examination have included

violence, humiliation and, on occasion, death.

However, Amnesty International has continued concerns about the utilization of so-called "virginity testing", in particular in relation to reports of women in custody being subjected to forced "virginity tests". Amnesty International considers non-consensual examination of the genitalia to constitute a form of cruel, inhuman and degrading treatment. Forced "virginity testing" would include conditions where a woman is in the custody of security forces, as custodial conditions necessarily obviate consent. In visits to prisons in Diyarbakir, Mus, Mardin, Batman and Midyat and interviews with over 100 female prisoners, representatives of the Diyarbakir Bar Women's Commission established that nearly all of the women had been subjected to "virginity testing", and nearly all had experienced some form of sexual abuse, either verbal or physical, whilst in police custody.

Merely the threat of a test can be sufficient to cause psychological consequences for the victim of sexual assault. To refuse can be perceived as an admission of "stained honour" and may put the survivor at increased risk of sexual assault. When a woman has been raped, a refusal also carries the risk of being unable to provide evidence that sexual assault has taken place, although a "virginity test" cannot be equated with a proper forensic examination.

Forced "virginity testing" cannot be condoned under any circumstances. Amnesty International calls on all medical personnel to refuse to conduct non-consensual "virginity testing".

Whilst human rights violations occur across Turkey, the south-east has been a focus for abuses, with the increased powers to detain and lack of accountability enjoyed by administrators of state of emergency rule.

The consequences of state security forces and village guards operating with relative impunity in the region have been far-reaching for the region's women. One of the consequences of sexual violence against women can be suicide.

Women surviving sexual violence often have their experiences compounded by being ostracized. Amnesty International received reports of a man who witnessed his sister's rape by police: he now refuses to talk to her and reportedly uses words like "whore" and "prostitute" when he speaks about her. Other women have been forced to flee their homes, with or without their families.

The state must not compound severe human rights abuses such as rape and sexual assault by failing to ensure that women have access to effective redress and protection from further abuse.

Sexual assault generally goes unreported. Although some women may find the courage to disclose sexual assault, the vast majority of assaults in custody go unreported. The reasons for this vary between psychological distress and shame experienced by the survivor, fear of retribution at the hands of the state, fear of shame in the woman's family or her community.

Other women do not disclose sexual assaults in the belief - accurate in the vast majority of cases - that reporting sexual assault by state security forces would not result in the perpetrators being punished.

Women who speak out against sexual violence by agents of the state are at risk of further abuse by state agents. As a result of speaking out against such violence, women in Turkey have been subjected to legal action, threats or actual imprisonment. Women who organized and spoke at a conference on "Sexual Violence in Custody" in Istanbul in June 2000 were charged with having insulted the security forces with their denunciation of rape in custody. The trial against the accused is ongoing, although the first hearing was in March 2001. Amnesty International has called on the Turkish authorities to drop the charges against these women's rights activists who the organization considers have been charged solely on account of exercising their right to freedom of expression.

Lawyers representing women in Turkey who have been sexually assaulted in custody have been subjected to official, media, and peer persecution. This makes it even more difficult for survivors of sexual violence to obtain justice, and contributes to the silence surrounding sexual crimes. For speaking about rape and torture by security officials, Eren Keskin is facing trial.

In Turkey, medical examinations do not always take place in situations conducive to either safety or disclosure. In many cases reported to Amnesty International, individuals refuse to undergo an examination in the presence of security forces. When medical personnel do not insist that security forces are removed, the individual is not able to obtain medical evidence to document their torture claims without violation of the right to privacy. Doctors in Turkey are employed by the state, and run the risk of being transferred from their duties or overlooked for promotion if they write reports which document signs of torture.

Delays in obtaining medical reports or refusals to request them by the relevant courts or prosecutors, the refusal to accept medical reports from independent sources, and the refusal to make medical reports available to plaintiffs or their lawyers all contribute to the probability that perpetrators of sexual violence remain unpunished for their crimes, and that victims of sexual violence will be denied their right to redress and reparation.

Access to redress has been particularly difficult when perpetrators of sexual violence have been state actors, both because of the scarcity of prosecutions and because the law on the prosecution of state officials means that individuals who are able to take advantage of the statute of limitations are more likely to be state officials than other individuals facing criminal charges. At present, individuals cannot be sentenced for crimes after a specified period of time has passed from the date of the crime. In a number of key torture cases in which police officers have been the defendants, they have not shown up to hearings, their lawyers have resigned, or they have failed to provide required evidence in a timely fashion.

Lengthy delays contribute not only to delays in justice, but also to perpetrators not being brought to justice at all.

Amnesty International calls for reforms to criminal procedures to ensure that criminal proceedings, including investigations and trials, of suspected perpetrators of sexual assaults are not subjected to undue delays and dragged out past the statute of limitations. Particularly in cases where survivors have experienced sexual torture, the lengthy nature of trial proceedings can add to the suffering, isolation and ostracism experienced by them.

Amnesty International's recommendations

Amnesty International is calling on the Turkish authorities to:

- Condemn sexual violence against women.
- Investigate allegations of sexual violence.
- End the stripping of detainees during questioning.
- End the strip-searching of female detainees by male officials.
- End blindfolding in police custody.
- Define rape and sexual abuse in line with international standards.
- Pass legislation that reforms the framework of sexual crimes.
- Abolish the practice of forced "virginity testing".
- Give detainees immediate access to independent, impartial and competent medical experts.
- Accept independent medical or psychiatric reports as admissible evidence to an investigation.
- Open detention records for scrutiny by detainees and their lawyers.
- Abolish incommunicado detention.
- Protect victims, witnesses, their families and those conducting the investigation from violence, threats of violence or any other form of intimidation that may arise pursuant to the investigation.

Bring those responsible for human rights violations, including those who order them, to justice.
Suspend from active duty of officers suspected of torture, if convicted they should be dismissed.
Provide victims of torture with compensation and rehabilitation.
Make clear during the training of all officials involved in the custody, interrogation and medical care of detainees and prisoners that torture and ill-treatment, including sexual assaults, are criminal acts.
Act to ensure equality between men and women in the field of political participation, education, health care, family law and equality before the law.

**To see the full version of the report, please visit:
<http://web.amnesty.org/ai.nsf/recent/eur440062003>**

Public Document

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