

£TURKEY

@Torture, extrajudicial executions, "disappearances"

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I Introduction

1991 brought the release of long-term prisoners of conscience¹ and the commutation of all existing death sentences, both important steps for which Amnesty International has been calling for many years. In November a new government, formed by Prime Minister Süleyman Demirel, admitted that torture was a significant problem in Turkey, and repeatedly declared its determination to introduce measures to end the practice. However, by May 1992 no practical or legislative steps had been taken and the already large volume of credible torture allegations had, if anything, increased. Deaths in custody believed to be the result of torture continued throughout 1991 and into 1992. The most serious development was a sharp rise in the number of "disappearances" and alleged extrajudicial executions, with death-squad style killings in Mardin Province.

II The Anti-Terror Law - Prisoners of conscience and the death penalty

In April 1991 Turkey's Anti-Terror Law (Statute No 3713) was passed. For many years Amnesty International, and many other organizations both inside Turkey and abroad, had appealed for the release of prisoners of conscience convicted under Articles 140, 141, 142, and 163 of the Turkish Penal Code (TPC) and Law 2932².

All these laws were repealed by Provisional Article 23 of the Anti-Terror Law, bringing about the release of dozens of prisoners of conscience some of whom had been held for 11 years for the non-violent expression of their political beliefs. The Anti-Terror Law also provided for the reduction in sentence and conditional release of an estimated total of 29,000 prisoners.

¹Amnesty International considers any person who has not used or advocated violence and who has been detained for their beliefs, colour, sex, ethnic origin, language or religion to be a prisoner of conscience.

²Article 140 - Spreading information or carrying out activities abroad which damage the reputation of the Turkish State. Article 141 - Leading an organization which intends to establish the domination of one social class; Being a leading member of more than one such organization; Being a member of such an organization. Article 142 - Disseminating propaganda intended to establish the domination of one social class; Disseminating separatist propaganda; Disseminating propaganda undermining national pride. Article 163 - Leading an organization which intends to convert the State to religious rule; Being a member of such an organization. Disseminating propaganda for the same purpose. Law 2932 - Prohibiting the communication of ideas in a language which is not an official language in a state recognised by Turkey.

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However, Article 8 of the Anti-Terror Law permits individuals to be detained and charged with disseminating separatist propaganda even when they have not advocated violence and a number of individuals Amnesty International considers to have been prisoners of conscience have been held for periods of weeks or months pending investigation of charges under Article 8. One such prisoner was the Turkish singer Vildan Sarpün who was arrested on 15 August 1991 for shouting a slogan - "Long live Kurdistan" - in Kurdish at a nightclub in Bitlis. She was held in a local prison and later transferred to Diyarbakır Prison before appearing in Diyarbakır State Security Court on 27 September, when she was acquitted.

A number of trials are currently in progress against people who, if convicted and sentenced to terms of imprisonment, would be considered by Amnesty International to be prisoners of conscience. Nevertheless, Amnesty International is not aware of any individuals currently serving terms of imprisonment for the non-violent expression of their beliefs.

Amnesty International welcomed another very positive development under Provisional Article 1 of the Anti-Terror Law: the commutation of all death sentences for crimes committed before 8 April 1991 to terms of imprisonment which varied according to the article of the penal code under which the original sentence was given. At the time the law was passed more than 250 prisoners under sentence of death had exhausted all legal appeals and only the approval of parliament would have been required for their executions to go ahead. The commutation of death sentences, combined with the repeal in December 1990 of 16 articles of the TPC providing for imposition of the death penalty, the Justice Minister's expression of his personal opposition to the death penalty shortly after the formation of the new government in November and the interval of nearly eight years since the last execution encourages Amnesty International to hope that Turkey may take the step of complete abolition of the death penalty in the near future.

The Anti-Terror Law was presented to the public, parliament and the international community as a measure which would allow the police and security forces to combat the violent activities of armed opposition groups. Amnesty International unequivocally condemns the torture or killing of prisoners by anyone, including opposition groups. It also condemns the deliberate and arbitrary killing by armed opposition groups of people taking no part in armed conflict, as well as hostage-taking by such groups. The organization recognizes that governments may have to take special measures to counter widespread political violence, but has expressed great concern over a number of provisions of the law which may result in human rights violations - most notably the provisions for solitary confinement (see below).

The organization also expressed its misgivings concerning the extra barrier placed before those persons making allegations of torture or ill-treatment by Article 15, paragraph 3 of the Anti-Terror Law under which all such claims were referred to a "local administrative council" which had the power to block legal proceedings against a police officer accused of ill-treatment or torture³ (see III iv below: Failure to investigate complaints of torture). On 31 March the Constitutional Court repealed Article 15 paragraph 3, when making its final rulings with respect to the Anti-Terror Law, as a result of which complaints will now once again be dealt with directly by public prosecutors instead of being referred to the local administrative council. However, in the southeastern provinces under emergency legislation, the investigation of allegations of torture made against the security forces will continue to be subject to the approval of local administrative councils in accordance with the Law on Prosecution of Civil Servants.

The Anti-Terror Law reduced the sentences of thousands of prisoners convicted of common criminal offences, but made much smaller reductions for those political prisoners who had been convicted of working for the violent

³Article 15, paragraph 3: Where officers and superiors of the police and/or intelligence service or other public servants engaged in combatting terrorism are publicly prosecuted for crimes allegedly committed during the course of their duty, the provisions of the Law on Prosecution of Civil Servants will be applied in cases of negligence and all other offences, except for crimes of murder or attempted murder.

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overthrow or partition of the state under Articles 146 and 125 of the TPC. A number of appeals were made to the Constitutional Court by courts hearing trials under Article 146, claiming that the discriminatory provisions of the Anti-Terror Law were in contravention of the constitutional requirement of equal treatment for all citizens. On 22 July 1991 the Constitutional Court ruled that these provisions were indeed unfair and unconstitutional, and ordered a revision of the law which resulted in the release of a further 1000 prisoners who had been convicted under Article 146. However, those convicted for alleged actions as members of organizations working for the violent partition of the state under Article 125 of the TPC remained in prison pending a separate appeal. Despite the Constitutional Court's earlier opinion that the discrimination against those convicted under Article 146 of the TPC was unfair and unconstitutional, the Court nevertheless ruled that the more severe conditions for those convicted under Article 125 (for offences fully comparable to those convicted under Article 146) should not be lifted. As a result more than 200 mainly Kurdish prisoners remain in prison, many of them convicted after unfair trials in military courts in the years following the military coup in 1980. These proceedings were marked by widespread allegations of torture and the use of statements taken under torture as evidence. The defendants' rights to legal counsel and to prepare a defence were severely curtailed or ignored. Almost all defendants report that they were unable to engage a lawyer; those lawyers who were prepared to represent political defendants were prevented from discussing the case freely with their clients, and oral presentations to the court were cut short. In many cases defendants were not even permitted pencil or paper to prepare their defence or to take notes of the proceedings against them. Amnesty International has appealed to the Turkish Government on numerous occasions for such prisoners to be retried.

The Constitutional Court made no changes in Article 16 of the Anti-Terror Law which provides for a regime of solitary confinement and extreme isolation of prisoners convicted or remanded in custody under any article within the scope of the Anti-Terror Law. Amnesty International is concerned that any further attempt to apply Article 16⁴ may result in prison conditions which amount to cruel, inhuman or degrading treatment or punishment. Amnesty International has repeatedly called for the repeal of this article.

III Systematic practice of torture continues throughout Turkey

The stream of allegations of torture reaching Amnesty International and appearing in the Turkish press has continued uninterrupted throughout 1991 and early 1992. In its 1991 annual report the independent Turkish Human Rights Foundation stated that it had received information, mainly through the daily press, about 168 incidents involving the torture of 552 people, of whom 218 had obtained official medical reports which supported their allegations.

The same factors which in the past have contributed to the high incidence of torture persist unchanged. Together these factors form a system which effectively permits torturers to continue their activities. They are:

i) Detainees are held for extremely long terms of police detention, frequently exceeding even the statutory limits⁵.

⁴ During the week ending 5 November 1991 198 political prisoners were transferred to Eskişehir Special Type Prison, which had been converted to meet the requirements of the Anti-Terror Law. Many of the prisoners alleged that they had been severely beaten upon arrival at the prison, and that their clothes had been taken from them. A group of 14 doctors were allowed into the prison to examine prisoners, and on 18 November 1991 the Turkish Medical Association announced that 119 of the prisoners had bruises or other wounds confirming the allegations of beating. Following widespread protests, a meeting of the Council of Ministers was held on 24 November 1991, and a decision was taken to close Eskişehir Prison, to halt the practice of long-term isolation and to transfer the prisoners to other prisons.

⁵ In practice the statutory limits are 30 days in the 10 provinces of southeast Turkey under Emergency Legislation, and 15 throughout the rest of the country.

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- ii) Detainees are held in incommunicado detention which is the almost unvarying rule.
- iii) Government-employed doctors and authorized medical centres frequently issue misleading medical reports.
- iv) Complaints of torture are routinely ignored, delayed or suppressed.

i. Long period of police custody

International standards on human rights require that detainees be brought promptly before a judge (cf Principle 11 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; Articles 3 and 4 of the European Convention for the Protection of Human Rights and Fundamental Freedoms) because it is widely recognized that lengthy police custody tends to facilitate ill-treatment and torture by giving time for the victim's wounds to heal and for bruises or other evidence to disappear.

Government figures, which Amnesty International is not in a position to confirm or deny, state that extension of the detention period beyond 24 hours is granted in only 1.7% of cases⁶. However, of 49 detailed reports of torture alleged to have occurred since November 1991, the average detention period of those detained in the Emergency regions was 12 days and for those detained in Istanbul, Ankara, Izmir, and Gaziantep, the average was just over 9 days.

Even the very long periods of police custody provided for in the Turkish Criminal Procedure Code (TCPC) are quite often exceeded. For example, several detainees taken into custody in Ankara during June 1991, in the operation described in the case of Murat Demir (see below) were held by the police well in excess of the maximum detention period permitted in Ankara - some for over 21 days, some for 35 days.

Successive Turkish governments have expressed their intention to reduce the detention period. In March 1991, in a written answer to questions put by members of the EC-Turkey Joint Parliamentary Committee at the European Parliament, Turkish delegates answered criticism concerning the long detention period by saying: "The Government has already submitted a draft bill to reduce the detention period for collective crimes to four days for cases in ordinary courts and to six days in State Security Courts." The draft referred to was first announced on 13 September 1989. The protocol for the formation of the new coalition government in November promised that: "The duration of police detention would be shortened. Torture and allegations of torture will be eliminated." However, although the Turkish press carried reports about a debate within the government on a suggested detention period of four days, by May 1992 no legislative or practical changes had been made.

ii. Incommunicado detention

Amnesty International has repeatedly expressed its concern that both those suspected of political offences and those suspected of criminal offences are held incommunicado, thereby greatly increasing the risk that they may be tortured. In response, the Turkish authorities have frequently declared either that detainees are not held incommunicado, or that measures are being taken to end the practice. As there is no basis in Turkish law for the imposition of incommunicado detention, granting access for lawyers need not require any revision of Turkish law. Article 136 of the TCPC states that detainees have the right to seek the assistance of, and consult with, legal counsel at any stage of the investigation. This right was again restated in a circular issued by the Justice Ministry on 7 May 1991.

⁶ Paragraph 30 of a letter from the Permanent Representative of Turkey, dated 8 August 1991, to the Chairman of the 43rd Session of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities. UN Document No: E/CN.4/Sub.2/1991/53. AI Index: EUR 44/29/92 Amnesty International May 1992

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In fact, access by lawyers or family to detainees is almost unknown. Out of 455 cases of named detainees held in police custody monitored by Amnesty International between September 1990 and September 1991, access to lawyers or family was permitted in 10 cases, and access to a doctor in one. Allegations of torture were made in respect of 210 of these cases. Twenty-one people declared that they had not been tortured - including all but one of those who were permitted access to legal counsel, family or doctor. Of the 49 persons mentioned above who gave detailed accounts of torture in police custody in Istanbul, Gaziantep, Siirt, and Ankara since November when the new government was formed, 46 were held completely incommunicado. Only two of those detainees, one in the Anti-Terror Branch of Izmir Police Headquarters, and the other in the Anti-Terror Branch of Istanbul Police Headquarters were permitted to see their lawyers. Another detainee was permitted to see his family on the last day of his 12 days of detention in the Criminal Investigation Branch of Izmir Police Headquarters.

The case of Murat Demir and Bedii Yarayıcı described below exemplifies many of the features of the system which permits detainees to be tortured and graphically illustrates the problem of incommunicado detention. Even in this highly publicized case, unfolding in the Turkish capital, the detainees' legal counsel was completely unable to obtain access - and even the Justice Minister was forced to confess that he was unable to ensure respect for the right of access.

A picture is conveyed of apparent official acquiescence in the practice of incommunicado detention. The lawyers Murat Demir and Bedii Yarayıcı, and a woman journalist, Deniz Teztel, were detained in Istanbul on 13 and 14 June 1991, respectively, and taken to the First (Anti-Terror) Branch of the Police Headquarters in Ankara. Police sources stated that the operation was in connection with the assassination on 23 May 1991 of General Ismail Selen in Ankara. *Devrimci Sol* (Revolutionary Left) had claimed responsibility for a number of political assassinations in recent months involving high-ranking military and police officers. The lawyers Murat Demir and Bedii Yarayıcı have often represented alleged members of *Devrimci Sol*. Deniz Teztel is a journalist who has for many years reported on trials of political prisoners in Istanbul Military Courts, including the *Devrimci Sol* trials.

On 19 June, the detainees were brought before press and television cameras. It was alleged that they were members of *Devrimci Sol* and suspected of involvement in the organization's armed activities. Journalists present at the occasion reported that Murat Demir shouted that he had been tortured and as a result could not move his hands.

All applications by the detainees' lawyers to see them in Ankara Police Headquarters were refused by the Chief Prosecutor at Ankara State Security Court. The President of the Istanbul Bar Association, Turgut Kazan, applied for access to Deniz Teztel, Murat Demir and Bedii Yarayıcı, but this was also refused by the Ankara Chief Prosecutor. On 22 June, the newspaper *Cumhuriyet* published a report of a press conference which Turgut Kazan had held the previous day. According to this account he stated that he had telephoned the Justice Minister and the Interior Minister on 20 June and asked to be granted access to the three detainees. Turgut Kazan said that Mahmut Oltan Sungurlu, then Justice Minister, replied: "*You are asking me to do something very difficult. Demiral (Nusret Demiral, the Chief Prosecutor at the Ankara State Security Court) does not listen to me. I will try again, but I am not very hopeful.*" Later that day Nusret Demiral confirmed that he had heard from the Justice Minister, but went on to express the view that detainees had no right to consult their legal counsel. Turgut Kazan later received a written refusal from the Chief Prosecutor's Office at Ankara State Security Court repeating the assertion that detainees had no right to consult their lawyers and that, therefore, his request for access was denied. Turgut Kazan was permitted to visit the lawyers only after they had been transferred from police custody to prison.

According to *Cumhuriyet* of 28 June, the new Justice Minister, Şakir Şeker, responded to the question: "*Shouldn't the lawyers and the journalist Deniz Teztel be permitted access to their lawyers?*", saying: "*Even if you are the Justice Minister, you cannot apply pressure on this issue. That would just create other problems. Such a question depends on the judgment of the public servant. If he wanted, he could have given permission. Was it better to give permission or to withhold it? It depends on the judgment of the public servant. We cannot intervene on this question.*"

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In my opinion it should have been given. But if it was not given, there is nothing we can do about it."

In a statement given later by Bedii Yarayıcı, he alleged that he was tortured for six days. The methods included beating, being suspended by his wrists with his arms tied behind his back, electric shocks to his fingers and his penis. The interrogators forced their fingers and the end of a hose into his anus. He informed the interrogators that he suffered from a heart condition, but was nevertheless punched and kicked in the chest. After he had fainted, he was examined by someone he assumed to be a doctor.

Murat Demir reported that he was stripped naked, after which he was placed on a foam mattress and cold water from a hose was turned at high pressure onto his head and his testicles for approximately one hour. His wrists were then bound with wet cloths and he was suspended from a pole in a position as if crucified, for about 30 minutes. His testicles were squeezed while he was hanging. Murat Demir stated that this happened on two successive days after which he was taken to his home while it was being searched. He saw a State Security Court Prosecutor in his home and showed him the lesions on his wrists and said that he was being tortured. Murat Demir reported that he was later hung by his arms or legs in three different ways, but that each time his wrists or ankles were bound with wet cloths or sponges. (This is a common practice to reduce the possibility of lesions being caused to the victim.) He was also given electric shocks through his right thumb and his penis while suspended, and stated that attempts were made to force objects into his anus. He alleged that he was tortured on all but two of the 14 days of police detention, and that he was blindfolded before being tortured. However, he claimed that on one occasion he was beaten when his eyes were not bound and was, therefore, able to identify one of the perpetrators, a police superintendent, by name.

On 28 June 1991, Deniz Teztel, Murat Demir and Bedii Yarayıcı were formally arrested by Ankara State Security Court and committed to prison on suspicion of acting as couriers for *Devrimci Sol* and charged under the Anti-Terror Law and Article 168 of the TPC. On the same day, 28 June, they were taken to the Forensic Medicine Institute for medical examination. Medical reports were issued which confirmed that Murat Demir and Bedii Yarayıcı had received injuries consistent with their allegations of torture.

A group of members of the Turkish Parliamentary Human Rights Commission interviewed Murat Demir and Bedii Yarayıcı in Ankara Closed Prison on 5 July 1991. According to their preliminary report they examined them physically and found red marks and bruises on Murat Demir's feet, bruising and reddish areas in the pubic area, as well as marks on Bedii Yarayıcı's wrists.

Several detainees taken into custody during the same operation were held by the police for over 21 days, and one for 35 days, well in excess of the maximum detention period permitted in Ankara.

The lawyers Murat Demir and Bedii Yarayıcı and the journalist Deniz Teztel were released by Ankara State Security Court on 17 January 1992. Their trial continues. No legal proceedings have been taken in connection with their torture allegations.

iii. Misleading medical certificates.

Detainees are held for extended periods so that physical evidence of torture will fade before they are brought before a doctor or a court. However, detainees also commonly complain that they are not properly examined at the end of police custody, and that police or soldiers are often present during the examination in order to discourage them from complaining or the doctor from preparing a comprehensive and accurate medical report.

A striking example of this problem is the case of Erdoğan Kızılkaya. According to a statement made by 23-year-old Erdoğan Kızılkaya after his release, he was taken into custody from his family home in Kayseri, central Turkey, on 4 August 1991. His hands were bound and he was put into a police vehicle. The police began to punch him from

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the moment he entered the vehicle, and threatened that they would kill him. He was taken to Kayseri Police Headquarters. He was medically examined and a certificate was issued, dated 5 August 1991, which stated that there were no signs of injuries on his body. He alleges that he was made to lie down on the floor and was then trampled upon, before his clothes were taken off and he was taken to an interrogation room. There electric shocks were applied to his penis, hands and feet. He was then hung up by the wrists and electric shocks were again applied to his extremities and sexual organs. He stated that he was tortured in a similar way for two more days, and that during the third torture session his testicles were twisted, and his penis was hit repeatedly with a truncheon. Then an attempt was made to rape him with a truncheon smeared with grease.

On 9 August 1991, shortly before being brought before the prosecutor, Erdoğan Kızılkaya was examined by a doctor at the Aydınlikevler Health Centre, authorized by the Turkish Ministry of Health to carry out forensic examinations. The medical report states: "Examination showed no marks of blows or force".

Erdoğan Kızılkaya was formally arrested on the same day by Kayseri State Security Court and committed to prison. He was apparently in such a poor state of health that three prison officials, including a prison health officer, prepared a report, stating: "When Erdoğan Kızılkaya came to this prison on 9.8.1991 at 17.15 hrs after having been arrested by the State Security Court, it was noted that there were wounds on his wrists and signs of blows on various parts of his body. A dressing was applied by the prison medical officer after which the prisoner was sent to the closed section of the prison."

A prison doctor examined Erdoğan Kızılkaya at 9pm the same evening and prepared a report noting the following injuries: "Bruising above the right eye, an area of bruising 2.5 x 3 cm on the right cheekbone consistent with a blow from a blunt object; areas of bruising on the left shoulder and the right shin, again consistent with a blow from a blunt object; lesions around both wrists apparently caused by rope or string; second degree burns, measuring 3 x 3.5 cm on the left scapula and 2.5 x 3 cm on the right scapula, possibly caused by electric current; on the left ankle three separate burns each measuring 1 x 1 cm, possibly caused by electricity".

Because of pain and tenderness in the stomach and kidney areas, the prison doctor recommended that Erdoğan Kızılkaya be urgently referred to Kayseri State Hospital, where he was examined two hours later. The State Hospital report corroborated the prison doctor's findings, and in addition found bruising on the penis. Erdoğan Kızılkaya was given a report certifying that he would be unfit to work for five days.

On 11 September 1991, Erdoğan Kızılkaya was released pending trial by Kayseri State Security Court on charges of passive resistance to arrest and membership of an illegal armed organization. Photographs taken the same day, that is, a month after the alleged torture took place, still showed the traces of torture. In September, his lawyers submitted a formal complaint to the Kayseri State Prosecutor against the doctor who had signed the apparently fraudulent certificate, and another complaint against those responsible for the torture. In accordance with the Anti-Terror Law, the prosecutor referred the complaint to the local civil administration for evaluation, rather than immediately opening a case against the torturers who were named by the victim. His trial for membership of an illegal organization continues in Kayseri State Security Court.

The experience of Şükrü Yılmaz, detained on 4 March 1992 in the Şağosele district of Beşiri, Batman province, is a further and recent example of the issuing of misleading medical certificates.

"I was blindfolded at the Gendarmerie station and taken to their interrogation centre in Batman. While I was there I was tortured horribly. I will try to explain what happened.

"They spread out my arms and tied them to an iron pipe. Then they lifted me upwards. I hung there as if crucified. While I was hung there, they attached an electrical generator to my little toe and to my penis. They poured water

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over me and started to give electricity. At the same time, another person was attempting to insert a truncheon or a bottle into my anus, and made me bleed. Another was squeezing my testicles. I could not stand the pain and fainted ... During the first session of torture they [claimed that] I was in contact with the PKK, that I was a member of the Hasankeyf, Batman committee of the organization, and they wanted me to show them the organization's hideouts in that area. However, I continually denied having anything to do with such business. They said: 'You initiated the protest shop closures in Hasankeyf'. I said it was not true. In the second torture session they repeated the same torture, saying 'We have made even stones talk here. We will make you talk. If we cannot make you talk we will all congratulate, celebrate and each in turn kiss your penis'. After being crucified a second time, I once again fainted. Then they laid me down and subjected me to falaka, passing my feet through the back of a chair. One of them sat on my legs. Most of my body was lying naked on the concrete, and two people beat the soles of my feet. It was obvious that they were experts at the job. I do not know how long it lasted. Eventually I could not feel anything any more. They threw me naked into a cell. There was nothing in the cell. I slept on the concrete. About two days later Ahmet Yıldırım who was detained with me gave me his clothes to wear. I was given no food at all while in detention. Later I learned that Burhan Serikli who had been detained with me had been killed. (Burhan Serikli, aged 18, who had been detained with Şükrü Yılmaz, died in custody on 8 March. The prosecutor in Batman stated that the conclusions of the autopsy were that Burhan Serikli had "hanged himself by his blindfold" and that no further inquiries would be made into the incident.) After this the other detainees were brought before the prosecutor. But because I was in a bad state, they did not bring me before the prosecutor. They kept me waiting for a further five days for the marks of torture to disappear. I was taken to Beşiri Public Prosecutor five days after the others were arrested. The prosecutor released me. The marks of torture are still plainly visible."

Şükrü Yılmaz's lawyer reported that before being taken to the Beşiri Prosecutor on 14 March he was taken to Beşiri Health Centre where he was given a certificate stating that he had no injuries. On 17 March examination by three independent doctors showed that Şükrü Yılmaz had injuries in the genital region, widespread bruising in both arms consistent with trauma from a blunt object, serious swelling of the left hand, forearm and upper arm, bruising and slight swelling on the soles of both feet.

A formal complaint was made concerning Şükrü Yılmaz's torture by the President of Batman Bar Association and four other lawyers acting on his behalf. His health condition deteriorated following his release and he received further treatment at Diyarbakır State Hospital.

iv. Failure to investigate complaints of torture

While none of the safeguards against torture promised by successive Turkish governments in recent years has yet been introduced, Article 15 of the Anti-Terror Law (see II, note 3 above) effectively froze a large number of formal complaints of torture during 1991. This measure meant that complaints against police or gendarmerie made by persons alleging ill-treatment or torture during detention for any offence under the Anti-Terror Law's very broad definition of "terrorism" were all referred for investigation by the office of the local governor (which is in the direct chain of command between the Interior Ministry and the local police force). Although this measure has since been repealed by the Constitutional Court, it remains in force in the 10 provinces of Turkey under emergency legislation.

The local administrative council has the power to rule whether or not a complaint of torture should be prosecuted in a court. This extended to all parts of Turkey a procedure which before the passage of the Anti-Terror Law only applied in the region of the southeast subject to emergency powers. The use of the administrative council to rule on formal complaints would appear to be a clear breach of the principle of separation of powers. The administrative councils are comprised of members of the local executive who have no legal background, and there is concern that they may be open to influence from local security force commanders (in certain districts deputy governors serving on the councils may even be local commanders of the gendarmerie). Furthermore, such hearings are conducted *in camera* and complainants and their lawyers are not able to follow the course of their cases closely. Only if the

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administrative council decides that a case should be forwarded to a local court are complainants and lawyers again permitted to participate in the process.

Complainants who have been called to testify to the commission 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. An example is the case of Mediha Curabaz, a nurse who alleged that she had been raped with a truncheon while in detention at Adana Police Headquarters in August 1991. Her complaint, which was supported by medical evidence, was referred to the Adana Provincial Commission for the Prosecution of Civil Servants where it was apparently handled by a police investigator. On 2 January the Commission 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." (See also the case of Erdoğın Kızılkaya above).

There have been a large number of allegations of torture in Turkish police stations and gendarmeries over many years, particularly in the southeast of the country. It is unclear, therefore, why this measure should have been retained under any circumstances, in any region and Amnesty International believes that it should be abolished in the emergency powers region as it has been throughout the rest of the country so that all allegations of serious abuse can be investigated by the proper judicial authorities.

IV Testimony from detainees from various parts of Turkey who have alleged torture in police custody since the formation of the new government in November 1992

The following accounts are a representative sample of the 49 detailed accounts of torture received by Amnesty International since November 1992 when the new government asserted its intention to stop the practice of torture. A survey of the first 100 days of the new government, published on 11 March 1992 by the independent Human Rights Foundation of Turkey and based mainly on items in the Turkish press, reported 63 allegations of torture, seven of which were supported by medical reports, in 22 separate police operations. It should be emphasized that the above figures represent only those people who have made public allegations of torture.

Istanbul

Hüseyin Fevzi Tekin was detained on 22 December 1991 and held for 15 days in the First (Anti-Terror) Branch⁷ of Istanbul Police Headquarters where he was blindfolded and interrogated for alleged membership of *Devrimci Sol*. He stated that although he asked to see a lawyer, and that his family applied to see him, he was held completely incommunicado during which time he was severely beaten and subjected to *falaka*, hanging by the arms, hosing with cold water, electric shocks and twisting of the testicles. He stated that the prosecutor responded in a "nonchalant" manner to his allegations of torture. He was charged with membership of *Devrimci Sol* and in March 1992 was still awaiting trial in Sağmalcılar Prison in Istanbul. Despite the fact that he received a medical report certifying that he would be unfit for work for five days due to injuries to his arms, no inquiry was opened into his allegations of torture.

Izmir

Kemal Gök, 23, a fisherman, and Barbaros Göktaş, 18, a waiter, were taken into custody on 26 January 1992 and interrogated by the Criminal Investigation Branch of Izmir Police Headquarters on suspicion of theft and held in

⁷Formerly known as the "Political Branch".
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incommunicado detention until 4 February. Both state, in common with almost all detainees, that they were blindfolded during interrogation. Barbaros Göktaş stated: "They hung me up by the arms and gave me electric shocks. They hosed me with water at high pressure. They forced the hose into my throat and turned the water on. They squeezed my testicles. For two days they kept soaking me with water and kept me in the cold with no clothes on." Kemal Gök stated that while he was being interrogated he was suspended by his wrists tied behind his back and subjected to electric shocks and squeezing of the testicles. He was also subjected to *falaka*. He also alleged that he was made to swallow nails. Kemal Gök stated that on the last day of detention he was brought, with burns on his penis, swelling of the testicles, and bruises and grazes in various parts of his body, to the Forensic Medical Institute where, although he was seen by a doctor, no examination was carried out. He has not been informed whether any medical report was issued. While he was in detention he asked to see a lawyer, but was refused. His family applied to Police Headquarters to see him, but were told that no such person was being held. Kemal Gök stated that when he complained to the judge at Urla Criminal Court that the police had tortured him, the judge replied "What did you expect, sweets?" ("Şeker mi verecektirdi?").

Gaziantep

Mehmet Polat, 15, was taken into custody on 5 February 1992 and interrogated at the Anti-Terror Branch of Gaziantep Police Headquarters.

"I was taken into custody when I brought some food for my uncle Ali Polat who was in police detention. They started questioning me about four or five hours later. They asked me where my cousin was, and whether I was involved in political activities. Then they took me to a fairly big room in the basement near the single person holding cells. They blindfolded me and kicked me and hit me with fists and truncheons. Then they forced me into a car tyre, and beat my feet with a truncheon for about 10 minutes. In order to stop the blood gathering in the soles of my feet, they made me tread snow in a basin. Then they connected electricity to my penis and my big toe and gave me electric shocks. Then they put me in a cold cell without any furniture and with no windows but only a few ventilation holes one centimetre in diameter."

Mehmet Polat claims that he was forced to sign a statement while still blindfolded, that on 10 February he was examined by a doctor in the presence of a policeman and that no medical report was issued. He was released by the prosecutor the same day without charge.

As a result of the beating he still experiences pain in urinating.

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Diyarbakır

Mehmet Çelik was detained on 7 January 1992 and interrogated in Batman Gendarmerie Regimental Headquarters until 16 January. In a statement submitted to Amnesty International shortly afterwards he said:

"I was detained on suspicion of giving assistance to Kurdish guerrillas. Someone from my village, İnanlı, had denounced me. I did not ask to see my lawyer while in detention, because I did not have a lawyer, and I could not appoint a lawyer while I was being tortured. My family and relatives applied to the Batman Gendarmerie Regimental Headquarters and to Kozluk Prosecutor in an attempt to see me while I was in police custody, but they were not even allowed near the building. When I was not being interrogated, I was held in a cell that was so small you could only stand up in it - you could not sit or stretch out. It was very cold, very dark and filthy water came in under the door. When I was interrogated my eyes were blindfolded. I and my cousin Ramazan Aslan were continually tortured for five days. I was stripped naked and hung by the arms, sometimes for two hours at a time. While I was hanging there they gave me electric shocks through my testicles. They also laid me down on the concrete and hosed me with cold water under pressure. The torturers take good care not to leave marks, but underneath my arms there is still bruising. My arms are still affected by the hanging and I cannot move them properly.

"After the interrogation I was taken to a health centre in Kozluk. We were accompanied to the health centre by police and gendarmes. They threatened to take us back for further interrogation if we complained, so Ramazan Aslan was frightened and told the doctor that he had not been tortured. He was examined before me. He had marks of torture on his body, but these were not recorded in the report, so I did not bother having an examination.

"In the prosecutor's office I denied all the statements I had given in police custody and told him that the statements had been extracted under pressure. The court was in Kozluk. I complained of torture and showed the marks, but the judge and prosecutors did not open any investigation. The judge ordered my arrest and I am now in Diyarbakır E-Type Prison."

Mehmet Çelik was charged with membership of the Kurdish Workers' Party (PKK), and his trial continues in Diyarbakır State Security Court No 1.

Siirt

Fettah İnan, a village imam, was detained at the beginning of November 1991: "I was taken into custody in the village. I was taken to Eğlence Gendarmerie Post, where I was bound hand and foot. I was given no food. The next day they took me to Siirt Provincial Gendarmerie Regimental Headquarters. They stripped me naked, and as they took me to the place of torture, every soldier who saw me hit me or kicked me. They poured ice cold water over me, and gave me electric shocks. They beat me. They insulted my religion, and refused to give me food or water. The serious torture lasted for one day. For the rest of the nine days I spent there I was hit and sworn at whenever I asked for food, water or permission to go to the toilet. When I was brought before Siirt Primary Court accused of aiding guerrillas of the PKK I did not complain about the torture - nobody would have taken any notice."

Hüsamettin Demir was interrogated first at Siirt Police Headquarters, and then at Siirt Provincial Gendarmerie Regimental Headquarters on suspicion of aiding guerrillas of the PKK, on 20 December 1991. He was held incommunicado for a total of 14 days. He claims that during the first 24 hours, at the police headquarters, he was suspended by his wrists which were bound behind his back, and subjected to electric shocks and *falaka*. Hüsamettin Demir says that he complained of torture to the prosecutor and later to the judge at Siirt Primary Court, but that they made no answer.

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V Death and "Disappearance" in Police Custody

With interrogations carried on in conditions of great secrecy by police and gendarmerie who are rarely prosecuted when allegations of ill-treatment or torture are made against them, it is perhaps no surprise that deaths in custody have continued throughout 1991 and early 1992.

During 1991 there were 15 deaths in custody in circumstances which suggest that the detainees may have died as a result of torture. Seven of these were people who were being interrogated on suspicion of political crimes. These deaths occurred mainly in Ankara, Istanbul and places of detention in southeast Turkey. In five cases trials have been initiated against the alleged torturers, in two cases the prosecutor has ruled that no legal proceedings should be opened, while in the remaining eight cases it appears that no investigation is being conducted.

Two deaths occurred in the Anti-Terror Branch of Ankara Police Headquarters in 1991: the first was that of Birtan Altunbaş. It would appear that no investigation has been initiated into the death of Birtan Altunbaş who died on 1 January 1991 - in fact, by May 1992 the autopsy report had still not been released to the family or lawyers. The second case was that of İmran Aydın, who was detained on 1 March 1991 and died on 8 March 1991. The police claimed that he died after falling down a hole while attempting to escape. The autopsy showed that the cause of death was damage to the pancreas. On 30 May the Ankara Public Prosecutor decided not to prosecute anyone for the death of İmran Aydın and closed the investigation.

Two detainees who were held at Ankara Police Headquarters at the same time as İmran Aydın have made statements which support allegations that he died under torture. Muhittin Metin Günaydin's statement, made from Ankara Closed Prison states: "On 1 March 1991, while I was detained, a person was brought to the cell next to mine. We introduced ourselves and he said that he was İmran Aydın. Shortly afterwards he was taken away for torture, being kicked and punched. I could hear that he was being stripped and his body hosed with water. I could hear because my cell was opposite the torture room. They kept saying 'Talk...where are the weapons...you are a member of TDKP (*Türkiye Devrimci Komünist Partisi* - Revolutionary Communist Party of Turkey).' While he was being tortured he shouted slogans such as: 'The honour of mankind will be victorious over torture'...'Down with the fascist dictatorship'...After about an hour of torture he was brought back to the neighbouring cell and it was clear that he was in a bad state. A short time later the police came again, opened his cell door and attacked him. They tried to take him out of the cell, and although he resisted they eventually got him out. He was shouting slogans all the time. I never heard anything more of him but I was worried, because Birtan Altunbaş (see above) recently died of torture there. After I was arrested, I came to prison and heard that he had been killed while escaping. İmran was not in a fit state to walk, never mind escape."

Veli Murat Erdoğan, also writing from Ankara Closed Prison, reported his encounter with İmran Aydın: "On 1 March 1991, my ninth day at DAL (*Derin Araştırma Laboratuvarı* - Deep Research Laboratory, an alternative name for the interrogation area below the Anti-Terror Branch of Ankara Police Headquarters), they brought new people who were thrown into the cells with kicking and beating. When I asked the newcomers who they were, one said 'I am İmran Aydın'.

"A short time later, the torturers came and took İmran Aydın away. They beat him very severely. Then I could hear his screaming, and the slogans he was shouting while he was being tortured. After about an hour of torture, the police took İmran Aydın out, while he continued to shout slogans ... From what I could see under the door, the torturers were trying to drag him along. His slogans echoed round the place till the last moment. When I arrived here in prison I read in the newspaper about İmran Aydın's death."

No charges have been brought against any persons in connection with the death of İmran Aydın, and it appears that the prosecutor has now closed the file as an accidental death.

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Two people have also died in the past twelve months while in custody in Beyoğlu Police Headquarters in Istanbul. The first was Ali Rıza Ağdoğan who allegedly committed suicide by leaping from the eighth floor of the police building (see also Amnesty International's publication *TURKEY: Still waiting for change; information on continuing human rights abuses*. AI Index: Eur 44/26/91) Marks of torture were found on his body and a trial was subsequently opened against five police officers. The trial continues.

On 9 November 1991, Yücel Özen was detained in the Kabataş area of Istanbul on suspicion of theft and taken to Beyoğlu Police Station. On 10 November he became ill and was taken to Taksim Emergency Hospital and then to the Okmeydanı Hospital where tomography tests were carried out. He was then taken back to Beyoğlu Police Station for further interrogation. On 11 November the family lawyer made a formal complaint about the ill-treatment that Yücel Özen had apparently been subjected to, and requested that he should immediately be brought before a judge. On 12 November he was once again taken to Taksim Emergency Hospital where an investigative operation was carried out for suspected internal abdominal bleeding. The pathology report on the operation suggested trauma to the pancreas as a possible cause.

On 24 November Yücel Özen died in Taksim Emergency Hospital, and the lawyer submitted a further complaint to Beyoğlu Public Prosecutor, together with 17 photographs of signs of cuts and bruises on Yücel Özen's body.

An inquiry into the death was opened by the Health and Social Security Minister Dr Yıldırım, who sent inspectors to check on documents relating to Yücel Özen's case.

On 6 March 1992 a trial was opened in Beyoğlu Criminal Court against six police officers charged with murder. In the first hearing a doctor at Taksim Emergency Hospital said that on his admission to hospital Yücel Özen's body bore marks that indicated that he had been beaten. Relations and friends who visited him in hospital testified that they had seen marks of bindings around his ankles and bruises on his palms.

Amnesty International has repeatedly expressed its concern to the Turkish authorities about the conduct of the gendarmerie (soldiers carrying out police duties) in the rural southeast of the country. On 20 July 1991 three non-commissioned officers and a number of soldiers attached to the gendarmerie post at Görendoruk (Kurdish: Memiran) detained four shepherds: Osman Ekinci, Hasan Ekinci, Agit Çeker and Ramazan Geçgel, in the countryside outside Görendoruk and beat them with fists and rifle butts. The soldiers accused the four men of assisting guerrillas of the PKK. It is alleged that the shepherds were held and periodically beaten from 5.00 in the morning until about 6.00 in the evening. Apparently as a result of this ill-treatment, Osman Ekinci died.

The body of Osman Ekinci was delivered to his family who were staying at their summer pasture in Birini, after examination by a doctor and a prosecutor in the Görendoruk security post. When asked how Osman Ekinci had died, a major at the post allegedly replied "He smoked a lot. He got sunstroke and died". There were marks on many parts of the body suggesting that he had been beaten, while the sexual organs were allegedly crushed and torn. The relatives of Osman Ekinci have made an official complaint to the prosecutor in Siirt, but this complaint was referred to the prosecutor in Şırnak. To date neither the family nor the three shepherds have been asked to give testimony about the incident. The relatives have not yet received a copy of the autopsy report.

On 29 January 1992 Abdülrakıp Akın died after gendarmes raided the village of Sazlıkbaşı and detained four men of the village. One of those detained Cebrail Güzelsöz stated: "After they had taken off our clothes, they made us crawl through the snow. They took us into different parts of the village and tortured us. All the village saw this. I fainted after this torture. When I recovered, I was in Muş State Hospital. They made me sign something there. I do not know what it was. They sent Abdülrakıp on to Elazığ (a large town about 200km distant). They let me go." A doctor's report issued by Elazığ State Hospital concerning Abdülrakıp Akın stated: "Unconscious, no reflex to light
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stimulus, heartbeat very weak, bruising and signs of blows by eyes, and on chest." He died the same day. A complaint was made by the Muş deputy, Muzaffer Demir, to the Muş Public Prosecutor's Office which is currently investigating the death. No arrests have been made, and no trial opened.

There have also been "disappearances", two in Istanbul, and at least one in the southeast, of people suspected of involvement in armed political opposition groups.

Hüseyin Toraman, a left-wing political activist, "disappeared" on 27 October 1991 when he was detained outside his home in the Kocamustafapaşa district of Istanbul by three officers of the political branch of Istanbul police who were armed and in plainclothes. There were two witnesses to the detention and subsequent claims that he was later seen in police custody. However, six months after the detention the relevant police authorities still deny holding him and deny any knowledge of his present whereabouts despite desperate pleas for information from his family and wide publicity about his case in the press. Police officers called to the scene checked the licence number of the vehicle in which Hüseyin Toraman was driven away, and finding that it belonged to a vehicle of the political branch, decided not to interfere. This was confirmed in an interview between the family, a journalist and the local police chief.

It appears that Hüseyin Toraman, who was reportedly active on behalf of a political organization illegal under Turkish law, had been wanted by the police at least since April 1991, when a police officer was killed and another wounded during an incident at Hüseyin Toraman's previous home. In Hüseyin Toraman's absence, a police team from the nearby town of Gebze had come to his house and was lying in wait when a police team from Istanbul arrived to investigate and apparently opened fire without warning, killing one police officer and wounding another. Hüseyin Toraman's father reported that police sealed the premises and left a note saying 'A policeman was killed in this house. We will avenge him.' Since that day, Hüseyin Toraman had lived under a false name, İsmail Çelik, fearing for his life.

Three members of the Parliamentary Human Rights Commission - Halil İbrahim Çelik, Mehmet Özkan and Ökkeş Şendiller - were delegated by the Commission to investigate the "disappearance" of Hüseyin Toraman. Their report back to the Commission in February 1992 left the question of the whereabouts of Hüseyin Toraman unanswered, but suggested either that Armenian elements had had some part in his disappearance, or that he had left Turkey in October under an assumed name.

İbrahim Gündem, of Sarterik (Kanderhol) village near Hazro in the province of Diyarbakır, was last seen on 25 September 1991, when he was taken into custody, apparently by the security forces.

Shortly before the incident a lieutenant from Hazro Gendarmerie had told the family that he had received reports that İbrahim Gündem had been supplying and harbouring guerrillas.

During the morning of 24 September the same lieutenant and some gendarmes came to the fields looking for İbrahim Gündem, but were told that he was not there.

At about 1am on the morning of 25 September, there was a knock at the door of the family house in Sarterik. Around the entrance to the house were a large number of armed people in civilian clothes. The family said that they recognized the lieutenant and a master sergeant from Hazro gendarmerie among the visitors. When they caught sight of İbrahim Gündem, they entered the house, seized him and dragged him away. People in the village said they were able to make out soldiers approximately 200 yards away, surrounding the village. An armed person in civilian clothes was posted at the front of each house for a further estimated two hours.

İsmet Gündem, İbrahim Gündem's brother, stated that troops came to his own house approximately 50 metres

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from İbrahim's house late on the night of 24 September. His house was searched by plainclothes police and gendarmes whom he recognized to be from the local gendarmerie. While the house was being searched, he stood next to the same lieutenant from Hazro Gendarmerie. About two hours later (after the soldiers posted at every house had gone), İsmet Gündem went to İbrahim's house, where they told him that İbrahim had been taken away.

In the morning İsmet Gündem went to the gendarmerie in Hazro, inquiring about his brother. There he was slapped and told that guerrillas had taken him.

During the week following İbrahim Gündem's detention, the family contacted the police, the gendarmerie and the Emergency Region Governor's office, but all denied that he was in their hands.

When 30 days (the maximum period of police custody) had passed since İbrahim Gündem was taken from the house, a sit-down protest was staged in Hazro by friends and relatives. The same lieutenant from Hazro Gendarmerie who had previously spoken to the family told the protesters that a definite answer from the authorities on the whereabouts of İbrahim Gündem would be given on 28 October. The protesters halted the action.

On 28 October the lieutenant showed the family statements by the police and the Emergency Region Governor's office stating that İbrahim Gündem was not held in their custody. The Diyarbakır State Prosecutor took the statements of the family in October, but since then it appears that no further investigations have taken place into İbrahim Gündem's "disappearance", and no proceedings have been initiated against the lieutenant or any of the personnel at Hazro Gendarmerie.

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VI Extrajudicial Executions and "Disappearances" in Southeast Turkey

Amnesty International is deeply concerned about over fifty killings in southeast Turkey in which there have been allegations of involvement by the security forces (as well as a number of "disappearances") since late spring of 1991. The principal targets of the spate of killings, which are continuing, have been:

- a. Inhabitants of villages which have refused to participate in the system of government-appointed village guards - particularly those under suspicion of having links with the PKK, either directly or through family members.
- b. Local politicians - in particular members of the People's Labour Party (HEP) which is perceived as representing the Kurdish minority of Turkey who mainly live in the southeast.

In February 1992 two journalists who worked for publications which were researching the allegations of extrajudicial executions were killed by unknown assassins.

Some journalists and many Kurds in the southeast attribute the succession of alleged extrajudicial executions throughout 1991 and early 1992 to the so-called *kontrgerilla*. The *kontrgerilla* was originally created in 1953 as part of the secret service and called the Special Warfare Department (Özel Harp Dairesi). The Special Warfare Department consisted of five branches, one of which - the Special Unit - is said to have specialized since 1984 in operations against insurgents in the southeast. While it is impossible to confirm or deny the rumours that these killings are part of a secret campaign by the *kontrgerilla*, Amnesty International has gathered information on more than 30 cases of alleged extrajudicial execution (19 in the province of Mardin) and two alleged "disappearances" in southeast Turkey where there is evidence which suggests possible involvement of the security forces. It is claimed that the killings have been carried out either to intimidate the opposition, or to provoke it into open rebellion so that it could be wiped out by straightforward military means. The killings could equally have been carried out by low-ranking members of any of the security force units such as the Special Teams or the village guards, acting on their own initiative but with the passive or active collusion of other parts of the law and order system.

According to official figures, there are 2,500 Special Team members and 20,000 village guards deployed in the region as well as some 60,000 regular troops who carry out police duties as members of the gendarmerie.

The Special Team members, who are nominally responsible to the local police commander, are trained for close combat with guerrilla forces. Their identities, activities and methods are shrouded in great secrecy. They may be in uniform and are often masked. Many Special Team members are able to speak Kurdish, and they may also wear local dress. Unlike other soldiers, they are permitted to wear long hair and to grow a beard or moustache, and frequently wear trainer-type shoes. There have been many allegations that Special Team members appear in villages pretending to be guerrillas of the PKK asking for provisions, in order to test the villagers' loyalties.

To counter the activities of the PKK, the government also established a system of some 20,000 "village guards". These are villagers who are armed and paid by the authorities to fight the guerrillas and to deny them access to logistical support from the villages in the area. Although many villagers are reluctant to serve as village guards for fear of reprisals from the guerrillas, they equally fear reprisals from the security forces if they refuse. In theory, the recruitment into the village guard corps is voluntary, but refusal by individuals or entire villages to participate in the system is usually considered by the local security forces as an indication of active or passive support for the guerrillas. The village guard system is currently in crisis, with hundreds of resignations from the corps during the final months of 1991 and early 1992.

From December 1991 an increasing number of killings and woundings were carried out by assassins, often very young according to eyewitnesses, in the street or similar public places. These killings were attributed by some

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sources to Hizbullah. Acts of political violence were carried out in Turkey by a branch of the Lebanese-based Shi'a Hizbullah in the mid-1980s, but the killings in southeast Turkey are a different phenomenon, and are attributed to an indigenous Turkish group (most of the Muslim population in that area are members of the Sunni, and not the Shi'a, community). Although groups of devout members of the religious community do meet together under the name Hizbullah, particularly in Batman and Nusaybin, the existence of Hizbullah as an organized armed force in Turkey is in some doubt, and it is widely believed that such assassinations are carried out on the instigation of the security forces.

Claims that elements within the security forces have been inciting local people to carry out killings of members of the Kurdish opposition are supported by an episode which occurred early in 1992. Rıfat Akış, 16, was detained in Silvan, Diyarbakır province, on suspicion of membership of the PKK. He claimed that a captain, commander of Silvan Gendarmerie Post proposed to him, with a combination of threats and bribes, that he should assassinate Mehmet Menge, Diyarbakır SHP (Social Democratic Populist Party) Board Member, and that he was given a Kalashnikov rifle and handgrenades. Rıfat Akış's family appealed to a group of members of parliament who, on the initiative of the Interior Minister, took him to Ankara Police Headquarters. There a conversation between Rıfat Akış and the captain from Silvan Gendarmerie Post was recorded. A criminal investigation has been initiated into the incident.

Those who allege that the assassinations of local politicians since December have been carried out with complicity of the security forces also point to the killing of Dr Oktay Türkmen, a dentist and secretary of the local branch of the SHP, in Nusaybin on 2 February 1992. Mustafa Demiral who fired the shots, was pursued by a friend of Dr Oktay Türkmen and handed over to the police. Witnesses to the incident said that two accomplices who were apparently keeping watch fled in another direction. As indicated above, detainees in Turkey are routinely held in police custody for extremely long periods, particularly during interrogation in connection with violent crime in which political organizations are implicated. Observers note that in this case Mustafa Demiral appeared before a judge and was committed to prison for subsequent trial after just 24 hours in police custody. He admitted carrying out the killing, but said that it was in connection with an unpaid debt. No mention was made in court of the accomplices.

Full and thorough investigation of killings is the most effective method of preventing extrajudicial executions. In Turkey, the investigation of any crime is normally the responsibility of the local prosecution service. In a highly charged situation of ethnic conflict with daily clashes between guerrillas and armed forces in the area, with all the associated pressures and suspicions from both sides, local prosecutors may not be in a position to carry out proper investigation, or may not feel disposed to do so.

The United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (published in 1991), puts forward a series of proposals as to how investigation can be carried out under such circumstances. The manual recommends the establishment of a special impartial commission of inquiry if the political views or ethnic affiliation of a victim give rise to a suspicion of government involvement or complicity in the death, when any of the following factors are present:

- where the victim was last seen alive in police custody or detention;
- where the *modus operandi* is recognizably attributable to government-sponsored death squads;
- where officials have attempted to obstruct or delay the investigation of the killing;
- where the physical or testimonial evidence essential to the investigation becomes unavailable.

In many of the cases described below at least one of these factors applies. Amnesty International has repeatedly appealed to the Turkish authorities to investigate impartially and without further delay the circumstances of each killing and to bring to justice those responsible for it. To this end the organization suggests the setting up of an

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independent commission of inquiry and use of procedures as recommended by the United Nations.

All the following cases remain on the police records as "unsolved crimes".

a. Extrajudicial executions of persons suspected of links with the PKK

Since June of 1991 at least twenty people have been killed in circumstances which give grounds for the belief that the security forces may have been involved. Particular targets have been members of villages which have consistently refused to accept service in the village guard corps. Moreover, many of the victims have a relative who has joined the guerrilla forces of the PKK. The pattern of the incidents would clearly indicate that a group with some of the characteristics of a death squad⁸ has been operating in the Nusaybin/Midyat area of Mardin province, the centre of a cluster of killings. Five examples are given below.

1. On 13 June 1991 Ramazan Aslan was shot with 14 bullets in the courtyard of his home in Midyat. He was headman of the nearby village of Ikizdere and kept a small shop in Midyat.

On 20 June 1990 he had been arrested and charged with membership of the local PKK committee. He was held in Diyarbakır prison for five months, after which he was released while his trial continued.

His father Mehmet Şerif Aslan had previously been headman of the village but resigned in 1990 when he was convicted of harbouring members of the PKK. He opposed the village guard system, and the people of Ikizdere have never joined the village guard corps.

On 19 May 1991 the security forces raided Mehmet Şerif Aslan's home and searched the village. Two of those who participated in the raid were masked with balaclavas but wore military uniforms. Police and gendarmerie were also present. Mehmet Şerif Aslan, and his sons Seyfettin, Latif and Ramazan Aslan, together with a house guest, were taken to Midyat Gendarmerie Headquarters. They were kept there for about four hours and released.

On 2 June 1991 Ramazan Aslan was the only candidate in an election for the post of headman of Ikizdere. He also opposed the village guard system. Although members of the gendarmerie reportedly came to the village and expressed the view that Ramazan Aslan was an unsuitable candidate, because he was a terrorist, he was elected.

On the morning of 13 June Ramazan Aslan went to Midyat Gendarmerie Headquarters to present his credentials as village headman and told his family that he had been welcomed and entertained for several hours with tea and coffee.

On 13 June at about a quarter past midnight after listening to the radio, Ramazan Aslan went into the courtyard of

⁸In this context it may be appropriate to quote the following paragraphs on the activities of death squads contained in the 1991 Annual Report of the United Nations Working Group on Enforced or Involuntary Disappearances:

"Death squads generally operate in areas of widespread insurgency, against urban guerrillas or against what is often loosely termed "the opposition". The latter may include members of rival political parties (usually on the left of the spectrum), trade unionists, human rights activists, student leaders and journalists. The death squads' preferred technique of elimination is assassination ... members of death squads are generally believed to consist of members of the security forces or persons acting with their [the authorities'] acquiescence or support. Leaving aside occasions where death-squad members have been identified as such by eyewitnesses, government affiliation remains very hard to prove. In many situations, however, there is a large amount of circumstantial evidence. Death squads have been seen to leave and enter army or police compounds, pass roadblocks unhindered in unmarked vehicles, even at night, carry out assassinations without the least resistance from public forces and abduct their victims unhindered. More to the point, many persons so abducted are later found in government custody, and then disappear. Death-squad activities are rarely investigated by the authorities in any meaningful manner. The Working Group is not aware of many instances where a death-squad member has been apprehended and held accountable before a court of law."

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his house, which is surrounded by a low wall, in order to go to the toilet.

On hearing a burst of automatic gunfire, Ramazan Aslan's wife Sadiye Aslan was the first to go to the scene of the killing. She reports that she saw him still standing, and that he said "Of Baba, beni öldürdüler" (Oh, Papa, they have killed me) before falling to the ground. No witnesses saw who fired the shots.

The family have had no news of the progress of the investigation into the killing.

2. On 18 August 1991 Hayrettin Demir, married with a son and daughter, was called to the door by a number of people in guerrilla clothing. They said in Kurdish that they wanted to see Hayrettin and he came to the door. The visitors said, "We are friends newly arrived in the neighbourhood. We would like to talk to you for a bit." As they were going to the garden gate, Hayrettin turned and attempted to get back into the house but was shot dead in the garden. Midyat Central Security Post was informed, but the body was not taken to Midyat State Hospital until the morning. The prosecutor did not come to the village, for what were said to be security reasons, and the body was kept at the hospital.

The family claim that Hayrettin Demir had been detained and tortured on several occasions previously for alleged contact with the PKK. At the end of the month of *ramazan*, Midyat had been raided by the PKK, and the security forces detained Hayrettin, his brother, and seven friends. They were held for a month and they alleged that they were tortured during this time. Hayrettin Demir was then formally arrested and sent to Diyarbakır prison before being later released.

Hayrettin Demir's father told a reporter for the weekly newspaper *Yeni Ülke* (New Land): "The military people asked me who I thought did it. I did not say because I was afraid. But it could only have been the *kontrgerilla* and the village guards. We were always being threatened by the security forces."

3. On 28 August 1991, İsmail Yiğit, a 40-year-old farmer and father of eight children, was taken by unknown persons and shot dead on the roadside several kilometres away.

At 8pm a red Doğan-type car, apparently bearing no number plate, pulled up in front of a house in the small village of Akağıl (Kurdish: Deré) near Nusaybin. Family members report that there were four or five people in the car, of whom three got out and called up to the family resting on the flat roof of the house asking directions to the home of Ahmet Yiğit. All the family went down to meet them, including Ahmet Yiğit's brother İsmail, who happened to be there. The visitors' faces were covered, except for the eyes, with a form of local headgear known as the *keffiyeh*, and they were carrying Kalashnikov weapons. One of them, speaking in Kurdish, sent the rest of the family away from the door and addressed himself to İsmail Yiğit. The visitors again asked for directions to the house of Ahmet Yiğit. Ahmet Yiğit was in fact at home in his house nearby, but the other members of the family overheard İsmail Yiğit say that Ahmet Yiğit was far away in Diyarbakır. A visitor said that he did not believe him, and told him to get into the car. İsmail Yiğit got into the car together with the visitors and they drove off.

The family immediately phoned Nusaybin Gendarmerie and one of them set off on a tractor following the red car. At a fork in the road, the car was seen going down the road to Çatalözü before which there is a gendarmerie checkpoint. At this point the tractor gave up the chase and headed for Nusaybin Gendarmerie. The gendarmerie apparently did not pursue the red car but came to the village of Akağıl where they questioned the villagers about the incident.

The next morning a body was found near the village of Hope. Relatives were able to identify the body, which was lying at the bottom of a slope by the road, as that of İsmail Yiğit. Also present were the Nusaybin prosecutor, a doctor and the gendarmerie commander. The prosecutor stated that the body should be taken to the morgue in the

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local hospital, but the gendarmerie commander refused permission for this on the grounds that it might cause a breach of the peace.

There were marks of beating on the body, the arms were apparently broken and there were 36 bullet wounds. A number of cartridge cases were found by the road and at the bottom of the slope, indicating that he had been killed there. The owner of the land where the body was found reported that he had heard gunshots during the night.

The gendarmerie brought the body back to the village of Akağıl where it was buried the same day.

Like most of the villages in the Nusaybin area, the village of Akağıl has never accepted village guards. İsmail Yiğit had never been detained or accused of membership of the PKK, but in 1989 another brother, Mehmet Salih Yiğit, was killed in a clash with the security forces, and his nephew Hacı Hüseyin who died of heart disease in the mountains in 1991, appears to have been a member of the PKK.

Three days later, Ahmet Yiğit was detained and interrogated for over two weeks at the Anti-Terror Branch of Mardin Police Headquarters and then formally arrested in connection with the death of an alleged informer.

4. On 14 September 1991 at about 9pm a white car pulled into the village of Çimenli (Merçe) near Ömerli in Mardin province. In the car were four people, one of whom was dressed in military uniform. They approached the house of Hasne Poyraz whom they told to call out Abdülmecit Çetinkaya. When Abdülmecit Çetinkaya appeared, the four men dragged him 50 metres away and shot him 18 times.

There is only one road to the village, which passes a 24-hour security post. Normally any passing motorist's identity and the registration number of the vehicle is noted by this post. Villagers were told that there was no record of the white car.

Abdülmecit Çetinkaya's brother Salih has stated that his brother had been arrested eight times since 1980 for providing support and shelter to the PKK. He also claims that an army officer who came to the village proposing that the inhabitants should join the village guard corps said to Abdülmecit Çetinkaya: "Your day of reckoning will come".

5. Ali Erdem, of Kızıltepe in the province of Mardin, married with three children, was killed on 29 September 1991. According to his father, Hacı Mehmet Erdem, that evening the family had returned from their nearby vineyards to their house in the Serekaniye district of Arban village near Kızıltepe. Villagers say that a helicopter with about 20 Special Team soldiers had landed in the neighbourhood earlier that afternoon.

As darkness descended four armed people appeared at Hacı Mehmet Erdem's house. They were carrying Kalashnikov weapons, and were dressed in commando-type jackets, denim trousers and sports shoes (dress typical of Special Team members). Hacı Mehmet Erdem could see the faces of three of the men, but the fourth had covered all but his eyes with a scarf. Two came forward to talk in Kurdish, with an accent typical of the Kars/Erzurum area in the north, saying that they were from the PKK and knew that he was Ali Erdem's father. Hacı Mehmet Erdem expressed the opinion that they did not look like PKK members. They threatened to kill him and the other people present if they did not direct them to Ali Erdem. At this point a neighbour intervened and claimed that she had seen one of the men come to the village once before in a group of Special Team members, in response to which he threatened to kill her if she spoke another word. Eventually they were directed by another villager to where Ali Erdem was sleeping. They entered the house and killed him.

At the time of the shooting, other shots came from outside the village and four people, Emine Erdem (Ali Erdem's mother), Hate Çiçek (f), Cemal Çiçek and Bahare Temiz (f), were wounded. The following day soldiers came to the

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village and took the wounded to Mardin State Hospital.

b. Killings and "disappearance" of local politicians, political activists and journalists

These killings began in the late spring of 1991 with the killing of Vedat Aydın, President of the Diyarbakır branch of the People's Labour Party (HEP) and member of the Turkish Human Rights Association on 18 June, and the killing of Yakup Kara, mayor of Hilal in the province of Hakkari, on 28 June (see AI publication "Southeast Turkey: Attacks on Human Rights Activists and Killings of Local Politicians"; AI Index: EUR 44/114/91).

Mehmet Demir, Deputy Provincial President of the Siirt Branch of HEP, left his business premises, a restaurant, in Siirt, southeast Turkey, at around 5.30pm on 10 January 1992. He said that he would be back in 10 minutes, but did not say where he was going. He has not been seen since. People in teahouses in the same street reported that there were identity checks being carried out at the time from a police minibus parked in the street.

The police, local and government authorities all deny that Mehmet Demir is being held in custody. The family now fear that he may have been abducted by members of the security forces. Mehmet Demir had spent 32 months in prison in the early 1980s as a defendant in the Hilvan-Siverek PKK trial.

On 18 January 1992 the body of Harbi Arman, an active board member of the Malazgirt local branch of HEP was found dead under a bridge near the village of Örnek, 24km north of Diyarbakır. He had been beaten to death.

In September 1991 seven people from Malazgirt had been detained and interrogated at Muş Police Headquarters. During their interrogation it was alleged that Harbi Arman had sheltered PKK guerrillas, and one of the detainees claimed that a police officer threatened him saying "We are going to kill you and Harbi Arman unless you leave the province of Muş". Family members state that some days after the detainees had been brought to court, Harbi Arman heard that he was wanted by the police and presented himself at the police station where he was detained for one day. Reportedly, no official record was made of his detention and he was released without charge.

Harbi Arman told his brother that he had been informed by telephone that he was to attend a hearing of the trial against the other detainees in the State Security Court in Diyarbakır on 15 January. He left Malazgirt on 14 January, and a bus driver confirmed that he arrived in Diyarbakır the same day. Four days later Harbi Arman's blindfolded body was found by villagers.

In the weeks preceding Harbi Arman's death, there had been some tension in the town in connection with a series of shop closures organized after Süleyman Turan, a teacher, had narrowly escaped abduction, supposedly by members of the security forces, on 27 December. On 2 January a number of shopkeepers found that the shutters on their shops had been forced open, but that no burglary had been committed. They informed the police authorities but reported that the police threatened them saying: "You take part in a boycott and then you come to us. Do not expect any help from us now. What has been done is just a small thing, you should have had far worse damage."

Abdurrahman Söğüt, aged 38, a shopkeeper and father of eight children, was shot in the head and the chest by one of three unidentified assailants in Nusaybin, Mardin province on 18 January 1992. Like Vedat Aydın, abducted and killed in July 1991, and Mehmet Demir and Harbi Arman (above) he was an active member of HEP. Abdurrahman Söğüt had been detained on 2 November 1991 and arrested on charges of aiding PKK guerrillas. Shortly after his release from prison on 31 December he wrote to Amnesty International, describing his interrogation at Mardin Police Headquarters: "I was physically and psychologically tortured. I was subjected to a jet of cold water, hanging by the wrists and electric shocks. Psychological torture included hearing the screams of other people, not being allowed to sleep, eat or go to the toilet. This lasted for 24 days. They were interrogating me for my membership of HEP, and for going to the funeral of a dead guerrilla."

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To these incidents could be added the killings of the two journalists, Halit Güngen and Cengiz Altun, who both worked for publications which have carried extensive news concerning the succession of alleged extrajudicial executions in that area during recent months.

Halit Güngen, Kurdish journalist and board member of Şırnak Socialist Party was killed on 24 February when an unidentified person entered the Diyarbakır office of *2000'e Doğru* (Towards 2000)⁹, shot him three times and ran off, leaving a small explosive device which detonated shortly afterwards. That same week *2000'e Doğru* had published a five-page article which claimed that members of an organization called Hizbullah, allegedly responsible for a number of killings, bombings and beatings in Batman and Nusaybin, were being trained in the Diyarbakır headquarters of the *Çevik Kuvvet* (Mobile Force).

Cengiz Altun, a Kurd and correspondent of the newspaper *Yeni Ülke* (New Land) in Batman, was shot and wounded three times by two assailants as he left his home for work at 9am on 24 February 1992. He was taken to Batman Social Security Hospital where he died shortly afterwards.

On 10 October 1991 Cengiz Altun had been detained in Gercüş when travelling to research the wave of alleged extrajudicial executions in the neighbouring province of Mardin. Cengiz Altun later reported that he had been held blindfold for two days at Gercüş Gendarmerie where he was accused of having taken part in guerrilla raids, and that his interrogators repeatedly said: "We were going to kill you, but we were seen taking you into custody." He further stated that no record was made of his detention and that upon his release, after the intervention of the mayor of Gercüş and a member of parliament, he was told: "Your name has been given to all units - you will not return to Gercüş, if you put one foot in this area, we will get rid of you."

Cengiz Altun had been detained previously on 10 July 1991. The Turkish Government informed Amnesty International on 18 October 1991 that Cengiz Altun had been detained on suspicion of harbouring guerrillas of the PKK, and that his trial was continuing in Diyarbakır State Security Court.

VII Allegations of deliberate and arbitrary killings by PKK guerrillas

During the period in which the alleged extrajudicial executions have occurred (since July 1991), the Turkish press has carried reports of over fifty apparently deliberate and arbitrary killings carried out by guerrillas of the PKK. Most of the victims were civilians, killed for allegedly assisting the security forces or passing information to them, or because they were thought to be linked to the organization Hizbullah.

According to a report in *Yeni Ülke* (New Land) of 3 November 1991, Mehmet Dantış was shot by PKK guerrillas raiding the town of Yayladere in Bingöl province on 22 October 1991 because "he had given information to the security forces".

A report in *Hürriyet* (Freedom) of 1 April stated that on 30 March Hacı Biçer, a civilian allegedly close to the organization Hizbullah, was killed by members of the PKK who attacked his house in Silvan in Diyarbakır province.

On 7 January 1992 Nasır Çul was killed in Kulp, Diyarbakır. According to an item in *Milliyet* (Nationhood), a leaflet was distributed in the area by "Amed Province Command" of the PKK (Amed is an ancient name for

⁹The magazine *2000'e Doğru*, an independent political review, has reported frequently on extrajudicial killings in southeast Turkey. In December 1991 the magazine published an article giving circumstantial evidence pointing to the involvement of three members of the security forces, identified by their initials, in the "death-squad" killings in Mardin province. The magazine also wrote to the Turkish authorities giving the full names of the officers, recommending that inquiries should be made. *2000'e Doğru* received no reply to their letter. The officers in question are reportedly still on duty in southeast Turkey.

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Diyarbakır), stating that Nasır Çul had been "executed" because "he acted as an agent for the security forces and was responsible for an operation which resulted in the death of 11 PKK militants".

Village guards and members of the gendarmerie who were captured during raids or at roadblocks and then "executed" have also been among the victims of deliberate and arbitrary killings.

On the night of 20 October Hüsnü Akçay, a village guard, was taken from his house near Midyat, in Mardin province, allegedly by members of the PKK. His body was found three days later between the villages of Barıştepe and Mercimekli.

According to information given out by the provincial governor of Kars and reported in the daily newspaper *Cumhuriyet*, village guard Cihangir Varkan was shot dead by PKK guerrillas in the village of Özdemir on 30 October 1991. His 17-year-old daughter Sabiha Varkan, who witnessed the "execution", was also shot dead.

Amnesty International strongly condemns the killing of prisoners and deliberate and arbitrary killings of civilians by opposition groups, just as it unconditionally condemns the death penalty and extrajudicial executions by governments.