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Turkey: Draft bill risks violating rights of prisoners

Amnesty International wrote to the Minister of Justice in Turkey to raise its concerns over a draft bill due to come before parliament which may violate the rights of prisoners to access their lawyers and have contact with their families.

Among other provisions, draft amendments to the Law on the Execution of Punishment and Security Measures define circumstances in which a prisoner's access to lawyers and others can be denied. The amendments state that in the case of concrete evidence that a convicted prisoner is issuing directions to a criminal organization through the people they meet, including their lawyers, their contact with those persons may be denied upon the decision of a judge following an application by the prosecutor.

The proposals allow for such a ban on meetings to be enforced for up to six months, but there is a right to appeal. During the ban on contact with their lawyer, prisoners can seek legal advice from a legal aid lawyer provided by the bar associations with an officer present.

Amnesty International is concerned that the amendments, if passed, may be applied arbitrarily and not subject to effective appeal, violating prisoners' rights to access lawyers and family members. Prisoners' ability to appeal without the help of a lawyer would be severely restricted and any alternative legal representation may not be impartial. The right to confidential counsel with chosen representatives must not be subject to unreasonable restrictions. Amnesty International has long held concerns that under existing legislation prisoners' rights are violated, that punishments are arbitrarily applied and that appeal against the imposition of punishments is not effective. The amendments do not contain sufficient safeguards against arbitrary application of the ban on access to lawyers and others.

Regulations allowing prisoners to associate with each other for up to 10 hours a week are routinely not implemented in high security prisons, resulting in solitary confinement and small group isolation. This problem is compounded by the arbitrary imposition of "cell punishments" imposing periods of solitary confinement. Whilst prisoners have the right to appeal to such punishments, their access to appeal mechanisms is not effective.

Provisions allowing for prisoners to receive medical treatment outside of prison if they cannot receive adequate treatment while in prison are routinely not enforced, violating prisoners' rights to adequate medical treatment.

Government statements have indicated that the draft law is aimed at preventing jailed PKK leader Abdullah Öcalan from meeting with his lawyers and others. Amnesty International highlighted its concerns that Abdullah Öcalan has repeatedly been denied the opportunity to meet with his lawyers or family members. Reported justifications for preventing such visits have been that weather conditions prevent access to the prison island of İmralı or the non-functioning of the boat to access the island. In this context Amnesty International is concerned that the amendments would serve as a further justification to prevent Abdullah Öcalan's access to lawyers and family members. Furthermore, in the past, Abdullah Öcalan's allegations of ill-treatment were communicated by his lawyers. Any ban on his access to his legal representatives would severely curtail his ability to complain against such incidents in the future.

In its letter, Amnesty International outlined the responsibilities of Turkish authorities on the rights of prisoners as set out in the UN Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment. Principle 18(3) states: “The right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order.”

Principle 19 states: “A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.”

The organization stated that the proposed amendments and their potential arbitrary implementation fall outside the principles outlined above and called on the Minister of Justice to ensure that any new legislation clearly defines the circumstances in which the right to access a lawyer of choice may be restricted, has well defined and effective appeals process and must preserve the essence of the right to effective and independent legal counsel.

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