Has the human rights situation in Turkey changed?

Those who wish to see an end to ill-treatment, torture, "disappearance" and extrajudicial execution in Turkey are faced with a new combination of circumstances. The statistics relating to each of these violations have fallen from their peak of 1992-1995, apparently as a consequence of three factors.

Firstly, the state within the state which organized many of the killings and "disappearances" in the mid-1990s was partially unmasked by the crash on 4 November 1996 at Susurluk in north-west Turkey. The crash revealed that an organizer of a right-wing death squad, a police chief and a member of parliament from the ruling party had been travelling and apparently working together. Government investigations of the network of criminality within the state have been hampered by lack of determination and the refusal of the military to cooperate.

Secondly, illegal armed organizations such as the Kurdish Workers' Party (PKK) and Revolutionary People's Liberation Front (DHKP-C) have been less active on the military front. Security forces frequently responded to attacks with wide-ranging brutal operations in rural and urban areas in which all safeguards were suspended. The government also used the abuses of armed opposition groups to divert attention from, or to excuse, the excesses of police and gendarmes.

Thirdly, there has been a glimmer of political will to treat the running sore of torture. Even such grudging willingness for change, provoked by intense international reproof, by repeated judgments against Turkey at the European Court of Human Rights and most importantly by strong expressions of Turkish public outrage at a number of widely publicised cases such as that of Metin Göktepe, a press photographer beaten to death by police in Istanbul in January 1996, is an unprecedented cause for measured optimism. The most important landmark was the March 1997 law which reduced the maximum detention periods from 30 days to 10 days in the southeastern provinces under state of emergency, and from 15 days to seven days for the rest of Turkey. A regulation of 1 October 1998 remedied a loophole which had permitted young children to be interrogated incommunicado for four days by Anti-Terror Branch police. Juveniles from 16 to 18 can still be held without access to lawyer or parents[1].

[1] These detention periods only apply to those detained for offences under the Anti-Terror Law, who can be held incommunicado for the first four days. People detained for theft, assault or other common criminal offences are supposed to have immediate access to legal counsel. The move was not only long overdue (the human rights lobby within Turkey and abroad had been calling for over two decades for the detention periods to be shortened) but was also insufficient, since the detention periods are still in excess of international standards. Nevertheless, the shortened periods give would-be torturers considerably less opportunity to abuse the prisoners in their care.

TURKEY
The duty to supervise, investigate and prosecute

> "*Statistical information provided by both Government officials and non-Governmental organizations demonstrates that very few allegations lead to prosecutions and even where there is a conviction, the punishment meted out is incommensurate with the gravity of the offence.*"
>
> Report of the UN Special Rapporteur on Torture, submitted to the Commission on Human Rights

Unlike the more than 400 people who have died as a consequence of interrogation by Turkish police since 1980, Vasfi Karakoç, a taxi-driver living in Izmir, survived the blindfolding, electric shocks and beating. It was the fear and anger provoked by his frustrated attempt to reach justice that killed him.

Vasfi Karakoç was detained on 31 August 1998 and questioned at the Anti-Terror Branch of Bozyaka Police Headquarters for possession of an unlicensed firearm. His wife Vehbiye Karakoç told the press: "When he came back home Tuesday night, he was exhausted and hopeless. He kept holding his head and he was continuously shaking. He said that he had been blindfolded, given electric shocks, suspended by the arms, his head beaten against the walls." He had lost the hearing in one ear and was troubled with headaches. His wife hinted at more humiliating forms of torture that were "an affront to his dignity", about which he could not speak openly. A medical report was consistent with his claims of torture.

Vasfi Karakoç made a complaint to the public prosecutor, but was shortly afterwards visited by police officers who threatened: "How dare you complain about us? We will burn you down." Exasperated, on 2 September Vasfi Karakoç went to Izmir's city walls and set fire to himself, naming the officers who he claimed had tortured him. In common with many victims of torture, Vasfi Karakoç said that he had been "deprived of his humanity". He died of his injuries on 7 September. His efforts to obtain justice deprived him of his life. To Amnesty International's knowledge, no officers have yet been indicted for torturing Vasfi Karakoç.

Victims contemplating bringing Turkish police officers and gendarmes to justice for their abuses face a fearsome obstacle course. Many factors contribute to impunity:

victims are often too frightened to complain; witnesses are intimidated; medical evidence of abuses may be suppressed; prosecutors are frequently unwilling to open investigations or recommend trials; the endless stream of defendants claiming that their confessions were extracted by torture reduce judges to a state of numb complacency in which they simply ignore allegations; judges are also clearly reluctant to convict members of the security forces or to impose custodial sentences upon them.

However complex the causes, the result is straightforward: since 1980 thousands of Turkish citizens have suffered torture consisting of savage beatings, electric shocks, hanging by the arms, sexual assault and rape, hundreds of people have died under torture, and hundreds more "disappeared" or were extrajudicially executed. Yet no more than a tiny handful of officers have served custodial sentences of a length appropriate to such serious crimes. Successive Turkish governments have failed to take even the most simple steps needed to move its judiciary into action. Governments have permitted human rights defenders and relatives of victims to be persecuted and prosecuted because they called for truth and justice. The authorities have covered up massacre, and on one notorious occasion a Prime Minister praised as a patriot a man who was wanted in Europe in connection with drug-smuggling, and in Turkey for involvement in the strangling of eight members of a left-wing party during the political violence of the 1970s.

Since 1997 the Turkish political elite have shown, for the first time, some signs of interest in tackling the very comprehensive and ingrained human rights problems. The difficulty for the human rights community is to find ways of giving recognition and encouragement for what little has been achieved, while continuing to report the sorry contemporary picture. Under the prime ministerships of Mesut Yilmaz and Bülent Ecevit there has been much talk, apparently sincere, of new laws, regulations and programs to improve human rights, while practical progress has been more modest. Emphasis has quite properly been placed on human rights training and other positive measures. But good intentions on human rights will not be taken seriously by officers in the field while gross violations go unpunished. Judiciaries in all parts of the world are reluctant to prosecute members of the security forces. Considerable determination will therefore be required in Turkey where, on the one hand, soldiers and police officers are being killed by illegal armed groups in the mountains and on the city streets, and on the other, the armed forces are an overriding *political* force. Whatever government is formed in Turkey following the April 1999 elections, it can best show its commitment to change by promptly dismantling the immunity from prosecution and punishment which torturers and state assassins have so far enjoyed.

Domestic and international standards

Under Turkish law, holding people in unregistered detention, ill-treatment, torture, "disappearance" and extrajudicial executions are all outlawed as criminal offences[2]. Prosecutors should pursue complaints of such offences to the same extent as any other reported crime. A specific complaint should not be necessary to trigger an investigation. Where a prosecutor hears about such offences within their jurisdiction from statements made in court or through the press or other public declarations, they are duty bound to follow up and, where appropriate, prosecute. One praiseworthy aspect of the Turkish legal system is that complaints of abuse by state officials can be made straightforwardly without requirement for paying sums into court, for example, which may be required in some other European countries.

The performance of the Turkish judicial and governmental institutions in investigating human rights violations must also, however, be measured against international human rights law and standards which impose special responsibilities upon states to conduct prompt and impartial investigations of reports of torture, "disappearance" and extrajudicial execution[3].

[2] **Unregistered detention**: Article 181 of the Turkish Penal Code (TPC): "A civil servant who deprives a person of their liberty by abusing his duty as a public officer or contravening the relevant procedures and conditions shall be punished by a sentence of imprisonment of from one year to three years."

Torture: Article 17 of the Turkish Constitution provides that "no one shall be subjected to torture or ill-treatment incompatible with human dignity."

Article 243 of the TPC: "Any president of a court or assembly, or any other public servant who tortures a suspect in order to elicit a confession or resorts to cruel, inhuman or degrading treatment shall be sentenced to up to five years' imprisonment and temporary or permanent disqualification from service."

Article 245 of the TPC: "All civil servants entitled to exercise force, and all security officers who, in the course of their duty or the execution of their superiors' orders subject persons to ill-treatment or physical injury, or beat or wound them, shall be sentenced to a term of imprisonment of from three months to three years and temporary or permanent disqualification from service."

Article 450/3 provides the death penalty for intentional murder by torture, while Article 452 provides for 15 years' imprisonment for unintentional killing by wounding or battery.

[3] UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN Convention against Torture), Articles 12, 13; UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (UN Body of Principles), Principle 33; UN Declaration on the Protection of All Persons from Enforced Disappearance, Article 13 (1); UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principles 22, 23; UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principle 9; UN Standard Minimum Rules for the Treatment of Prisoners, Rule 36 (4); European Prison Rules, Rule 36.

It must be emphasized that these standards are not artificial or foreign prescriptions, but measures of good practice developed by international organizations of which Turkey is a member state. In some cases, these are legally binding conventions to which Turkey has freely and properly committed itself.

Officials and professionals who witness human rights violations have a duty to report such violations to the appropriate bodies. The UN Force and Firearms Principles contain detailed provisions on exactly when and how law enforcement officials are to report when they use any force.

States are obliged to investigate any complaint of torture or ill-treatment. This responsibility is recognized in the UN Declaration against Torture and the UN Convention against Torture. The UN Special Rapporteur on torture has observed: "When a detainee or relative or lawyer lodges a torture complaint, an inquiry should always take place."[4] But states must also investigate even when there has been no complaint, but where there is nevertheless reasonable ground to believe that torture or ill-treatment has occurred[5].

[4] Report of the Special Rapporteur (UN Doc E/CN.4/1995/34, 12 January 1995, para 926 (g).

[5] Aksoy v Turkey, Judgment of 18 December 1996, para 99 (duty to investigate when signs of torture visible on detainee, even if no complaint); UN Declaration against Torture, Art 9: "Wherever there is a reasonable ground to believe that an act of torture as defined in article 1 has been committed, the competent authorities of the State concerned shall promptly proceed to an impartial investigation even if there has been no formal complaint."; UN Convention against Torture, Art 12: "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction."

States are also obliged to maintain an independent and impartial public authority with the power and duty to investigate allegations of torture, "disappearance" and extrajudicial execution[6]. The investigating body should have adequate powers and resources, including the power to make unannounced visits to places of detention, to compel witnesses to appear and testify, to guarantee the safety of complainants and witnesses and their families from intimidation or reprisals. Investigations should be opened promptly[7] and they should be impartial, independent, thorough and effective[8].

Investigations should, where possible, conclude with the prosecution of those responsible for the torture, "disappearance" or extrajudicial execution. But in addition, a comprehensive report of the investigation should make public the methods and findings[9].

The Turkish government and judiciary have failed badly to fulfil the moral and legal responsibilities imposed by these standards.

The context of fear

The technical and legal components of impunity are many and varied. While painting in the details, it is important not to miss the broader picture of fear and intimidation. Torture is not only inflicted in order to extract confessions, but also to instil profound dread into victims, and to demonstrate the seemingly boundless power of the perpetrators. This is still more true of extrajudicial execution and "disappearance" which can project that fear into society as a whole. This ensures that victims and relatives are frequently terrified into silence, and is perhaps the chief barrier to investigation and prosecution.

One case brought to Amnesty International's notice in late 1998 expresses to some extent the deep horror provoked in a lone individual subjected to physical assault by officers of the law whose proper duty was to protect him. L.F., a non-Turkish highly qualified professional who had been living in Turkey, submitted detailed documentary evidence supporting his account that he had been beaten while in police custody.

[6] UN Declaration on Disappearance, Arts 9, 13 ; UN Principles on Extra-legal Executions, Principles 10, 15; UN Convention against Torture, Art 13; UN Body of Principles, Principle 33 (4).

[7] The UN Special Rapporteur on torture has emphasized that "Complaints about torture should be dealt with immediately." UN Special Rapporteur on torture report, para 926 (g).

[8] The UN Declaration on Disappearance states that "An investigation ... should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified."

[9] UN Principles on Extra-legal Executions, Principle 17; UN Declaration on Disappearance, Art 13.

Following an incident in a night-club in a holiday resort in the south-west of the country, LF went to the local police station to complain that he had been attacked by night-club staff. According to his account, he was punched and slapped by police officers (who later emerged to be on good terms with the owner of the night-club). One officer picked a heavy stick from the corner of the room and swung it repeatedly at the man's face while just holding short of making contact. While relating what had taken place during less than 12 hours in custody six months earlier, LF displayed extreme anxiety. The experience was sufficient to make him wind up his professional affairs and abandon his home in Turkey and return to his native country. He asked not only to remain anonymous, but also that no record should be taken of any personal and circumstantial details which might be used to trace the complaint back to him. LF admitted to an overriding fear that those who abused him might find a way to take revenge upon him for revealing that the assault had taken place.

Police officers accused of human rights violations but confident in their immunity from prosecution frequently exploit such fear in order to persuade victims or their families, or even their lawyers, not to complain or to withdraw their complaints, and to intimidate potential witnesses. One example of this is 17-year-old high-school student Deniz Özcan, a witness in the prosecution of 11 police officers charged with beating to death the photographer Metin Göktepe while he was in custody in Istanbul in January 1996. Detained at a demonstration in Istanbul two months later, Deniz Özcan subsequently gave this account of what happened at the Anti-Terror Branch of Istanbul Police Headquarters: “They greeted me by saying: `Here comes the witness of Metin Göktepe. You have spoken enough. We’ll get you sentenced to five years in prison. You won’t get out of here alive.’ I was suspended by the arms and subjected to electric shocks. They squeezed my throat and left me fighting for breath.” He was later released and obtained a medical report which recorded that he had bruising and burns to a finger.

In the following days he and his mother were reportedly threatened by police who blocked their way as they were returning home, and on another occasion Deniz Özcan was abducted by police and driven about the city for some hours while being threatened and insulted. Deniz Özcan reported that on 5 January 1998, during a court survey at the scene of Metin Göktepe’s death, one of the police officers charged with the killing showed him his gun and told him, “You are finished. Your death will be at our hands”.

Prosecutors not motivated to prosecute

> "*Public prosecutors nationwide also need to respond to reports of torture and inhuman treatment in police stations. They do not need orders from above to respond. It is their duty to act and operate routine prosecution processes to find the culprits and bring them to justice. Bringing the few*

> *bad apples to justice... would do good to the police rather than signalling an imminent collapse, as it were, of public faith in the security forces.*"
>
> Prof Dr Tekin Akillio_lu, "Human Rights in Turkey", published by the Turkish Democracy Foundation 1998.

Prosecutors are responsible for conducting the preliminary investigation while a defendant is in police custody. They are therefore likely to be the first to see detainees who have obviously suffered ill-treatment, to receive medical reports suggesting that ill-treatment or torture has taken place, or to hear a direct complaint of ill-treatment or torture from a detainee. The prosecutor should be aware of any irregularities concerning detention such as late registration, failure to inform relatives, or denial of access to legal counsel.

Any committed and energetic prosecutor presented with an allegation of torture in police custody is in a position promptly to gather a considerable body of evidence to support or refute the charge. Because the crime of torture takes place in an enclosed and specific locality with a limited number of known suspects, conviction rates should be very much higher than in comparable cases of common assault taking place on the street. The prosecutor can immediately seize all records at the police station or gendarmerie to find out who was on duty at the time of the alleged offence (and if no records are

The unregistered detention, failure to investigate and subsequent murder of Ali Serkan Ero_lu

"On Thursday 27 November 1997 at around 4pm I was forced into a car by plainclothes police officers. My eyes were blindfolded and I was taken to a place I did not know. There I was interrogated for eight hours. I was threatened and tortured."

Ali Serkan Ero_lu made this statement to the Turkish Human Rights Association (HRA) on 1 December 1997 and made a complaint to the public prosecutor. Three weeks later his body was found hanging from a belt around his neck in a toilet at the Faculty of Communication at the Aegean University in Izmir. Ali Serkan Ero_lu was 19 years old, a student at the faculty, and active in left-wing politics.

The state-operated Forensic Medicine Institute of Izmir gave the cause of death as "suffocation due to hanging". The suggestion was that he had committed suicide. Given Ali Serkan Ero_lu's previous abduction, the HRA and the family suspected foul play and pressed for a second autopsy. This revealed that Ali Serkan Ero_lu's blood contained traces of chloroform and ethanol. It now appears certain that Ali Serkan Ero_lu was chloroformed into unconsciousness after being abducted and strangled.

Students at Turkish universities frequently complain that they have been abducted and subjected to torture or threats by police officers, apparently as a method of recruiting informers. The kidnappers do not always identify themselves as police officers, but appear to have official authority. They are well informed about the political activities of their victims and offer a combination of threats ranging from expulsion from education to extrajudicial execution, torture and "disappearance". Such detentions are usually not registered, and could therefore easily lead to "disappearance". Press conferences by the HRA and questions in the Turkish parliament have failed to procure a serious official response.

Efforts to conceal the circumstances of Ali Serkan Ero_lu's death have continued. The President of Izmir HRA reported that he had received threats from police who are also apparently attempting to create alternative explanations for Ali Serkan Ero_lu's death. In June 1998, 23 people from his circle, including his girlfriend, were detained. She reported that police sexually assaulted her and tried to force her to make a statement suggesting that Ali Serkan Ero_lu had committed suicide because she had ended their relationship. Other friends reported being subjected to sexual torture, hanging by the arms and electric shocks.

The Izmir Public Prosecutor has opened an investigation into Ali Serkan Ero_lu's death, but as yet no one has been charged and little

available, officers should be prosecuted or disciplined for their administrative failure). Other detainees can be examined and questioned about their experiences in custody. Interrogation rooms can be investigated for signs that torture has taken place. The prosecutor could establish whether detainees were permitted access to legal counsel and whether or not families were informed. Sophisticated medical techniques can establish soft tissue or nerve trauma which might not be visible to the naked eye.

Prosecutors may in recent years have been more ready to open prosecutions against members of the security forces than before. Press reports suggest that this is so, although Amnesty International is not aware of any statistical information to confirm it (see discussion of statistics below). Nevertheless, it is quite clear that prosecutors are still very reluctant to respond to complaints and evidence of ill-treatment, torture, "disappearance" or extrajudicial execution.

Perhaps the most important constraint is the close working relationship between prosecutors and police - and particularly state security court prosecutors and Anti-Terror Branch police. Under Turkish law, the police are described as the "arms" of the judiciary. The police are the colleagues of the prosecutors and, since police officers are rarely suspended during the course of an inquiry, any prosecutor deciding to act on an allegation of torture is put in the uncomfortable position of working every day with the very officers they have investigated or indicted for torture or ill-treatment. This is a strong argument for mandatory suspension of officers under investigation for human rights violations, and for delegating prosecutors with special responsibility for such investigations.

Given the supremacy of the security forces (and particularly the military) within the Turkish state[10], actively prosecuting police and gendarmerie officers will not be a wise career move for any ambitious prosecutor. President Demirel (twice put out of government by soldiery) pithily expressed the problem: "If you fight with the military... you will be the loser"[11].

It is not surprising that prosecutors are so deaf to the complaints of tortured detainees. International standards require that an investigation should be opened as soon

[10] The Turkish Armed Forces wield enormous formal and informal power within the Turkish state. The military seized power from civilian governments in 1960, 1971 and 1980. General Kenan Evren, who led the 1980 military coup, remained president until he retired in1990. In 1997 pressure from the military was the main factor in forcing Prime Minister Necmettin Erbakan from office. Under Turkey's present constitution, which was drawn up in 1982 under the military junta, the security forces are afforded powerful influence over the government through their membership of the National Security Council (MGK).

[11] *Turkish Daily News* of 10 February 1999.

as there is any indication that torture has taken place, but prosecutors ignore the exhausted and filthy state in which detainees appear from police custody, frequently with visible bruises.

The cases of Gazali Turan and Hüseyin Çelik are typical of such neglect of duty. Gazali Turan reported that she had been tortured during seven days in police custody following her detention on 21 March 1998 in _zmir during *Nevruz* celebrations. According to Gazali Turan's account, she had been detained because she was accused of carrying the flag of an illegal armed organization. She said that police officers applied electric shocks through her fingers on three occasions, and threatened to strip her naked and torture her further unless she admitted to their allegations. She signed a statement, but because she cannot read, does not know what she signed. Gazali Turan was not given access to legal counsel after the fourth day, a clear breach of the Criminal Procedure Code. The _zmir State Security Court Prosecutor reportedly ignored her statement that she had been tortured. She states that at the end of the detention a doctor issued a medical report stating that she was in good health, without examining her at all[12].

[12] Case submitted by Amnesty International by letter to Interior Minister Murat Ba_esgio_lu 20 April 1998. No response was received.

Hüseyin Çelik was detained on 1 May 1998 and taken in a police bus to the Anti-Terror Branch of Istanbul Police Headquarters. According to his account, he was beaten and kicked while in the bus. Some hours after arrival at the Anti-Terror Branch, he was taken from a cell to a place of interrogation, blindfolded and stripped down to his underwear. The police officers interrogating him forced him to the ground and squeezed his testicles. When he tried to resist, they bound his arms and legs with cloth and continued. He was taken back to his cell but was later returned to the place of interrogation where his testicles were again squeezed. He was hosed with pressurized hot water and then with cold water directed at his head, testicles and throat. He was then laid on the ground while being partially strangled repeatedly for what he estimates to be half to three quarters of an hour. For the rest of the night he was repeatedly hosed with pressurized cold water and made to stand in a courtyard with his hands aloft. On 5 May he was brought before a doctor who recorded small cuts to his ankle and a bruise to the chest. Hüseyin Çelik complained of torture to the State Security Court prosecutor, who reportedly took no action[13].

In some cases, the intervention of a member of parliament has been necessary to start the wheels of justice moving. In the case of Suphi Dilda_, it took a parliamentary commission. The energetic work of the Parliamentary Human Rights Commission under the presidency of Dr Sema Pi_kinsüt has been one of the more positive developments of the past two years. In 1998 the Commission visited _anl_urfa Prison and there interviewed Suphi Dilda_, who claimed that he had been tortured at _anl_urfa Police Headquarters after he had presented himself for questioning at the _anl_urfa Court Building. Medical examination corroborated his allegation that he had been blindfolded, stripped naked, and subjected to electric shocks. The Commission lodged an official complaint with _anl_urfa public prosecutor, who initiated a trial under Article 243 of the TPC, indicting 15 police officers and a nightwatchman. The trial, opened at _anl_urfa No 1 Criminal Court on 18 June 1998, continues.

Judgments in a number of recent cases at the European Court of Human Rights are consistent in their finding that prosecutors are negligent of their duty to prosecute. In Ayd_n v Turkey [57/1996/676/866], a case in which it was found that gendarmes had tortured the plaintiff by raping her in custody at Derik Gendarmerie, Mardin province, in 1993, the Court found that the initial investigation showed "overall and serious inadequacy". The Court noted that the public prosecutor had not bothered to question gendarme officers who were on duty at the time, that medical reports were "deficient",

[13] Case submitted by letter to Prime Minister Mesut Y_lmaz 31 July 1998. No response was received.

and that the prosecutor had shown "an unacceptable degree of restraint to the security forces by not questioning the gendarme officers."[14]

In the case of Mente_ and others v Turkey [58/1996/677/867], the Court found that gendarmes were guilty of punitive house destruction. The judgment stated that "no thorough and effective investigation was conducted" into the villagers' allegation that they had been burned out of their homes.

The judgments of the European Court of Human Rights against Turkey repeatedly draw attention to what can only be described as a cosy relationship between prosecutors and the security forces. In the January 1999 judgment in Kurt v Turkey [15/1997/799/1002], a case of "disappearance", the Court described the prosecutor's negligence in failing to respond to a mother's complaint that her son had been abducted by gendarmes. "The public prosecutor gave no serious consideration to her complaint, preferring to take at face value the gendarmes' supposition that her son had been kidnapped by the PKK [Kurdish Workers' Party]". In this case, the Court upheld the plaintiff's claim that she had been denied an effective remedy in respect of her complaint that her son had "disappeared".

When prosecutors are moved to open prosecutions, they appear so anxious to mitigate the force of the prosecution as to give the impression that they are being pressed into legal action very much against their will. One method is to indict officers with the lesser offence of ill-treatment under Article 245 than that of torture under Article 243. Case-law demands a special degree of brutality to be exerted in order to apply Article 243 - the extraordinary criterion being that the torture should be sufficient to make the victim confess. In a judgment of 30 January 1990 the 8th Penal Chamber of the Supreme Court of Appeals said that brutal treatment can be considered to be torture if it is both implemented with the purpose of extracting a confession and sufficiently "unbearable" to attain this purpose.

The treatment inflicted on one group of children in Istanbul passed this peculiar test but was still only characterized as "ill-treatment" by the local prosecutor. Three boys aged 10, 11 and 12 years old were arrested while collecting scrap metal from a rubbish dump in Istanbul on 3 March 1997, and taken to the Public Order Department of Küçükçekmece Police Station. During 32 hours' incommunicado custody the boys were reportedly stripped down to their underwear and locked in the toilet, where officers urinated on them and made them lie on human excrement. The children were asked to

[14] The commander of the Derik Gendarmerie Battalion was later tried for rape at Mardin Heavy Penal Court, but acquitted on 8 October 1998. An appeal against this judgment is pending.

"choose" between electric shocks or beating, were beaten with wooden truncheons, sexually assaulted and forced to sign confessions to theft of a tape recorder.

When the boys were brought to the prosecutor, one of the boys stated that he had been given electric shocks. They were then referred to Bak_rköy State Hospital where they received medical certificates describing bruising consistent with their allegations. One of these certificates described "bruises on the right temporal region measuring 3x1cm, [and] black burns established as having resulted from electricity".

It would appear difficult to choose any word other than "torture" to describe the brutality to which these children were subjected, but a lawyer involved in the case reported that the Küçükmece Public Prosecutor preferred to indict three policemen under Article 245 for the lesser charge of ill-treatment. It should also be noted that incommunicado detention of children for a common criminal offence was a breach of the Turkish Criminal Procedure Code, and there were strong grounds for additionally indicting the police officers under Article 181 of the TPC, which provides for sentences of one to three years' imprisonment for any civil servant who "deprives a person of their liberty by abusing his duty as a public officer or contravening the relevant procedures and conditions."

Prosecutors go to great lengths to seek extenuating factors when indicting police officers for human rights violations - a magnanimity for which they are not much noted in their other duties. This has been a feature of indictments for alleged extrajudicial executions carried out in a series of raids on premises believed to be "safe houses" of illegal armed organizations in Istanbul, Ankara and other cities. More than a hundred people have been killed in such operations, which still occur. In several cases unarmed people and others who were clearly innocent bystanders were killed. Investigations have been woefully inadequate, and plagued by evidence being tampered with or lost. In such prosecutions as have been opened, prosecutors have frequently prepared indictments which virtually invite acquittal or commutation of sentence.

One such case was the killing of Hamdi Salg_n and 15-year-old Gülistan Özdemir in a house raid in Fatih, Istanbul, on 11 February 1998. Police officers had tracked a suspect, Hamdi Salg_n, to an upper floor of a building. They were reportedly instructed by the prosecutor to seal the floor of the building where the suspect was located. Instead the police went in and shot two persons dead. It later emerged that Gülistan Özdemir was a worker in a clothing factory who had come home for lunch. Eight police officers were indicted for unlawful killing, but the indictment requested that any sentence be commuted on the grounds that the officers were "on duty".

Government responsibility; government inaction

The heedlessness of successive Turkish governments when presented with allegations of human rights violations has set a regrettable example for the prosecutorate. In 1998 Amnesty International submitted two memoranda to the Prime Minister and Interior Minister raising seven cases of death in custody, 34 cases of torture (including 11 cases of torture of children), three cases of people imprisoned after unfair trial on the basis of testimony extracted under torture, 12 cases of abduction and ill-treatment in unregistered detention, four cases of extrajudicial execution, eight "disappearances" and several cases of medical neglect in prison. The government failed to respond on any of the cases. Amnesty International has learned from other sources that prosecutions were opened in a very small proportion of cases, but in the overwhelming majority there appears to have been no official action at all.

The bland complacency shown by Turkish governments in the face of a parade of human rights scandals over the past decade is staggering.

Four hundred people had been shot dead on the streets of southeast towns and cities before a Parliamentary Commission on Unsolved Political Killings was established in 1993. Two years' deliberation and a further 600 killings were to pass before the Commission reported. Composed of politicians rather than independent experts, the Commission had no powers to protect witnesses, was inadequately resourced and reported great difficulty in obtaining documents and calling witnesses, who it said were being intimidated. The Commission's report of April 1995 is a curious document which exonerates the security forces from any involvement in political killings (in the teeth of much direct evidence that they were in fact deeply involved), while confirming that serious illegal and improper practices were conducted by many authorities in the emergency region. The report describes an official cover-up of collusion between the gendarmerie and the illegal armed organization *Hizbullah*[15], which has been held responsible for many political killings, and confirms that village guards (villagers armed and paid by the government to fight the PKK) and "confessors" (people who have turned state's evidence in exchange for a lighter sentence) were involved in lawless activities including killing and extortion. The report admits that "confessors" were illegally released from prison to accompany the security forces on operations, and that crimes committed by "confessors" were covered up by public officials. To Amnesty International's knowledge, the Commission did not initiate a single prosecution.

[15] Unrelated to the Lebanese group of the same name

Hundreds of thousands of Kurdish villagers, fleeing into western cities in the mid-1990s reporting that they had been burned out of their homes by soldiers because their villages had refused to join the village guard system, were ignored. One village headman who took his complaint to Ankara later "disappeared"[16]. Two State Ministers with responsibility for human rights admitted that punitive house destruction and evacuations were happening, but neither the Prime Minister nor the Interior Minister responsible for the security forces made any effort to investigate the allegations. A small number of villagers took their complaints to the European Court of Human Rights which confirmed that gendarmes had indeed destroyed their houses (see Mente_ v Turkey, above, and Akdivar v Turkey, judgment number 99/1995/605/693, 16 Sept 1996).

There have been several hundred reports of "disappearance", of which more than a hundred are well-documented. The only official gesture towards investigation was the establishment of the "Bureau for the Investigation of Missing Persons" on 20 December 1996. Less than a month after its foundation the Bureau published its findings on scores of allegations of "disappearance". In most cases, however, these 'findings' consisted of no more than one or two lines of official denial that the individual was ever detained. No serious investigations seem to have been conducted. For example, the report mentioned that Tevfik Kusun, who "disappeared" on 29 November 1996 after being taken from the building site where he worked, was not held in police custody, but failed to mention that his body was found by a local highway on 7 January 1997. Similarly, the report stated that police archives had no record that Mahmut Mordeniz, who "disappeared" on 28 November 1996, had been detained, but failed to note that his family and others witnessed his detention by people who introduced themselves as police, that a local police unit confirmed that he had been detained, and that his wife Fahriye also "disappeared" the same day[17]. It would not be too harsh to conclude that the "Bureau for

[16] On 7 July 1994 the village of Akçayurt was forcibly evacuated following a clash between the PKK and the security forces. Villagers from Akçayurt and a number of neighbouring villages were taken to a containment area near the Topçular gendarmerie post. While held at Topçular gendarmerie post, Mehmet Gürkan, the village headman, told television reporters that the PKK had burned his village. On his release a week later, he held a press conference retracting the statement. He said that he had been tortured and that Akçayurt had in fact been burned by the security forces. He told a local newspaper: "They took me to the Topçular gendarmerie post and tortured me. My ribs were broken. They collected the people outside the village and gave them nothing for four days ... 430 people of my village have now gone to Adana, Diyarbak_r and nearby villages. We have nothing to eat. They also burned all of our crops." In August 1994 Mehmet Gürkan returned to the village to collect some remaining pieces of furniture from his home. According to eye-witnesses, he was detained by soldiers, taken away in a helicopter and never seen again.

[17] Comparison of official photographs and records revealed only in November 1998 that the bodies of Fahriye and Mehmet Mordeniz were found five days after their "disappearance" 200 km from Diyarbak_r not far from the border with Northern Iraq. They had been bound, gagged and shot through the head. After examination by the local prosecutor, the bodies had been buried in anonymous graves in a cemetery in nearby Cizre.

the Investigation of Missing Persons" is a fake initiative. Its real purpose seems to be to deflect public disquiet about "disappearances" and discredit those who demand genuine investigations into the fate of the "disappeared".

There is no question that the failure of one government after another to investigate allegations of human rights violations during the 1980s and early 1990s was the principal factor in the descent into a state of profound lawlessness which was uncovered on 4 November 1996 by a traffic accident at Susurluk. A speeding Mercedes crashed into a lorry at Susurluk on the Izmir-Istanbul road. The car belonged to Sedat Bucak, member of parliament for one of the parties in government and leader of a Kurdish clan from which are drawn thousands of members of the notorious village guards civil defence system. Sedat Bucak survived, but the three other travellers in the car were killed. They included Hüseyin Kocada_, Director of the Istanbul Police Academy and former Deputy Police Chief of Istanbul, and Abdullah Çatl_, alleged mafia member and former vice-president of an extreme right-wing youth organization who was wanted for alleged participation in the massacre of eight members of the Turkish Labour Party in 1978, as well as by Interpol for drug smuggling offences. At the time of the accident Abdullah Çatl_ was carrying a "green passport", reserved for high ranking civil servants, even though he was on the run after escaping from a prison in Switzerland where he had been held on drug smuggling charges.
The car also contained an arsenal of weapons, including two sub-machine guns and, revealingly, silencers.

When questioned on how a high-ranking police officer could be in the company of a criminal wanted for political murder and drug smuggling, the Minister of the Interior and former General Director of Police Mehmet A_ar suggested that Hüseyin Kocada_ was driving Çatl_ to Ankara to hand him over to the authorities. It later emerged that the three had been socializing together at a resort on the southwestern coast; Mehmet A_ar resigned as Interior Minister shortly afterwards and is now on trial for membership of a gang. The state intelligence service, MIT, confirmed in public statements that Abdullah Çatl_ had been used for "secret operations abroad". The MIT spokesperson added, "Later we learned he was involved in drug trafficking and stopped using him. But the General Police Directorate took him on."

Subsequent investigations by journalists revealed state involvement up to ministerial level in the drugs trade, while a German judge trying a narcotics case in Frankfurt stated that Turkish gangs had "excellent relations" with the government in Ankara and even "personal contacts" with Tansu Çiller, then foreign minister. Indeed, Tansu Çiller astounded the Turkish public with her salute to Abdullah Çatl_ on the occasion of his funeral: "Those who shoot, as well as those who are shot, for the sake of a nation, a people, a state, are always remembered with honour". In the following months

a large number of gangs involved in activities ranging from car-theft, through drug-smuggling, to murder were uncovered. The Turkish government did appoint an investigation by official inspectors into the activities of these gangs, but it was again dogged by its limited scope of inquiry. Worst of all, the report issued in January 1998 apparently shares the very acquiescence in political murder which was the original root cause of the problem. For example, in discussing the murder of Behçet Cantürk, an alleged financier for the PKK, the report confirms that he was killed by agents of the state and ponders: "We have not entered the argument as whether the killing of Behçet Cantürk was necessary, or whether it was right or wrong ... The objection that 'such questions should not even be asked in a state of law' is in our opinion invalid and unrealistic."

International standards state very clearly how Turkish governments should have responded to the alleged patterns of state murder and "disappearance" described above, and what they can still do in order to bring justice to the victims and their families. In accordance with the UN Declaration on the Protection of all Persons from Enforced Disappearance and the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, the state should appoint "a competent and independent State authority". Where existing investigative mechanisms are inadequate because of lack of expertise or impartiality, where there is a pattern of abuse, or where there are complaints from the family of the victim about these inadequacies or other substantial reasons, the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions recommend that an independent commission of inquiry should be established. "Members of such a commission shall be chosen for their recognized impartiality, competence and independence as individuals. In particular, they shall be independent of any institution, agency or person that may be the subject of the inquiry."

Failure to investigate leads to unfair trial

The failure of Turkish officials to investigate allegations of torture not only allows torturers to go unpunished, but contributes to unfair trial of the victims, and in some cases is the direct cause of miscarriage of justice. Judgments of the Turkish Appeal Court provide that convictions on uncorroborated testimony are invalid. However, statements declared by detainees to have been extracted under torture are still frequently read out in court and placed in the court file. Detainees are also frequently committed to prison on the basis of such testimony.

Amnesty International has submitted to the Turkish government a number of cases in which detainees were remanded on the basis of such statements. The organization asked why investigations were not initiated as required by Article 15 of the

UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which requires that "any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made". In most cases, the Turkish government failed to make any response. A typical case is that of Ali Ekber Öz , who is still imprisoned after a trial in which judges permitted testimony alleged to have been taken under torture to be aired in court.

On 2 October 1994 Ali Ekber Öz and his wife Nuran Öz, veterinary surgeons, were detained from their home in Antalya together with Ali Ekber Öz's sister. On 4 October another veterinary surgeon was detained from his home in the same city. All three were interrogated at Antalya Police Headquarters in connection with alleged membership of the Revolutionary People's Party (*Devrimci Halk Partisi* - DHP). Ali Ekber Öz states that during detention his clothes were removed, that he was stretched out on the floor with his arms firmly tied to poles with padded bindings, and that electric shocks were applied through his foot and genitals. He was obliged to listen to the cries of his wife and sister until he signed prepared statements.

Nuran Öz states that during interrogation she was subjected to threats, kicking, slapping, rape threats, death threats, being stripped of her clothes, hosed with pressurized cold water, and electric shocks. While electric shocks were being applied, Nuran Öz vomited. The police interrogating her asked if she was pregnant and she replied that she was, thinking that it could halt the torture. She was later forced to listen to the cries of her husband and her sister-in-law being tortured, and under this pressure signed statements which she had not been permitted to read.

The third veterinary surgeon stated that during detention he was beaten, stripped of his clothes, hosed with cold water under pressure, made to squat with a thick pole behind his knees, which caused considerable pain and numbness below the knee, and given electric shocks through his genitals and feet.

Ali Ekber Öz was later convicted of handling explosives and of membership of an illegal armed organization and sentenced to 12 years and six months' imprisonment. He is currently held in Çanakkale Prison.

The detention, interrogation and trial of these detainees consisted of a succession of abuses and breaches of proper police and judicial practice. The detainees report that they were blindfolded during interrogation, in spite of the condemnation of this practice by the United Nations Committee against Torture in its report on Turkey under Article 20 of the Convention against Torture in November 1993. Ali Ekber Öz and Nuran Öz were held in incommunicado police custody for nine days, whereas at that time incommunicado detention was not permitted at all under the Criminal Procedure Code

(although in practice it was routine). Police officers were present during a consultation with a doctor authorized by the Forensic Medicine Institute, at which, according to the detainees Ali Ekber Öz and Nuran Öz, no examination at all was carried out. Ali Ekber Öz's sister, however, did receive a report documenting injuries consistent with the detainees' reports of torture. Most seriously, the judge failed to take any action in response to the detainees' complaint of torture. The judges at _zmir State Security Court failed to investigate the allegations of torture and allowed statements retracted as having been taken under torture to be read out in court and to rest in the case file, in spite of protests by the defendants' lawyer.

The Turkish authorities have refused to review judicial proceedings tainted by allegations of torture even when instructed to do so by a UN human rights monitoring mechanism. In April 1995 Amnesty International submitted the case of Selahattin _im_ek to the UN Working Group on Arbitrary Detention. Selahattin _im_ek, a teacher, has been in prison since 1980 after a grossly unfair trial by a military tribunal. Accused of taking part in the murder of a police officer, Selahattin _im_ek reported that he was tortured constantly for more than three consecutive weeks. When he was finally brought before a military prosecutor and judge he complained of torture but, despite his physical condition, they took no notice. His conviction was based almost exclusively on testimony allegedly extracted from Selahattin _im_ek and other defendants by torture, and Amnesty International believes that he was the victim of a miscarriage of justice. Selahattin _im_ek was sentenced to death, but this was commuted to life imprisonment. He sought a retrial without success. The UN Working Group forwarded his case to the Turkish government in April 1995, but the government did not take the trouble to reply. In September 1995 the Working Group ruled that Selahattin _im_ek's imprisonment was arbitrary and requested the Turkish government "to take the necessary steps to remedy the situation". The Turkish government continues to ignore the recommendations of an intergovernmental body while Selahattin _im_ek enters his 20th year in prison. The expected date of his release is 31 May 2000.

When challenged on their negligence with regard to reports of torture, State Security Court prosecutors frequently excuse themselves by claiming that they are not competent to investigate such allegations. In fact, quite apart from their duty under international law to investigate such claims before allowing testimony extracted under torture to be submitted to their court, prosecutors have a duty under Turkish law to investigate in order to establish the validity of the evidence. Where they establish prima facie evidence of torture, they should then refer it to a public prosecutor so that a trial can be opened in a criminal court. But the record of criminal courts in trying alleged torturers is open to question.

Statistical picture confused and incomplete

Amnesty International has repeatedly written to the Turkish authorities asking to be supplied with comprehensive data on complaints, investigations, prosecutions and sentencing for offences of torture and other human rights violations. Such figures have not been supplied. Various official statistics have been produced over the years, but they have never been sufficiently comprehensive to give a detailed picture, or to permit comparisons between years or provinces. Official statistics have also contained inconsistencies which put their accuracy in some doubt.

The High Council for Human Rights, which meets under the presidency of the State Minister for Human Rights, reportedly regularly examines prosecution and conviction statistics. It is to be hoped that the Council has access to a higher grade of data than has been available so far, and that it will soon share this information with the public at large. Public expressions of good faith on human rights will not be believed unless there is transparency on the state's record of complaints, investigations, convictions and sentencing. The Turkish authorities should take pains to produce comprehensive statistical data, backdated as far as available information permits.

In the meantime, two groups of figures have recently been published - official statistics submitted by the Turkish authorities to the UN Special Rapporteur on torture (published in the report on his visit to Turkey,), and those of an independent study carried out by the Torture Watch Commission of the Istanbul branch of the Turkish Human Rights Association (HRA). The official figures were supplied to the UN Special Rapporteur by the Chief Public Prosecutor for Diyarbak_r, the Chief Public Prosecutor for Istanbul, the Acting Director of General Security, and the information services of the Turkish government.

The Diyarbak_r figures related to prosecutions for torture and ill-treatment under Articles 243 and 245 of the TPC in 1998 in that province. Apparently there were 32 prosecutions opened in which there were no convictions. Fourteen prosecutions continued, while in the other cases there were decisions of non-jurisdiction because of geography, or decisions not to continue prosecution. The Istanbul figures related to prosecutions for torture and ill-treatment between 1996 and 1998 in that metropolitan province. Apparently, there were 245 prosecutions which had resulted in 120 acquittals and 15 convictions. The heaviest sentence imposed was three years' imprisonment. Most of the remaining prosecutions were continuing. The figures produced by the General Director of Security related to prosecutions for torture and ill-treatment between 1995 and 1997 throughout all provinces: 257 prosecutions involving 724 officers, which resulted in 123 officers being acquitted and 137 cases pending. There were four convictions and 123 acquittals.

The figures provided by the information service of the Turkish government related to prosecutions for torture and ill-treatment from 1 January 1995 to 31 October 1998. According to these figures 3,230 officers were prosecuted. No information was given on conviction and acquittal rates or on sentencing. These figures present the usual difficulties of interpretation. Apparently, no information was given on the number of complaints made to prosecutors which would have revealed how many complaints were left unprosecuted. No comprehensive data was given on sentencing even though the Justice Ministry must surely keep such statistics. Dates and geography are non-comparable, and it is difficult to reconcile the Security Directorate's figure of 257 prosecutions nationwide for 1995-97 with the figures for Istanbul for 1996-98 and Diyarbak_r for 1998 which total 277.

The survey carried out by the Torture Watch Commission of Istanbul presents a slightly sharper focus, although the research was limited by the lack of access to official sources other than court records. Their figures related to 68 trials of 231 police officers for torture offences opened in 1997, of which 44 had reached a verdict. In 43 of the trials, the officers were acquitted, with only one conviction of two officers. The officers found guilty of torture were fined 750,000 TL (the price of a good quality magazine).

Examination of both sets of statistics reveals an acquittal to conviction ratio which seems high: 87.5% as given by the Istanbul Chief Prosecutor and 96.75% as given by the General Security Directorate. This must be contrasted with the overall acquittal rate for all prosecutions brought to court throughout Turkey of 53%[18].

Sentencing in criminal courts

Examination of trials of security force officers in criminal courts show a number of clearly distinguished patterns. Officers will frequently not appear to give evidence for months or years while the courts will be reluctant to make them appear. Officers will frequently continue on active service, often privileged with promotion, while the trials creep on for years or even decades. Acquittals are sometimes granted in the face of strong evidence, and where sentences are imposed they tend to be minimal and are frequently reduced on appeal. Suspension or conversion to a tiny fine is almost invariably the final outcome.

A typical example is the trial of those responsible for the death of Cengiz Aksakal in Artvin on 18 October 1980[19]. Cengiz Aksakal, a teacher, presented himself for

[18] Reported in the newspaper *Özgür Politika* (Free Policy) of 30 May 1998 as data included in an unpublished paper submitted to the Economic and Social Investigations Foundation of Turkey (TESEV).

[19] Reported in the newspaper *Radikal* of 20 January 1999.

questioning at the gendarmerie post at Veliköy village, near _av_at, in Artvin province. He died in hospital six days later from injuries inflicted during interrogation. His family filed a complaint against the Provincial Gendarmerie Regimental Commander and the non-commissioned officer in charge of the gendarmerie post. The trial continued until 1992, when both defendants were sentenced to four years and two months' imprisonment by Artvin Criminal Court. The sentence was overturned by the Appeal Court, and there was a retrial. This time the two officers were acquitted on the grounds that, although it had been established that Cengiz Aksakal had been tortured to death, there was insufficient evidence to convict the defendants. The verdict was overturned and there was yet another retrial, beginning in 1994, held at Ardahan Criminal Court. In 1997 both defendants were convicted and sentenced to imprisonment for two years and one month. The sentence was confirmed by the Appeal Court in December 1998. Under a partial amnesty in April 1991, prisoners convicted of common criminal offences serve only one fifth of any sentence imposed. In the intervening years, the Provincial Gendarmerie Regimental Commander had been promoted from lieutenant to major and, at the time the sentence was imposed, was serving as Director of the Public Order Department of Antalya Provincial Gendarmerie Regiment Headquarters. The officer in question retired shortly after the verdict was given.

The law's delay - very much a feature in such cases - can permit perpetrators convicted of the most appalling offences to go wholly unpunished. Ali Riza A_do_an was taken into custody in Istanbul on 13 February 1991, while handing out leaflets protesting against the Turkish government's role in the Gulf War. He was interrogated at a police station in the Beyo_lu district of the city. That evening he "fell" from the third floor of the building. An autopsy report revealed that his body bore marks consistent with torture: bruising under the armpits and on the soles of the feet, as well as marks on the fingers and toes. It was never established whether the 19-year-old had jumped from the window to escape torture, or had been thrown (cases of alleged defenestration are not uncommon). Two police officers were tried for torturing him, and on 6 February 1998 were sentenced to five years and six months' imprisonment by Beyo_lu Criminal Court No 1. The Appeal Court confirmed the view that the officers had committed an offence of torture, but overturned the sentences on the grounds that the required period for prosecution had elapsed.

In sentencing, courts frequently seek mitigation where logic would suggest an increased sentence. Vakkas Dost died after being detained at Kumkap_ Police Station for possession of irregular identification papers. Vakkas Dost, reportedly under the influence of alcohol, argued with a police officer who began to punch and kick him. He died of a ruptured spleen. The police officer responsible for the attack was briefly detained and then released. A trial was opened at Istanbul Criminal Court No 3, but the police officer failed to appear. When an arrest warrant was issued, the police officer absconded. The

officer was finally brought to court four years later in November 1997, after being discovered in Buca Prison, Izmir, remanded for a different offence. Although the prosecutor, rather unusually, had requested a sentence of 24 years' imprisonment, the court sentenced the officer to 10 years and eight months in prison under Article 452(2) of the TPC for "causing death unintentionally by wounding or battery". The court then, however, reduced the sentence to six years and eight months on the grounds that there had been "some provocation" and also (surprisingly in view of the officer's abscondment), on the grounds of his "good conduct".

Very occasionally, sentences appropriate to the seriousness of the offence are imposed, but the rule is that police and gendarmes are favoured with the lightest possible sentence. The torture of children might be considered a particularly heinous offence, but criminal courts in Turkey apparently do not take this view. The police chief found guilty of torturing 13-year-old Abdullah Salman, falsely accused of theft, at Kurtulu_ Police Station in Istanbul in 1994, was sentenced to a fine of 900,000 TL (less than $10) by _i_li Criminal Court. Abdullah Salman reported being blindfolded, choked, kicked, punched and subjected to electric shocks while other officers looked on laughing. The Appeal Court overturned the conviction on technical grounds in June 1997 and returned the case for retrial. The police chief in question is reportedly still on duty.

Twelve-year-old Halil _brahim Okkal_ ended up in intensive care after interrogation, for alleged theft, at Ç_narl_ Police Station in Izmir on 27 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 March 1998. These sentences were suspended.

On 24 June 1995 Mustafa Dölek was killed in a security raid on the village of Küçük Cennetp_nar_, Pazarc_k, Kahramanmara_ province. His wife stated that three Special Operations Team (heavily armed police officers) members shot her husband when he opened the door to answer their knock. There was an attempt to cover up the killing. The Special Operations Team officers smashed the door in such a way as to suggest that there had been a fight, and the Kahramanmara_ Public Prosecutor and two doctors reportedly signed an autopsy report to the effect that Mustafa Dölek had died in a shoot-out, as a result of loss of blood from a wound in his leg, and recorded no chest wounds at all. At the request of the family, the body of Mustafa Dölek was exhumed and sent for a second autopsy at another branch of the Forensic Medicine Institute in Adana, which stated that Mustafa Dölek had died of "internal haemorrhage from the right lung

and liver arising from a bullet striking the right side of the chest". The Pazarc_k Public Prosecutor confirmed that no clash had taken place in the village on the day in question. A Special Operations Team officer was convicted of manslaughter and sentenced to eight years' imprisonment. The sentence was later reduced to one year and 10 months and suspended.

A chief commissioner was convicted on 26 December 1996 by Istanbul Beyo_lu Primary Court No 1 of beating Yelda Özcan, a member of the HRA, on 4 July 1994. She reported that her clothes had been torn off and as a result of the beating she received, her eardrum had been perforated. The chief commissioner was sentenced to three months' imprisonment and three months' suspension. The punishments were converted to a derisory fine of 450,000 TL.

Such misplaced leniency contrasts very strongly with other examples of sentencing from similar courts. On 31 August 1998 the Court of Appeal confirmed sentences of nine years' imprisonment for four juveniles accused of breaking into a shop in Gaziantep to steal two kilograms of *baklava* (a type of cake).

The question of whether political influence is directly exerted on the courts is a vexed one. Several high-ranking prosecutors and judges have expressed the view that the courts are not independent. On 9 September 1998 the President of the Turkish Court of Appeals stated: "I cannot proudly affirm that justice, in my country, is independent and perfect. Nor do I have the pleasure of being able to say that the independence of the judges is guaranteed here." Doubts particularly stem from the make-up of the ruling body of the judiciary, the Supreme Council of Judges and Prosecutors, which appoints, transfers, promotes, disciplines and dismisses judges. The Council, as established by the 1982 Constitution, fails satisfactorily to separate the powers of the judiciary and the executive. It is chaired by the Minister of Justice, a Ministry of Justice undersecretary and five judges selected by the President (under the 1961 Constitution, members of the Council were selected by a vote of appeal court judges). Decisions of the Council are not open to judicial review. Discussion within the Turkish government about possible changes to the Supreme Council of Judges and Prosecutors suggests that the government, too, is aware that the Council is far from satisfactory. The bar associations in Turkey have particularly criticized the fact that judges cannot feel secure as to their place on a particular bench. Lawyers feel strongly that "progressive" judges are likely to pay a penalty for decisions displeasing to the state by being moved around or sent to unwelcome corners of the country.

Any public officer accused of torture or similar human rights violations must be afforded the presumption of innocence and every facility to defend themselves in the course of a fair trial. They should also be acquitted unless their guilt has been established

beyond reasonable doubt. But it is against the background of doubts about the questionable independence of courts that acquittals in some prominent cases provoke dismay. Such a case was the repeated acquittal of 10 police officers tried for the torture of 16 juveniles and young people at Manisa Police Headquarters between 26 December 1995 and 5 January 1996.

The trial at Manisa Criminal Court, during the course of which the young victims continued to be subjected to intimidation and one attempted suicide, appeared to be seriously flawed. Most notably, the prosecutor changed the charges from torture to ill-treatment in spite of the fact that the allegations made by the teenagers were among the most distressing that Amnesty International has received. They reported being stripped naked, sexually assaulted, hanged by the arms, and subjected to electric shocks. In March 1998 the police officers were acquitted, but this was overturned by the Appeal Court in October 1998 which concluded that "the defendants had actively participated in torture" and ruled that they should be sentenced. However, a retrial at Manisa Criminal Court concluded on 27 January with a further acquittal.

For the court to acquit in the face of medical evidence and the testimony of an eye-witness (the parliamentary deputy for Manisa, Sabri Ergül) appears to confirm that torture in Turkish police stations is a craft practised with impunity and with the collusion of the judiciary.

System provides for impunity

In some cases courts may be justified in acquitting police officers for lack of evidence, since the entire system - particularly in the case of torture allegations - works to obscure, suppress and destroy evidence of wrongdoing.

Turkish police stations and gendarmeries are castles of immunity. In 1991, Süleyman Demirel, who is now President of the Republic, placed election advertisements promising that if the party under his leadership were elected, the walls of police stations would be made of glass. In government his party did almost nothing to fulfil the undertaking, but the insight into the crying need for transparency was very accurate. Even after the changes to detention procedures brought in by the March 1997 amendments to the Criminal Procedure Code, those detained for offences under the Anti-Terror Law - which include many non-violent offences - can be held completely incommunicado for four days, in spite of the fact that the UN Special Rapporteur on torture and the European Committee for the Prevention of Torture (CPT) have called for incommunicado detention to be abolished. Not only do lawyers, family and friends have no access to detainees during this period, but they are also often reluctant to ask for access for fear that they would be detained themselves, or at least subjected to physical or verbal abuse. This

creates an opportunity for ill-treatment and torture without fear of witnesses observing the behaviour of officers or taking note of signs of injury.

Even after the fourth day, lawyers are almost never permitted access, though they may be allowed to exchange a few words during a brief interview in the presence of police officers. Quite frequently, however, conditions of total incommunicado are maintained throughout the entire period of police custody. A group of 22 people detained from the premises of the left-wing journal *Kurtulu_* (Liberation) were held incommunicado for seven days at the Anti-Terror Branch of Istanbul Police Headquarters. On 12 October, the fifth day of detention, the lawyer Metin Narin was told by the prosecutor that there was no reason why he should not meet his clients, but when he went to the police headquarters the duty chief reportedly refused access. Lawyers are quite commonly sent away with the excuse that no officers are available to arrange access. The Istanbul Bar Association has compiled statistics on access for people detained on common criminal charges, where access is supposed to be immediate. Their 1996 study[20] confirms a similar level of creativity in finding reasons for denying detainees legal counsel.

Any arresting authority must assume a duty of care to its prisoners, including that of scrupulous record-keeping. This 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 prisoners should be registered in a "bound registration book with numbered pages". Amnesty International was therefore alarmed to learn in one "disappearance" case that a gendarmerie was keeping its records in a loose-leaf folio, and from a police officer in Istanbul that records there were kept on computer rather than on paper. Investigations by the European Court of Human Rights in the case of Ayd_n v Turkey (see above) revealed that _ükran Ayd_n had never been registered at all, and that the gendarmerie in question (at Derik, Mardin province) had more or less completely given up registering prisoners for more than a year. When informed by the Turkish government that "Sukran Aydin" could not have been raped and tortured at Derik Gendarmerie between 29 June and 2 July 1993 because she did not appear on the custody record, the European Human Rights Commission asked to examine the documents. The Commission discovered a paradox: 200 people were recorded as detained in 1988 but in the following years - during which the conflict in the southeast escalated dramatically - the number of people recorded as being detained at Derik Gendarmerie fell until just six were recorded for 1993. Two gendarmerie officers claimed that the reduction in detentions was a result of "increased terrorist activity." In its report of 7 March 1996 the

[20] *Views, criticisms and proposals for solution concerning the application of the provisions of the criminal procedure code for 1996*, Criminal Procedure Code Service, Istanbul Bar Association, 1996.

Commission concluded that "the evidence of these officers, as regards the facilities for taking persons into custody and their practice regarding taking persons into custody during 1993, has been less than frank. It finds itself left with serious doubts as to whether the gendarme custody register is an accurate record of persons taken into custody during 1993."

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. Nor is provision made for scrutiny of such records by lawyers or families. Several experienced lawyers have told Amnesty International that they have never been permitted to see registration records. As a consequence, families are often thrown into panic when a relative is detained and apply to officials or other high status contacts to try to obtain information. Much of the energy of human rights organizations is spent trying to secure confirmation that detainees are in official custody.

In November 1993 the United Nations Committee against Torture, in its report on Turkey under Article 20 of the Convention against Torture, stated: "The use of a blindfold during questioning should be expressly prohibited." In his report on his visit to Turkey in September 1998, the UN Special Rapporteur on torture said: "the practice of blindfolding detainees in police custody should be absolutely forbidden." Unfortunately the Regulation on Apprehension, Police Custody and Interrogation of 1 October does not prohibit blindfolding, and the practice continues as a matter of routine. Almost all detainees have their eyes bound while giving their statement. This could be considered a form of torture in itself, and makes the reliable identification of officers responsible for abuses more or less impossible.

It is extremely difficult to achieve a prosecution for torture without a corroborating medical certificate from a doctor or health centre authorized by the State Forensic Medicine Institute. Consequently, police have developed strategies to avoid the risk of detainees securing such a document. Methods of torture which leave no visible marks, such as hosing with pressurized cold water or suspension by the arms from a well padded beam, have been preferred. Rough beating - potentially the most dangerous form of torture - tends to occur in the first hours, apparently in the hope that bruises will have faded by the time the maximum detention period has elapsed. The last two years have seen an increase in unregistered detention. In order to avoid bureaucratic inconveniences such as medical examination, police officers have abducted people for "unofficial" brutal interrogation in vacant areas of land within cities, in deserted areas beyond the city limits, or simply while being driven around in a vehicle.

When detainees are taken for official medical examination, they may be told by police officers that if they declare their injuries they will be brought back to the police station for further "interrogation". Police officers are very frequently present during medical examinations in order to intimidate both the detainee and the doctor. Amnesty International has documented several cases in which misleading medical reports were prepared to suppress medical evidence. In Metin Yurtsever's case, the evidence was straightforwardly destroyed.

Metin Yurtsever, a 45-year-old retired teacher, died in a hospital in Kocaeli, near Istanbul, on 20 November 1998. He had been taken into custody from the local HADEP (People's Democracy Party - a legal party with a predominantly Kurdish membership) office where he was reportedly severely beaten by Anti-Terror Branch officers. Several of his ribs were broken, causing him breathing difficulties. He was taken to hospital but an operation failed to save his life. Police officers reportedly tore up a medical report which had recorded his death as due to torture and beating, and had a second report prepared by the same hospital stating that Metin Yurtsever had died from an "arterial occlusion".

Doctors face possible legal action if they accurately report injuries. Dr Eda Güven was charged under Article 240 of the TPC for "abuse of duty" because, on 23 November 1997, she had issued medical reports recording injuries sustained by two detainees who had been interrogated for theft by gendarmes in Incirliova, Ayd_n province. Her statement to Ayd_n Primary Court, reported by the bulletin of the Turkish Human Rights Foundation (TIHV) of 11 March 1998, vividly conveys the dilemma in which such doctors are placed:

> "At first, I wanted the gendarmes to leave the room. I asked two suspects, who were taken into the room by the gendarmes, whether they had problems with their health. They simply answered 'No.' I told them to leave the room. Then I called two other suspects to come into the room for examination. The gendarmes were still present in the room. I asked one of the detainees if he had problems. There was a trace of blow on his face. He did not reply. At that time I told the gendarmes to leave the room. I asked him again. He was full of fear. He told me 'They will beat us. The gendarmes said to us they would beat us again if we talked about what they did.' I had already seen the traces of torture on their faces. I wrote down in the report all the traces of torture."

On 10 March Dr Eda Güven was acquitted.

Dr Cumhur Akp_nar, a doctor employed at the Ankara branch of the State Forensic Medicine Institute and former executive member of the Ankara Medical

Chamber, was arrested in Ankara in January 1999 and conditionally released on 5 March pending trial. He is charged with aiding an illegal armed organization "by preparing exaggerated forensic reports" under Article 169 of the TPC. By sharp contrast, one doctor who was under suspension by the Turkish Medical Association for issuing a medical certificate which suppressed evidence of torture relating to seven detainees in Istanbul in July 1995, and who was being tried in court for the same alleged professional abuse, was promoted by the Ministry of Justice to the presidency of the Third Specialists' Board of the Forensic Medicine Institute.

Doctors and lawyers have displayed an honourable determination to bring to light vital medical evidence in the case of Baki Erdo_an, who died on 22 August 1993, 10 days after he was detained in Söke, Ayd_n province. It has been a marathon struggle, which is not yet at an end.

Baki Erdo_an's family were not permitted to be present at his autopsy, which recorded respiration failure as the cause of death and noted no marks of violence. When washing his body in preparation for burial, however, the family noticed signs that suggested he had been tortured and recorded them with a video camera. Blood and tissue samples were sent to the First Specialist Board of the Forensic Medicine Institute which concluded that he had died of pulmonary oedema arising from his refusal to take food while in custody. The Board stated that the injuries revealed by the videotape could have been caused by torture, but may also have been self-inflicted.

In response to an application by the family's lawyer, the _zmir Medical Association examined the evidence and issued an alternative report concluding that Baki Erdo_an had died from Adult Respiratory Distress Syndrome. The _zmir Medical Association submitted its report and the video evidence to Ayd_n Criminal Court, which was handling the case, and to the General Council of the Forensic Medicine Institute - the highest body dealing with such issues within Turkey. The General Council concluded that the death had resulted from torture, and that the majority of the marks on his body - and in particular marks at the front of both of his shoulders - could only have been inflicted by a third party. One member of the Council dissented, but this member was the doctor who had initially ruled that Baki Erdo_an had died as a consequence of a hunger strike. Four members of the General Council were subsequently removed from their posts by the Justice Ministry, while the dissenting member was promoted to the presidency of the Forensic Medicine Institute. On 23 March 1998 the prosecutor at Ayd_n Criminal Court felt sufficiently confident in his own medical expertise to contradict the opinion of the General Council of the Forensic Medicine Institute and call for the acquittal of the police officers indicted with torturing Baki Erdo_an, on the grounds that the marks on the front of his shoulders may have been caused by the straps of a rucksack!

On 21 April 1998 Ayd_n Criminal Court No 1 sentenced the Ayd_n Deputy Police Chief, the Chief of the Anti-Terror Branch, and four police officers each to five-and-a-half years' imprisonment under Article 452 of the TPC for "causing death unintentionally by wounding or battery" (see below for details of the police attack on lawyers and spectators on hearing of the verdict). On 23 December 1998, however, the Appeal Court overturned the verdict on the grounds that the original trial was flawed. There will now be a retrial.

Outdated law on prosecution of civil servants

One extraordinary obstacle which many victims have to negotiate in order to reach the courts is the anachronistic Law on the Prosecution of Civil Servants, passed as a "temporary" measure in 1913. One of the few institutions dating from the sultanate which were not reached by Atatürk's reforms, this law gives "local administrative councils", established by the provincial governor, power to decide whether to prosecute members of the security forces for any offence other than intentional killing.

The use of administrative councils to rule on whether or not prosecutions should be opened in response to formal complaints is a clear breach of the principle of separation of powers. Such decisions should only be taken by prosecutors and judges. The administrative councils are comprised of members of the local executive who may have no legal background and may be open to influence from local security force commanders. In certain districts, local commanders of the gendarmerie serve on the councils. Hearings are conducted in secret. Only if the administrative council decides that a case should be forwarded to a local court are complainants and lawyers permitted to participate in the process. Complainants who have been called to testify to the administrative council have stated that they came away from the "hearing" (at which the complainant was not permitted to be accompanied by his or her lawyer) with the clear impression that the investigation was being handled by the local police.

Lawyers report that the administrative councils are used as a method of delaying proceedings almost indefinitely, as complaints of torture or ill-treatment referred to administrative councils can remain undealt with for months or years. Mediha Curabaz, a nurse, alleged that she had been raped with a truncheon adapted to deliver electric shocks while in detention at Adana Police Headquarters in August 1991. Her complaint, which was supported by medical evidence, was referred to an administrative council established by the office of the Adana Provincial Governor, where it was apparently handled by a police investigator. On 2 January 1992 the council decided, on the basis of a report from the Investigating Chief Commissioner of Police, that the five police officers against whom the allegation was made should not be prosecuted "since it has not been possible to secure sufficient evidence that the suspects were guilty of ill-treatment". Mediha

Curabaz's objection to the blocking of her complaint was rejected by the Administrative Court of Appeal. In response, she filed a civil suit for the injury she sustained in police custody. In June 1994 she won this case and was awarded a small sum in compensation, a breach of Article 14 (1) of the UN Convention against Torture, which requires the authorities to make "fair and adequate compensation" to victims of torture.

The Law on the Prosecution of Civil Servants was used to block prosecution of police officers who attacked journalists and lawyers during a hearing in Ayd_n Criminal Court No 1 on 21 April 1998. Prison sentences had been passed on six officers who were found responsible for the death in custody of Baki Erdo_an (see above) in August 1993. According to reports, although the senior magistrate asked for calm before revealing the verdict, some 60 plainclothes police officers reportedly began beating people in the courtroom. Police officers formed a corridor from the courtroom to the exit of the courthouse and beat anyone who tried to escape. Two journalists and four spectators were treated in hospital, one for internal bleeding, another for a ruptured liver. Under the Law on the Prosecution of Civil Servants, the complaints of assault initiated by the local prosecutor were referred to the Ayd_n Provincial Administrative Board which decided in August 1998 that the police officers should not be prosecuted. The grounds given were "insufficient evidence".

A draft "Law on the prosecution of civil servants and other public servants", submitted to the Turkish parliament in 1998, is barely an improvement. It still provides for the civil authorities responsible for policing to assess complaints before they are passed on to the prosecutor. Prosecutors receiving complaints are actually instructed not to proceed with investigations (other than to secure evidence which might be tampered with), but to send the file to the local governor. A clearer breach of the duty to investigate could hardly be imagined[21].

The role of civil society in investigation - commissions of investigation

Article 2 of the UN Human Rights Defenders' Declaration[22] of 9 December 1998 underlines that governments have "the prime responsibility and duty to protect, promote

[21] Turkish law contains a number of other restrictions on the freedom of the judiciary to examine allegations of human rights violations. Article 8 of Decree 430 of 16 December 1990 provides that "no criminal, financial or legal responsibility may be claimed against the State of Emergency Regional Governor or a Provincial Governor within a state of emergency region in respect of their decisions or acts connected with the exercise of the powers entrusted to them by this decree." It has often been commented that the Turkish Constitution of 1982, which contains restrictions to judicial review of acts by the president, decisions of the Supreme Military Council, the Supreme Council of Judges and Public Prosecutors, seems to have been designed to protect the state from the individual.

[22] Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to

and implement all rights and fundamental freedoms". Other articles of the resolution, however, affirm that all citizens have a right to protect and promote human rights, including the right to join in organizations, to assemble peacefully, to investigate, to submit complaints and to observe legal proceedings.

Those state forces responsible for human rights violations cannot feel fully secure in their immunity from prosecution while individuals and organizations are working to document their abuses and bring the perpetrators to justice. Consequently, police, prosecutors, courts and illegal elements aligned with the state have acted to silence them.

The constant official harassment of such organizations as the Turkish Human Rights Association (HRA), the Human Rights Foundation of Turkey and Mazlum-Der (an organization which approaches human rights from an Islamic perspective) has been documented at length in Amnesty International publications. Members of the HRA, in particular, have often been detained and tortured: the Diyarbak_r branch office was destroyed by a bomb in 1991, since when at least 10 members and officials have been attacked and killed.

An example of the risks citizens face in attempting to hold agents of the state responsible for their abuses is the prosecution of three human rights defenders who uncovered evidence that security forces had committed a massacre near the small village of Güçlükonak, __rnak province, in southeast Turkey. Ten passengers and the driver of a minibus were shot dead on 15 January 1996 on a mountain road. The minibus, with the bodies of the passengers still inside, was then destroyed by fire. All 11 victims were local Kurdish men. The minibus, accompanied by a gendarmerie sergeant who was unharmed in the massacre, had been transporting six detainees suspected of helping the illegal Kurdish Workers' Party (PKK) and five escort village guards.

Both sides in the bitter 14-year conflict between government forces and the PKK have been responsible for many civilian deaths. The authorities were quick to blame the PKK for the atrocity, although the PKK denied responsibility. The official version of events was challenged, however, by several relatives of the dead who said that they believed that local security forces had killed the men. Villagers pointed to the heavy presence of security forces and a military helicopter in the area at the time of the killings. The wife of one of the victims commented:

> "PKK? What PKK? Have you not seen the scene of the event? On one side runs the river Tigris below with village-guards' positions just across the river. On the other side sharp rocks with military positions at the top.

> Two kilometres to the north, Ta_konak Gendarmerie. Three kilometres to the south, Koçyurdu Gendarmerie. PKK guerrillas must be birds or earthworms to carry out such an attack and disappear so quickly!"

In February 1996, in an attempt to resolve these conflicting claims, a broad-based delegation of respected and prominent Turkish and foreign citizens were invited by an independent Turkish group, "Together for Peace", to conduct a fact-finding mission to Güçlükonak. Overcoming official obstacles, the delegation travelled to the scene and set about interviewing witnesses. The evidence collected by the delegation pointed to security force involvement in the killings. Village guards positioned close to the site of the massacre who had seen the smoke of the burning minibus said they had been ordered by gendarmes not to intervene. These village guards also reported that a helicopter had landed twice, disembarking soldiers. Although the bodies of the victims were charred beyond recognition, the gendarmerie sergeant travelling with the minibus later produced the victims' identity cards, untouched by fire, to the State Prosecutor. The sergeant had cause to be holding the detainees' identity cards; less explicable was his possession of cards belonging to the driver and escort guards. According to villagers, as soon as the State Prosecutor saw the undamaged identity cards he left the area, abandoning his investigation: "He understood everything!"

On their return to Istanbul the delegation submitted their findings to the authorities, asking for further investigation and for those responsible to be brought to justice. For three months the authorities did nothing. Then, in April 1996, three members of the delegation, exasperated by the official inaction, submitted a formal complaint to the Public Prosecutor in which they accused the security forces of committing the massacre and Turkey's Chief of General Staff of engaging in a cover-up. At this point the authorities acted, but against the investigators rather than the perpetrators. The three delegation members -- musician _anar Yurdatapan, former trade union leader Münir Ceylan, and former president of the Istanbul Human Rights Association, lawyer Ercan Kanar -- were charged with "insulting the security forces". In February 1998 the three men were sentenced to 10 months' imprisonment. On 24 February 1999 this verdict was rejected by the Appeal Court and the case returned to the lower court for a new hearing. While this latest judgment represents a partial victory for the three men, their retrial may still lead to imprisonment for their efforts, in good faith, to cast light on the events at Güçlükonak.

To date there has been no thorough official investigation of the Güçlükonak Massacre. Its perpetrators remain free. The Turkish government has said that it considers the case closed and is not prepared to launch an independent inquiry. (For detailed information see *Turkey: "Birds or earthworms" - The Güçlükonak Massacre, its alleged cover-up, and the prosecution of independent investigators,* Amnesty International, AI Index: EUR 44/24/98, June 1998.)

Since May 1995 relatives of people who “disappeared” in police custody have been holding a weekly vigil in central Istanbul, demanding that the authorities account for the fate of their loved ones - some of the more than 100 people who are reported to have “disappeared” in police custody since 1991. They are known as the Saturday Mothers, since they gather every Saturday at midday in front of Galatasaray highschool in Istiklal Street, holding pictures of their “disappeared” sons, daughters, husbands, wives, fathers and brothers. Each time they meet, a press announcement is read out detailing the case of one of the “disappeared”, but otherwise the vigil is intended to be held in silence.

Throughout the three years of their vigil the relatives have encountered police harassment, ill-treatment, detentions and prosecution, but have so far been able to meet every Saturday since their first appearance. They have attracted considerable attention in Turkey and abroad to their plight and there is no question that it was their courageous and determined stand that turned back the wave of “disappearances” which reached a peak in 1994. Since May 1998, however, the Saturday Mothers have faced heavy-handed police repression. Police officers have quite explicitly stated that they aim to halt the peaceful protest. Representatives of the Mothers strongly assert, “We search for our ‘disappeared’ relatives silently and peacefully. Our aim is not to disturb the peace or engage in civil disobedience or inconvenience the public”.

On 9 May, the eve of Mothers’ Day, police detained 12 people including several elderly women, while beating them. The police reportedly continued beating the detainees inside the police vehicle before taking them to the prosecutor’s office in Beyo_lu where they were released. In mid-August further detentions occurred and from then on the situation deteriorated from week to week.

On 29 August the area around the customary meeting place was crowded with police in uniform and plain clothes from mid-morning onwards. Later on, police wielding truncheons charged the protesters and detained some 160 people. Some of the women fainted and one had to be taken to hospital. Four lawyers among those detained were released the same day, whereas the public prosecutor authorized police to hold the others for four days. About 100 detainees were released on 1 September, the remainder on 2 September.

Police violence escalated on 26 September, when the security forces not only forcibly dispersed the group, but continued to beat the 31 detainees inside the police bus. News footage showed officers spraying pepper gas into the bus before closing the doors. When those inside, fighting for air, desperately tried to open windows they were beaten. Some fainted and all had to be taken to Haseki Hospital to receive treatment. They were held in police custody until 28 September and then charged with "resisting the police",

"destroying public property" and "acting in breach of the Law on Assembly and Demonstrations". (For detailed information see *Turkey: Listen to the Saturday Mothers,* Amnesty International, AI Index: EUR 44/17/98, November 1998.)

The Mothers' vigil has been remarkably effective in arresting the use of "disappearance" as a tool of intimidation and elimination, and an eloquent demonstration of the role of civil organizations in tackling human rights violations. However, it is the state's failure to investigate that brings the relatives to Galatasaray every Saturday. The UN Declaration on the Protection of All Persons from Enforced Disappearance recommends that authorities carry out prompt, thorough and impartial investigations into every report of "disappearance". To Amnesty International's knowledge, no investigations satisfying these criteria have yet been carried out.

Instead, on 20 December 1996 the Turkish police established the "Bureau for the Investigation of Disappearances" (see page 14 above). Many relatives of "disappeared" persons are sceptical of this project, and suspect that its real purpose is to deflect public disquiet about "disappearances" and discredit those who demand genuine investigations into the fate of the "disappeared". The Bureau positioned a bus at Galatasaray where relatives were invited to submit applications for information. Police have shouted at detainees, telling them that their children were not really lost, and that they should be content to register their details with the Bureau's bus. As one member of the vigil commented: "They want us to complain to them, but how can I go and complain to the people who made my husband 'disappear'?"

Experience worldwide has shown that in contexts of intense conflict where state institutions are effectively mobilized for war, conventional methods of judicial investigation are inadequate to cope with violations such as the Güçlükonak Massacre and the long list of "disappearances".

The UN Principles contain many detailed provisions designed to protect the integrity of the investigation. Any such investigative commissions should be equipped to protect complainants and witnesses from violence, threats of violence or any other form of intimidation. Families and their lawyers should be admitted to hearings. The commission should give a public report on its methods and findings. The government in question should reply to the report, and where perpetrators are identified, they should be brought to justice. Families should be compensated.

This is the standard of investigation demanded by the relatives of those massacred at Güçlükonak, the mothers who gather at Galatasaray each Saturday and by international human rights standards. The Turkish government owes it to the living, the dead and the "disappeared" to establish such commissions, to uncover the truth, and to bring the perpetrators to justice.

Recommendations

Amnesty International is taking action to highlight impunity and to combat those measures which enhance immunity from prosecution. The organization also calls for much closer and more energetic supervision of the practices of security forces.

Amnesty International is making recommendations to the Turkish government for improvements in investigation, prosecution and supervision in order to combat impunity and the abuse of police powers. The High Council for Human Rights, under the presidency of the State Minister for Human Rights, has already conducted discussions and made proposals in a number of the areas covered. Amnesty International supports many of these initiatives, urging that reforms are enacted quickly, but also thoroughly, 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 Torture Committee, 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.

Amnesty International calls on the Turkish government:

- To outlaw the practice of blindfolding in police custody, and to prosecute any officer found guilty of blindfolding.

- To open detention records for scrutiny by families of detainees and by lawyers, and to prosecute officers who fail to keep proper records.

- For the Ministry of Justice to keep readily available statistics of complaints, prosecutions, convictions and sentences relating to ill-treatment, torture, "disappearance" and extrajudicial execution.

- For the standard reporting forms for forensic medical reports recommended by the Istanbul Human Rights Foundation and the Turkish Medical Association to be generally adopted.

- To pass the draft amendment of Article 345 of the penal code which would incriminate the issuing of false medical reports concealing torture and ill-treatment and which would punish perpetrators with four to eight years' imprisonment.

- To pass planned legislation revising the wording of Articles 243 and 245 of the TPC, which would increase the penalties for torture and ill-treatment and ensure prosecution of torture irrespective of whether or not the aim of the torture is to extract a confession, as recommended by the High Council for Human Rights, chaired by the State Minister for Human Rights.

- For thoroughgoing reform of the Law on Prosecution of Civil Servants 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.

- For reform of the High Council of Judges and Prosecutors in order to restore genuine independence to the judiciary.

- For judges to be clearly instructed as to the gravity of the offence of torture and the need for appropriate sentencing, in line with Turkey's obligations under international treaties.

- To establish a body to review the convictions based on evidence alleged to have been extracted under torture and, where appropriate, to arrange for prompt retrial.

- For police officers or gendarmes under investigation or trial for ill-treatment, torture or "disappearance" to be suspended from duties which bring them into contact with prisoners.

- For police officers or gendarmes convicted of torture or ill-treatment to be dismissed from the force.

- For extensions to detention periods to be authorized only after the prosecutor and/or judge has examined the case file, and personally examined the prisoner.

Amnesty International is also calling for the Turkish government to include civil society in mechanisms to observe and report on the activities of police and gendarmerie. In particular, Amnesty International encourages the adoption of police station visiting schemes which are already operating in many countries worldwide. Under such schemes, local persons trusted for their independence and commitment to human rights should visit

police stations and gendarmerie posts to talk to prisoners and inspect facilities. As the UN Human Rights Defenders' Declaration notes (Article 18(2)): "Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes."

Amnesty International also urges that the recommendations of the UN Special Rapporteur on torture and the UN Working Group on Enforced and Involuntary Disappearance, both of whom visited Turkey during 1998, be implemented with all speed. The recommendations appeared in *UN Special Rapporteur on torture: report on visit to Turkey*[23] and the *Report on the visit to Turkey by the Working Group on Enforced or Involuntary Disappearances*[24].

[23] Reference E/CN.4/1999/61

[24] E/CN.4/1999/62