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TURKEY: FOUR POLITICAL PRISONERS ON DEATH ROW AFTER UNFAIR TRIALS

In June 1990 there were more than 270 prisoners under sentence of death in Turkey who by then had exhausted all legal remedies. Their death sentences only needed confirmation by the Turkish Grand National Assembly (TBMM) and by the President to be carried out. Some of them have been imprisoned for more than 10 years. The majority of them were convicted of politically motivated crimes. At the beginning of April 1990 the Turkish press reported that out of 267 prisoners under sentence of death, whose cases were awaiting ratification by the TBMM and the President, 101 were common criminals and the others political prisoners (94 left-wing, 28 right-wing, 40 Kurds and four Palestinians).

Since the introduction of martial law in December 1978 the vast majority of some 800 death sentences have been passed by military courts which are responsible for dealing with offences that "led to the announcement of martial law". Although martial law was lifted completely in July 1987, death sentences continue to be passed by both civilian and military courts.

According to Amnesty International's findings trials before military courts did not conform to internationally recognized standards for a fair trial on various counts:

- military courts are not independent of the executive, either in law or in practice;
- they have repeatedly failed to investigate allegations that statements produced in court as evidence against defendants were extracted under torture;
- the prisoners' right to defence was restricted in many ways. Many were not given adequate time and facilities to prepare their defence, or were denied private conversations with their lawyers and some have been sentenced to death in absentia. Amnesty International knows of several cases where political prisoners were sentenced to death without having been granted sufficient access to a defence counsel or in some cases without any representation by a lawyer at all.
- lawyers defending political prisoners have been harassed and impeded.

Sixteen articles of the 1926 Turkish Penal Code, as amended, provide for a mandatory death sentence for crimes against the state, the government and the Constitution. In addition, eight articles provide for a mandatory death sentence for common criminal offences such as murder. These 24 articles define a total of 29 offences. Almost all left-wing prisoners have been convicted of offences against the state. Right-wing prisoners have usually been convicted of criminal offences, although the authorities hold

both the extreme left and right responsible for the political violence of the late 1970s in Turkey, which resulted in the death of over 5,000 people.

On 13 September 1989 the Council of Ministers agreed on draft amendments to the Turkish Penal Code which would reduce the number of offences punishable by death. The mandatory death sentence would be replaced by life imprisonment for 13 offences, most of which relate to common criminal offences and hardly ever occur. The mandatory death sentence would be retained for 16 offences including murder and a large number of political offences.

While the government envisaged that the TBMM should no longer be involved in ratifying death sentences, the proposals also suggest that all death sentences currently awaiting ratification should automatically be commuted to life imprisonment if the TBMM does not take a decision on them within two years of the law entering into force. However, the proposals of September 1989 have not yet been debated by the TBMM and by mid-June 1990 they appeared to be far from being enacted.

Amnesty International is calling on the Turkish authorities to abolish the death penalty in practice and in law, to commute all existing death sentences and to guarantee fair trials for political prisoners in military courts; in particular that statements extracted under torture are not used as evidence against the defendants.

The following case studies highlight the fact that most political prisoners in Turkey, who were tried and convicted by military courts, including those sentenced to death, did not receive a fair trial.

AHMET MANSIZ

Ahmet Mans_z, born 1956, has been imprisoned for almost 10 years. He was detained 10 days after the military coup of 12 September 1980 in Çarsamba, a district of Samsun province. In his home town he was known as being left-wing. At the police station he was questioned about the political killing of Huseyin Gun, a known right-winger. Since he did not confess to the charge of killing Huseyin Gun, and none of the eye-witnesses could identify him, he was not arrested on this charge. However, he remained in prison for five months serving the remainder of an earlier political sentence.

Twenty days after his release he was detained again, because Huseyin Gun's father had complained to the military authorities that the "murderer of his son was running free". This time Ahmet Mans_z stayed in police custody for some 90 days and confessed allegedly under torture to the charge by signing a statement that he had killed Huseyin Gun with a 9mm gun. The trial started on 30 June 1981 in Samsun Criminal Court. Soon afterwards the court declared that the case was not within its competence as "all violent political activities that led to the announcement of martial law had to be dealt with by military courts".

The trial of Ahmet Mans_z which then took place in Erzincan Military Court involved some 16 defendants and became known as the "Kurtulus (Liberation) Çarsamba trial". One more defendant, Fikret Çelebi, born 1963, was accused of having participated in the killing of Huseyin Gun. Fikret Çelebi was a prominent right-wing figure and according to allegations by another defendant in the trial, Ayd_n Mandak, was only included in this trial because he refused to give false testimony on Ahmet Mans_z and other defendants. Allegedly under torture Fikret Çelebi also confessed to the murder charge.

In court both defendants withdrew their confessions proclaiming that they were innocent. Descriptions of two men given to the police by eye-witnesses immediately after the incident did not match with the appearance of the two defendants. During the proceedings some witnesses changed their testimony. One witness, who during renewed interrogations in mid-1981 firmly stated that the killing had been carried out by Ahmet Mans_z and Fikret Çelebi had never been confronted with them for identification. In court he identified other defendants as the offenders. Another witness stated in court that his testimony at the police station had been obtained "under force" (an expression often used to refer to torture). An expert report by the ballistic institute certified that the killing had been carried out with a 7.65mm and not with a 9mm gun.

Despite these contradictions both defendants were convicted under Article 146(3) of the Turkish Penal Code (TPC) of "membership of an organization aiming to destroy the constitutional order by force". On 22 May 1984 Ahmet Mans_z was sentenced to 29 years' imprisonment and Fikret Çelebi to 23 years' imprisonment. On 3 July 1985 the Military Appeal Court quashed the sentences arguing that the court had not clarified several contradictions in the case including the question of the murder weapon.

In the retrial Erzincan Military Court did not clarify the contradictions, but on 16 May 1986 convicted both defendants again under Article 146(1) of the TPC of "leadership of an organization aiming to destroy the constitutional order by force", an offence that carries a mandatory death sentence. The court did not commute Ahmet Mans_z' death sentence, because "he killed the victim by shots in his chest and head" and because he had a previous political record. Fikret Çelebi also had a political record, but in his case Erzincan Military Court commuted the sentence to 17 years' imprisonment because Fikret Çelebi was a minor at the time of the crime.

The Military Appeal Court later confirmed these sentences. Ahmet Mans_z has exhausted all legal remedies. On 1 May 1990 the Turkish newspaper Gunes printed extracts from a petition Ahmet Mans_z sent to the Human Rights Association in Turkey in which he protested his innocence; since then there have been no further developments in his case.

MEHMET SÜMBÜL

Mehmet Sümbül, born 1 October 1957, was detained on 30 December 1980 in Bursa, where he had allegedly been leading the right-wing Idealist Workers' Association. Members of such associations calling themselves "idealists" (üilkücü), also known as "Grey Wolves" (bozkurtlar) were largely responsible for the increased political violence in the late 1970s.

Mehmet Sümbül was held incommunicado until 6 February 1981, when he was charged with three political killings and, under Article 313 of the TPC with "having formed an association to commit crimes". In his statement to the police of 27 January 1981 he confessed to having killed two people in March 1979 and April 1980 and to having participated in the killing of another person in April 1980. However, when he was brought before the military prosecutor and a judge to be charged, Mehmet Sümbül stated that his confession had been extracted under torture and that the signature under the statement was not his own.

Mehmet Sümbül's trial, known as the "Bursa Idealist Organizations' Trial", involved 144 defendants and was conducted in Ankara Military Court. It started in October 1981 and lasted until December 1985. Mehmet Sümbül was acquitted of one killing, but found guilty of the other two. For one he was sentenced to 32 years' imprisonment, under Article 448 of the TPC (manslaughter), and for the other he was sentenced to death under Article 450 of the TPC (murder). In addition he was sentenced under Article 313 of the TPC for membership of the Idealist Workers' Association to 12 years, five months, 10 days' imprisonment. Ankara Military Court combined the prison sentences and reduced them to the maximum possible sentence of 36 years' imprisonment, which under Turkish legislation is the equivalent of life imprisonment. In effect, Mehmet Sümbül was sentenced to death and to life imprisonment.

At the end of the trial seven defendants in all were sentenced to death, 86 received sentences of between one and 36 years' imprisonment and the other defendants were acquitted.

Ankara Military Court reached the verdict of guilty without having examined Mehmet Sümbül's claim that his confession to the police had been extracted under torture. As far as his additional claim was concerned, that the signature under that statement did not belong to him, there were two conflicting expert reports. The first was issued by Bursa Police on 28 October 1982 certifying that the signature belonged to Mehmet Sümbül. However, the second, issued by Ankara Forensic Institute on 22 February 1983, concluded that the signature was not Mehmet Sümbül's.

In court various police officers testified that Mehmet Sümbül had not been tortured and that he had signed the confession with his left hand. On the basis of these testimonies Ankara Military Court ruled that the signature was genuine and that the report of Ankara Forensic Institute could not be taken into account.

Additional evidence presented in court to prove Mehmet Sümbül's guilt turned out to be of a rather weak nature. For the killing in March 1979 Mehmet Sümbül was the only suspect and was sentenced to 32 years' imprisonment. Two witnesses stated that they had seen the murderer from behind. In court one of them was not able to identify Mehmet Sümbül. The other witness stated that Mehmet Sümbül resembled the offender in height and the shape of his forehead.

For the killing in April 1980 for which Mehmet Sümbül was sentenced to death there were five suspects. Apart from Mehmet Sümbül, another suspect, Hayrettin Akbas, who was detained on the day of the killing, also made a confession to the police. Two days later, while still being held incommunicado, Hayrettin Akbas also confessed to the prosecutor, but in court he alleged that he had been threatened with further torture if he did not.

According to Hayrettin Akbas' statement to the prosecutor, Mehmet Sümbül and Metin Dogrusöz had killed the person while he (Hayrettin Akbas) had been waiting some distance away. Mehmet Sümbül, however, gave a different description in his "confession" to the police of 27 January 1981. He said that Hayrettin and Tahsin Akbas had accompanied him to the factory. When the victim had come out he (Mehmet Sümbül) had fired the shot and the other two had run away. In court he persistently stated that he had not been at the place of the crime, having just returned from Ankara.

In the detailed verdict of 27 December 1985 Ankara Military Court ruled that the confessions had not been extracted under torture, because

- Hayrettin Akbas had not only confessed to the police, but also to the prosecutor; - the contradiction between the confessions of Hayrettin Akbas and Mehmet Sümbül showed that the police had not extracted statements according to a ready scenario as alleged by the defendants; and - police officers denied that either of the defendants had been tortured.

On 25 November 1987 the Military Appeal Court confirmed the seven death sentences, but sent other sentences back for retrial. Having exhausted all legal remedies, Mehmet Sümbül and a further six prisoners sentenced to death in the same trial are now among some 270 people awaiting ratification of their sentences by the TBMM and the President.

HUSEYIN AKTAS AND ERDEM KEÇER

Huseyin Aktas, born 1961 in Antalya, was detained on 2 March 1981 during a police operation against alleged members of the illegal organization Kurtulus in Antalya. One of the detainees had named Huseyin Aktas as a member of Kurtulus and accused him and Erdem Keçer in his statement to the police of being responsible for the killing of Turhan Sekman. Erdem Keçer, born 1960 in Antalya, was detained on 16 June 1983 in Istanbul.

Lengthy court proceedings followed which ended only in November 1989. In 1982 the trial against Huseyin Aktas and a further 101 alleged Kurtulus members from Antalya started in Izmir Military Court. On 28 March 1984 he and another two defendants were sentenced to death under Article 146(1). Erdem Keçer was tried separately in Izmir Military Court on similar charges. On 3 January 1985 he, too, was sentenced to death.

Both verdicts were quashed on appeal. For the retrial the case of Erdem Keçer was combined with the case of Huseyin Aktas and a further 36 defendants. On 5 August 1986 Huseyin Aktas, Erdem Keçer and one more defendant (Suleyman Selen, charged with separate offences) were sentenced to death.

These sentences were quashed on 10 June 1987 by Military Appeal Court No. 1 and since Izmir Military Court had been dissolved meanwhile, the retrial had to be conducted in Ankara Military Court. On 14 February 1989 this court again passed death sentences on Huseyin Aktas, Erdem Keçer and Suleyman Selen. These sentences were confirmed by the Military Appeal Court on 22 November 1989 and the death sentences of all three are now awaiting ratification by the TBMM and the President.

The charges against Huseyin Aktas and Erdem Keçer were brought together under Article 146(1) only because of the killing of Turhan Sekman on 30 January 1980. Huseyin Aktas was also convicted of participating in an armed assault on road workers on 16 June 1979. Erdem Keçer was also convicted of two armed robberies. Had it not been for the murder charge, Huseyin Aktas and Erdem Keçer might have been convicted of leadership of an "armed gang" under Article 168 of the TPC which carries a penalty of imprisonment, instead of Article 146 and thus would not have received the death penalty.

Turhan Sekman was killed on 30 January 1980. That day left-wing people staged a demonstration in front of the state-owned factory for cotton and agricultural products, Ant-Birlik, in Antalya in protest against the sacking of left-wing workers. After the demonstration Turhan Sekman, a left-wing employee, left the factory in a company car which was caught in heavy traffic some distance away. At this moment shots were fired into the car. Turhan Sekman, driving the car, was killed and three people travelling with him were injured.

In December 1989 Huseyin Aktas wrote a 43-page statement in which he detailed the developments that led to his and Erdem Keçer's conviction. Huseyin Aktas alleged that between 1982 and 1985 he could not see his lawyer because, as a result of his refusal to wear the prison uniform, he was not allowed any visits. Following the first verdict in March 1984 he was put in isolation for 26 months. He maintained that he was not able to hand in his defence before the final hearing in the appeal court because, as a result of a 52-day hunger-strike in protest against bad prison conditions, he (and others) had been banned from corresponding with the outside world.

Huseyin Aktas and Erdem Keçer both alleged that their initial statements to the police had been extracted under torture. In Erdem Keçer's statements to Istanbul Political Police of 17 July 1983 and to the police in Antalya of 5 September 1983 he confessed to the charges, but at all further stages of his trial he rejected the accusation saying that his statements to the police had been extracted under torture. Co-defendant Sabahattin Ak_nc_, who in his statement to the police had accused Erdem Keçer and Huseyin Aktas of having carried out the killing, also withdrew his statement stating that it had been extracted under torture.

Huseyin Aktas was held incommunicado in Antalya Police Headquarters for 16 days. On 7 March 1981 he signed a statement confessing to the charges. However, in front of the prosecutor, the judge who charged him and in court he rejected the accusations stating that his statement to the police had been extracted under torture.

In his statement of December 1989 Huseyin Aktas described the torture at Antalya Police Headquarters following his detention on 2 March 1981 in a district of Izmir province.

"I was the 55th person detained in the Kurtulus operation. On 5 March I was taken to Sarampol Detention Centre where the others were held. I was not given anything to eat. The torture session started at 9am. I was taken to the cellar. My feet were tied to a bench and I was given electric shocks on my fingers and my toes. At the same time I was subjected to falaka [beating of the soles of the feet]. Later they applied electric shocks to my penis saying that I would become impotent. Not knowing whether electric shocks can cause impotence I feared that I would never be a father and I also started to believe that they would kill me. I was constantly asked to confess to the 'biggest action' I had carried out."

Huseyin Aktas understood that the police officers were referring to the killing of Turhan Sekman. He did not dare to give names of people who had been with him that day afraid they would be suspected of being members of Kurtulus and, like him, be subjected to torture. To avoid further torture Huseyin Aktas confessed to the killing, but the torture allegedly continued, because he was unable to give details about the killing such as the colour or plate number of the car the victim had been driving. According to his testimony, torture only stopped after he signed a statement prepared by the police.

In Izmir Military Court Huseyin Aktas acknowledged having been at the demonstration of 30 January 1980, but said that the killing happened some 150 metres further down the road. He named several witnesses to confirm his statement, but only some of them were heard during the trial. Concerning his statement to the police he named seven officers alleging that they were responsible for torturing him. However, at no stage of the trial proceedings were these allegations investigated.

Fehmi Acar, one of the injured passengers in the car, identified Huseyin Aktas on 8 March 1981 after the police had forced Huseyin Aktas to repeat his confession in front of the witnesses. The description he had given immediately after the incident, however, did not fit Huseyin Aktas. During the hearing of 30 April 1982 in Izmir Military Court Fehmi Acar confirmed his statement to the police, but later repeatedly stated that his first statement in court was not correct and that he was prepared to be punished for incorrect testimony in court. He testified to this effect at least three times in court (on 27 September 1984, 20 January and 24 June 1988). Another injured passenger testified in court that he had a broken tooth because the police officers had beaten him for not identifying Huseyin Aktas.

The only other evidence in this case is a statement of 11 October 1985 by a so-called "confessor", Mursel Çelik, a defendant in the Antalya Devrimci Yol (Revolutionary Path) trial. He was imprisoned in the early 1980s and following his confessions under the so-called Repentance Law his sentence of life imprisonment was reduced to 20 years' imprisonment. He stated that he saw Huseyin Aktas and Erdem Keçer shooting at the car while he was sitting in a coffee shop nearby. However, other witnesses stated that Mursel Çelik did not come to the coffee shop on that day. Further contradictions in his statement concern the time of the offence [Mursel Çelik said that the incident happened in summer] and the description of the circumstances [he said that the car was moving].

Amnesty International is in possession of a copy of the verdict by Ankara Military Court of 14 February 1989. Ankara Military Court apparently used the defendants' statements to the police as evidence, despite their claims that their confessions to the police had been obtained under torture, without having investigated their allegations. The court also accepted the first testimony of Fehmi Acar as valid, ruling that later he might have been put under pressure by relatives of the prisoner/s.

Concerning the statement of the "confessor" Mursel Çelik, Ankara Military Court ruled that "although [the witness] may not have been in his right state of mind when stating that the incident happened in summer, the fact that he...gave details of the event...[resulted in] the court accepting his statement as true".

Huseyin Aktas and Erdem Keçer are among some 270 people awaiting ratification of their sentences by the TBMM and the President.