



The charred remains of a dormitory at Byrampasa prison following the storming of the security forces in November. © APA/EPA

IHF FOCUS: Freedom of expression; freedom of association; torture, ill-treatment and detainees' rights; conditions in prisons; death penalty; religious intolerance; conscientious objection; protection of ethnic minorities; women's rights², protection of asylum seekers; human rights defenders.

At its Helsinki Summit in December 1999, the EU recognized Turkey as a candidate for membership in the union. It decided that prior to actual negotiations for membership Turkey must meet the political criteria for EU membership established in Copenhagen in 1993. The necessary steps include "stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities."³

Turkey's first real indication of its readiness for the Accession Partnership appeared in the 28 February 2000 *Report on the Political Criteria of the Special Committee on Turkey - E.U. Relations* prepared by the Special Committee on Turkey-EU relations attached to the Turkish Prime Minister's Office. Another indication was the document entitled *Calendar for*

Democracy, the Rule of Law and Human Rights, produced by the Secretariat of the High Coordinating Council for Human Rights of the Office of the Prime Minister in mid-2000, after the above-mentioned report was published.

Both documents contained a large number of proposals for constitutional, legal and administrative reform in the direction of better protection of fundamental rights, including, for example, measures for reshaping the National Security Council (a powerful semi-military body established under the Constitution to advise the state leadership on national security matters); abolishing the death penalty; redrafting laws in order to ensure freedom of expression; establishing judicial police; abolishing incommunicado police detention and combating domestic violence. The documents

also proposed the signing and ratification of the ICCPR and the ICESCR, both of which were signed by Turkey on 15 August 2000.

However, the omissions and the lack of precision regarding the final shape of such reforms, as well as the time line for reforms indicated in the Calendar (by the end of 2001 or 2002), left room for concern because numerous changes were already long overdue, for example those regarding freedom of expression and torture, incommunicado detention, language rights, and asylum issues.

On 8 November 2000, the EU published a regular report on Accession Partnership with Turkey. According to the Europe and Central Asia Division of Human Rights Watch (HRW, IHF member), the EU failed to take full advantage of this important opportunity to promote human rights reform in Turkey. While the document contained much of value, it had a disappointing lack of detail in key areas such as safeguards against torture and the protection of freedom of expression. The organisation noted that the Accession Partnership covered torture, the constraints on freedom of expression and association, and the repression of civil society in overly broad terms that could be used by the Turkish authorities to continue their traditional policy of delay and prevarication.

In 2000, human rights violations continued in abundance: for example, police torture remained commonplace, including child victims; courts continued to hand down prison sentences to individuals for voicing non-violent opinions and to shut down political parties for challenging the dominant ideology; human rights defenders faced trial and were imprisoned; and the rights of minorities and asylum seekers were seriously violated. Turkey's women's rights record was among the poorest in the OSCE region.⁴

Freedom of Expression

Throughout the 1990s Turkish Governments made superficial amendments to

legislation related to freedom of expression and issued partial amnesties to those incarcerated for expressing their non-violent opinions. In 2000, no legislative changes were made to expand freedom of expression, and courts continued to hand down convictions under Articles 312 (incitement), 155 (criticism of military service), 158-159 (insulting the President and the organs of State) of the Penal Code, and Article 8 of the Anti-Terror Law.

Article 312 also provided for a ban on participation in politics or civil society. For politicians, a conviction under this article effectively meant the end of public life and was therefore a powerful curb on the discussion of ideas unwelcome to the State. Article 289 of the Penal Code, which dealt with incitement to racial or religious hatred, virtually restated the terms of the troublesome Article 312 while substantially increasing the penalty. The commentary to the article provided that statements of this kind could only be considered an offence if they threatened public order, but judicial practice failed to apply the article in line with international human rights standards.

Article 425 of the draft Penal Code also provided for up to three years' imprisonment for insulting the President. Article 426 provided for imprisonment for insulting ministers or members of the armed forces, as well as state institutions, such as the Parliament, the State, the Council of Ministers, or the armed forces. Articles 425 and 471 similarly criminalized insults towards the Turkish or foreign flags – all provisions ruled impermissible by the European Court of Human Rights.

◆ On 5 July, the Supreme Court upheld a one-year sentence imposed on former Prime Minister Necmettin Erbakan and leader of the banned Welfare Party under Article 312 for a speech he gave in March 1994 that was deemed to "incite ethnic, racial, and religious enmity."

◆ In the same week the Court upheld a twelve-month sentence imposed on Hasan

Celal Guzel, former Education Minister and leader of the Rebirth Party, for a speech he gave in Kayseri in 1998 in which he strongly criticized the headscarf ban.⁵ He was released in May after serving a sentence after the EU summit in December 1999.

◆ As of this writing, former President of the Turkish Human Rights Association (HRA), Akin Birdal, is serving a sentence under Article 312 in Ankara's Ulucanlar Prison. He was imprisoned in June 1999 for a speech he gave three years earlier calling for "peace and understanding." His release on health grounds in September 1999 was widely viewed as a maneuver to avoid official embarrassment during the upcoming Istanbul OSCE Summit and the EU Helsinki Summit. He returned to prison in March 2000. Under Article 4 of the Law on Associations, Akin Birdal was forced to relinquish both his leadership of the HRA and his membership. Under Article 81 of the Law on Political Parties, he may no longer stand for any political office nor join any political party. The same bans applied to Necmettin Erbakan and Hasan Celal Guzel.

Other laws restrict rights to demonstrate, to publish, and to broadcast. Confiscations of newspapers, books, and pamphlets were the daily tasks of press prosecutors, local governors and the Supreme Board of Radio and Television.

Freedom of Association

NGOs faced legal obstacles to their activities. Although there was an active civil society in Turkey, any organisation that incurred official disapproval remained subject to a storm of litigation in 2000.

The Law on Associations, with its cumbersome and restrictive rules for NGOs, remained in force and affected NGO activities. The law was drafted with the memory of armed groups' abuse of the right to association in the 1970s. Certain provisions, for example those relating to the storage of firearms on association premises, were fully justified. However, heavy restrictions on

membership and requirements to submit all publications and public meetings for approval by the local governor made the Law on Associations a repressive piece of legislation. Further, associations were required to pay the fees and travelling expenses for an unspecified number of government agents to attend their meetings and record proceedings on paper, audio or video tape. Local governors frequently exercised their considerable discretion to halt meetings, suppress publications and posters, and close down associations.

Torture, Ill-Treatment and Detainees' Rights

The Turkish Penal Code provided heavy penalties for ill-treatment and torture.⁶ Despite strict provisions, however, the persistence of torture in Turkey remained indisputable, with one Turkish Government after another denying the extent of torture and refusing to take any effective measures to combat it.⁷ The only independent body available to monitor the problem was the Parliamentary Human Rights Commission, which reported its findings in 2000. Its six reports unfolded an appalling catalogue of torture, deceit, and official negligence.

Moreover, in the 1990s, Turkey refused to authorize the publication of several early reports made by the European Committee for the Prevention of Torture (CPT). In 1999, the Turkish Government finally granted permission for the publication of one such report.

The most conservative reports of "disappearance" in the 1990s put the number at over 140. Over 450 people died in police custody, apparently as a result of torture in the two decades since the 1980 military coup.

The record on torture of the Government in office in 2000 was unexceptional. In August 1999, the punishments given to officers convicted of torture were increased. In June 1999, Prime Minister Ecevit had issued a circular urging police and gendarmes not to commit torture and to abide

by the October 1997 Regulation on Apprehension, Custody and Interrogation. This regulation outlawed the use of force during interrogation and emphasized detainees' rights to remain silent, to be informed of their rights, to inform relatives, and to have legal counsel. However, the circular was not followed by determined legislative or administrative efforts to eradicate torture and soon appeared to be a dead letter.

In 2000, incommunicado detention continued to be a key problem linked to torture: there were no witnesses and evidence of abuse could be obscured or minimized. The UN Special Rapporteur on torture (following his 1998 visit),⁸ the CPT (following its 1997 visit),⁹ and the UN Committee against Torture (in its 1993 report on Turkey)¹⁰ had recommended, in vain, that all detainees be given access to an independent lawyer.

According to the 1997 changes in the Criminal Procedure Code, common criminal detainees could only be held in police custody for up to seven days and were to be provided with access to legal counsel throughout this period. Those detained for offences tried in State Security Courts, however, were still held incommunicado for the first four days, after which time they could have access to a lawyer. Moreover, their detention could be extended to seven days upon the order of a judge, and up to ten days in provinces under a state of emergency.

Still, the 1997 reform resulted in only limited improvement. In 2000, State Security Court detainees continued to be frequently subjected to torture and denied access to legal counsel even after the four-day period had elapsed. If lawyers were given access to their clients, they were usually only permitted a brief meeting with their client in the presence of a police officer. It was almost unheard of for lawyers to be present during the subsequent interrogation of their clients.

It appeared that common criminal detainees also benefited little from the 1997

changes. Detainees were often told that it would be to their advantage if they waived their right to legal counsel, an allegation that was confirmed in 2000 by the Turkish Parliamentary Human Rights Commission. Prosecutors and provincial governors, who had a formal responsibility to supervise police stations and gendarmeries, seemed largely to have neglected this duty.

◆ According to the Parliamentary Commission, at Erzurum's *Sehit Fatih Bodur* Police Centre, 269 out of 270 detainees were recorded as not having requested a lawyer in the preceding 12 months. At Tunceli Police Headquarters, the commission noted that police station records had been kept in an organized fashion since 1998, but that all the detainees' entries stated "did not request a lawyer." People who had been detained in these units for common criminal offences gave the commission detailed and credible accounts of torture.

The fact that offences under the Law on Organized Crime – a law that was frequently abused – fell within the jurisdiction of State Security Courts gave the police yet another means to exclude lawyers.

Blindfolding prisoners in police custody was routine practice, including when prisoners signed a statement. Both the UN Committee against Torture (in 1993)¹¹ and the UN Special Rapporteur on torture (in 1998)¹² noted that this practice should be forbidden.

Nearly all detainees, both male and female, reported some level of sexual abuse or sexually insulting behaviour in detention.

The poor standard of record keeping at gendarme and police stations, as well as the security forces' systematic failure to notify families of detention, facilitated torture and ill-treatment. The Parliamentary Human Rights Commission's inquiries suggested that there had been some improvement in this respect, but additional progress was needed.

Although all detainees were required to undergo a medical examination at the

end of police custody, this safeguard against torture continued to be persistently evaded in 2000. Police officers pressured detainees to conceal their injuries from medical personnel, intruded on examinations, destroyed medical certificates, and “shopped around” hospitals and health centres until they received a medical certificate with which they were satisfied. In contravention to the rules, detainees were rarely given a copy of their medical report. Also, police officers were often present during the medical examination of detainees, another violation of existing rules.

Children and juveniles have often been among torture victims in the past ten years. The Turkish Parliamentary Human Rights Commission investigations showed that the practice continued, apparently undiminished, in 2000.

◆ In March 2000, the Parliamentary Human Rights Commission interviewed a number of juveniles at the Bakirkoy Prison for Women and Children. Two of the persons interviewed stated that they had been held at various police stations in Istanbul, stripped naked and subjected to electric shocks, hosing with cold water under pressure, beating with a truncheon, *falaka* and were forced to stand for hours in a chest-high barrel of water. One 14-year-old described being interrogated under torture for eight days at Kadikoy Yeldegirmeni Police Station. He told the commission where to find the pickaxe handles used for beating the soles of detainees’ feet. When the commission later went to the police station, the instruments were found just as the youth had indicated.

◆ On the basis of leads given by young people interviewed at Bakirkoy Women and Children’s prison, the commission went to Kucukkoy police station. They found an apparatus used to suspend detainees by the arms, photographed it, and submitted the photographs as evidence in judicial proceedings. At the same police station the commission was told that a room with a locked door was “an unused storage room”

to which the key had been lost. The commission members broke a panel of the door and peered through to find “all of the walls, including the door, were covered with yellow sponge, in order to give sound insulation... Nearly all of the children who told the commission that they had been tortured at this police station had described this room covered in yellow foam.” There were other “lost keys” and soundproof interrogation rooms in other police stations and provinces.

Although prosecutors have been more ready to initiate legal proceedings against police officers and gendarmes for ill-treatment or torture in recent years, regrettably, convictions and appropriate sentencing have remained rare. One important obstacle was the 1999 Law on the Prosecution of Civil Servants and Other Administrative Officials, which gave local governors - who oversee police affairs - the final say in initiating prosecutions. This law instructed prosecutors receiving complaints to desist from any action and transfer the case file to the governor’s office. The new law appeared to serve no purpose other than to protect torturers.

◆ On 3 January, the Ankara governor ruled that no legal proceedings should be taken in respect of a complaint against 155 gendarmes for offences of torture, sexual assault and the murder of ten prisoners at Ulucanlar Prison in Ankara in September 1999. The Ankara District Administrative Court overturned the governor’s decision on 17 May. The file was returned to the local prosecutor who, at the time of writing, had made no decision as to whether or not to proceed with a prosecution.

Police officers and gendarmes subject to investigation and prosecution for ill-treatment, torture and unlawful killing were not customarily suspended from duty, and there were even examples of officers still employed after a conviction for ill-treatment.

Even when faced with very strong evidence that torture had taken place, the courts remained reluctant to convict and

impose appropriate sentences on security officers.

Conditions in Prisons

Between 1995 and late 2000, at least 26 prisoners had been killed in Turkish prisons by gendarmes¹³ sent there to "restore order," a duty they customarily carried out with extreme brutality. Prisoners also frequently reported being beaten or otherwise abused during trips from prison to court or to hospitals. Again, gendarmes handled these transfer duties.

In 2000, the Ministry of Justice tried to move away from its traditional system of large wards of eighty or more prisoners, which had proved difficult to manage, to a cell or room system. New cell-based "F-Type" prisons were under construction, and existing prisons were being remodelled.¹⁴ HRW stated that it did not oppose the move to cell based prisons *per se*, but was concerned that unless accompanied by productive activities and substantial out-of-cell time, the new prisons could impose a harsh isolation regime that would violate international standards. These concerns stemmed from the fact that the Ministry of Justice had already begun to apply small group isolation in parts of the prison system, including at Kartal Special Closed Prison in the Soganlik district of Istanbul.

The Ministry of Justice remained inexplicably silent on how it intended to run the new facilities and thus failed to determine whether the planned changes represented progress or a serious regression. Speaking about the plan to institute an individual cell system, the CPT stated in a report to the Turkish Government that "in the absence of a significant improvement in activities for prisoners, the introduction of smaller living units will almost certainly cause more problems than it solves."¹⁵

Turkish prisons are visited regularly by the local prosecutor, and are inspected by the Ministry of Justice every two years. According to the CPT report published in 1999, these visits should be supplemented

by the supervision of a body independent of state institutions.

At the end of 2000, a new law was adopted to provide for the conditional release of thousands of prisoners. Ironically, however, the law did not cover those persons imprisoned for the peaceful expression of their opinions, forming associations or assembling in public. Moreover, while the law excluded from release those persons convicted for having participated in "torture," it allowed the conditional release of members of the security services who had been convicted for "ill-treating" detainees. It must be noted that in most of the rare cases of convictions for torture, the perpetrators were officially sentenced not for "torture," but for "ill-treatment."¹⁶

Towards the end of 2000 the situation in prisons escalated dramatically. Some 800 inmates in various prisons charged with or convicted of politically motivated offences went on hunger strike – and later to death fast – to protest *inter alia* the construction of the "F-type" prisons and the possible imposition of a regime of isolation.¹⁷ On 19 December authorities launched the so-called Operation Return to Life, aimed at stopping the hunger strikes and death fasts. Thousands of soldiers forced their way into several prisons using excessive force (firearms, explosives, etc.) to end the protests. At least 27 inmates and two soldiers died, 426 were wounded and 600 were transferred to "F-type." The Human Rights Foundation of Turkey (HRFT) characterized the operation as a massacre and reported that there was even evidence suggesting the use of chemical weapons during the operation. Following the operation, insufficient and contradictory information was given about the fate and whereabouts of the inmates to their relatives. Many of the prisoners who had been moved to hospitals were forcibly fed and chained or handcuffed to their beds. Others continued their death fasts in "F-Type" prisons and hospitals. Conditions in the prisons to which the inmates were

moved were reportedly extremely poor, including no heating, insufficient clothing for the inmates, ill-treatment, restrictions on the right to meet relatives and a lack of medical care.¹⁸

Death Penalty

Turkey has not carried out any executions since 1984, and could therefore be included in the list of *de facto* abolitionist States. However, as of the end of 2000, it had not yet signed the Sixth Protocol to the ECHR, and courts continued to hand down death sentences. As of September, 57 death sentences that had been confirmed on appeal were pending at the final parliamentary stage.

Prime Minister Ecevit expressed his personal opposition to the death penalty, and Minister of Justice Hikmet Sami Turk said that it was time for Turkey to harmonize its judicial system with the European system and discuss the abolition of the death penalty within this framework.

◆ The most prominent case of the death penalty in 2000 was that of Abdullah Öcalan, leader of the Kurdish Workers' Party (PKK), who was sentenced to death on 29 June 1999 under Article 125 of the Criminal Code (crimes against the State). In February 1999 Öcalan filed a complaint to the European Court of Human Rights, claiming to be the victim of a number of violations of the ECHR.

Religious Intolerance⁹

A campaign to restrict the wearing of headscarves for religious reasons in educational settings or on state premises continued unabated, strongly supported by the Office of the Chief of General Staff. By late 2000, this campaign, waged in the name of secularism, had resulted in thousands of devout Muslim women being temporarily or permanently denied access to education, while others had been suspended or discharged from employment in teaching or health care. On 10 February, the minis-

ter of education announced that more than 300 primary and secondary school teachers had been dismissed by the ministry for defying the dress code by wearing a headscarf to work.²⁰

◆ On 31 May the Istanbul Fatih Primary Court sentenced Nuray Canan Bezirgan to six months' imprisonment for "obstructing the education of others" because she wore a headscarf during an examination at the Health Services Vocational Institute of Istanbul University. The sentence was later converted to a fine, but she faced several other similar charges that would result in imprisonment if convicted.²¹

Arrangements were made to exclude openly devout persons from state privileges. In July, Deputy Prime Minister Devlet Bahçeli confirmed that a circular issued by the State Planning Organisation barred any civil servants or family members wearing a headscarf from entering the organisation's rest and recreation facilities. According to the Regulation on Army Hostels, Clubs and Social Facilities, with the exemption of old people, "those wearing beards, cloaks, turbans, skullcaps, headscarves or similar un-contemporary garb..." were excluded from their facilities.²²

Even elected representatives were subject to the ban.

◆ As of late 2000, the case of Merve Kavakci was still under consideration in the Constitutional Court. On 2 May 1999, Kavakci, elected the previous month as a Fazilet party deputy, entered the Grand National Assembly wearing a headscarf. Prime Minister Bülent Ecevit denounced Kavakci in very strong terms and called for a recess. Media close to the State interpreted Kavakci's act as a political attack on democracy and secularism. The incident triggered a move by the Constitutional Court to close down Fazilet.

Conscientious Objection

Turkey's legislation provided for compulsory military service for all adult males;

there was no provision for conscientious objection.

Article 377 of the draft Penal Code, which imposed imprisonment for up to two years for "alienating the people from the institution of military service," was a restatement of Article 155 of the Penal Code, which was the basis for several prosecutions and the repeated imprisonment of one conscientious objector, Osman Murat Ülke.

Protection of Ethnic Minorities

Stability in the Southeast

The capture of Abdullah Öcalan, and the PKK's announcement that it was to abandon armed activities in Turkey reduced much of the armed turbulence in the southeastern provinces. Some units of the PKK continued sporadic attacks though and there were clashes between security forces and PKK groups withdrawing to northern Iraq. The illegal armed organisation TIKKO (Workers' and Peasants' Army of Turkey) also continued its activities. Nevertheless, the number of clashes diminished considerably. The Anatolia News Agency reported on 25 May that armed incidents had decreased from 3,300 in 1994, to 1,436 in 1995, 488 in 1999 and 18 in the first five months of 2000.

However, the situation in the region remained far from normality. A state of emergency continued in six provinces: Diyarbakir, Hakkari, Sirmak, Siirt, Tunceli, and Van. As the violence that had provoked the emergency subsided, cross-party pressure for ending the emergency increased. Under the 1983 State of Emergency Law and supplementary decrees, the emergency region governor had sweeping powers to move populations, confiscate publications and limit the right of assembly. Maximum police detention periods could be extended from seven to ten days within the emergency region. The governor's extraordinary powers were still regularly exercised in 2000. For example, in May, the emergency region governor banned the distribution of twelve journals. Rights to compensation for acts

carried out by the emergency region governor were limited, and there was no judicial review of such actions.

More than 60,000 villagers were still armed and paid by the State as village guards. The village guard system, established in the mid-1980s ostensibly to help villagers to defend their own villages, was a human rights disaster. In practice, village guards were used in a wide range of security operations, including incursions into northern Iraq and they were involved in "disappearances," extrajudicial executions and torture. In theory, membership in the village guard corps was voluntary, but in practice, it was a test of loyalty: the villagers were made to choose to serve and risk being killed by the PKK, or refuse and put themselves under suspicion of supporting the PKK. The village guard corps was never given a proper chain of command or responsibility, and most village guards on duty still had no insignia in 2000 by which they could be identified.

Internal Displacement

According to the Turkish Parliament's Commission on Migration, 401,328 villagers have been displaced since 1984. Over 300,000 people remained internally displaced in 2000.

Many other observers have claimed a much higher figure. In most cases, these villagers were not evacuated in an orderly fashion, resettled, or compensated. Rather, they were driven from their homes by security forces who left burned houses and destroyed crops and livestock in their wake. From a large number of petitions filed with the European Court of Human Rights in respect of village destruction, three important judgments had already been decided against Turkey as of late 2000.²³ The Turkish Government had taken at least two initiatives for return, both of which were extremely problematic.²⁴

There remained two principle obstacles to return. First, it was not clear that villagers could safely go home without falling

victim to security force or PKK violence. The most recent case of village destruction known to HRW was in 1998. However, as recently as 17 February 2000 the newspaper *Ozgur Bakis* reported that the Savet village, near Beytussebab in Simak province, had been raided by security forces threatening the community with forcible evacuation. On 26 February the same newspaper reported that the Kenik village, near Kozluk in Batman province, had been subjected to similar threats.

In addition, the Government lacked a clear will to return all displaced villagers to their original homes and was still pressing forward with its projects for "central villages" (*köykent*), into which some villagers would be permanently resettled on government land in communities under the eye of the security forces.

In any event, returns to villages were slow: the U.S. State Department's annual human rights report for 1999 quoted a government figure amounting to no more than 6.59% of the Parliamentary Commission's conservative figure.

The Turkish Government also failed to investigate "disappearances" and extra-judicial executions committed during the 1990s. During the security force operations in the rural southeast, torture has been the standard tool of intelligence gathering, and anyone who came under suspicion of illegal activities was at risk of extra-judicial execution or "disappearance."

Language Policy

According to the Turkish Foreign Ministry website, "The status of minorities in Turkey has been internationally certified by the 1923 Treaty of Lausanne, according to which there are only non-Muslim minorities in Turkey. It is wrong, according to this definition, to refer to our citizens of Kurdish descent as a 'Kurdish minority'. Besides, Turkey is a unitary State and 'Turkish citizenship' is an all embracing juridical concept encompassing all our citizens, granting them equal rights and obligations..."

It is clear, however, that the EU's Copenhagen criterion of "respect for and protection of minorities" should be applied not only to the Jewish, Greek and Armenian minorities defined by the Treaty of Lausanne, but also to the Assyrians, Kurds, Laz, Roma and many other minorities in Turkey.

The 1990s saw a considerable liberalization in the area of language policy in Turkey. A law that prohibited speech and printing in languages not officially recognized was abolished in 1991. In 2000, several newspapers and magazines were published in minority languages - although those produced in Kurdish were frequently subject to confiscation or police raids for suspected "separatism."

In a test case in March concerning a child that had been given a Kurdish name, the Supreme Court ruled that children could legally be given names of non-Turkish origin.

Broadcasting and education, however, remained under dispute in 2000. The 1994 Law on the Television and Radio Organisations and their Broadcasts mandated the exclusive use of the Turkish language except in certain circumstances. On the basis of this law, licenses were not issued for television or radio channels to broadcast in Kurdish. Interestingly, the only media outlet to broadcast in the Kurdish language was the Dicle Sesi (Voice of the Tigris) radio channel, run by the armed forces, virtually acknowledging that many who lived in the southeast were unable to understand Turkish.

Turkish remained the official - though not exclusive - language of instruction, according to Article 42.9 of the Constitution. On the basis of the 1983 Foreign Language Education and Teaching Law, the National Security Council decided which foreign languages may be taught in Turkey. While languages spoken outside of Turkey (e.g. English, Russian, Chinese, etc.) could be taught, Laz, Kurdish and Roma could not.

Protection of Asylum Seekers

Turkey retained a geographic limitation to its ratification of the 1951 UN Convention on the Status of Refugees: according to the limitation, only those fleeing as a consequence of "events occurring in Europe"²⁵ could be granted refugee status. This limitation, however, did not exempt Turkey from a responsibility to abide by the principle of *non-refoulement*, which is binding in all cases.²⁶

Since 1994, the Turkish authorities have determined the status of non-European asylum seekers, while the UN High Commissioner for Refugees (UNHCR) has attempted to resettle those refugees in third countries. The system as it stood in 2000 was extremely dangerous for non-European refugees and various stages of the process put them at risk of *refoulement*. First, many asylum seekers were apprehended at the borders and promptly deported. Turkish officials at the Iranian border had the discretion to promptly return any foreigner apprehended within the two-kilometre zone separating Iran and Turkey.²⁷ Of the tens of thousands of illegal aliens apprehended inside Turkey in recent years, none were reported to have been informed of their right to seek asylum in Turkey prior to expulsion. Some asylum seekers were ill-treated in police custody, or even killed by security forces as they tried to cross the border.

In addition, the 1994 regulations imposed a number of preconditions for filing asylum applications, which, in practice, were difficult and sometimes impossible for asylum seekers to meet. These included time limits of a few days for registration, and the requirement of valid identity documents. Applicants who did not meet the preconditions were liable to deportation. Between 1995 and 2000, at least 570 such Iranians and Iraqis with applications pending with the UNHCR were forcibly returned.²⁸

◆ In July 2000, the European Court of Human Rights condemned Turkey for attempting to deport an Iranian refugee without examining the merits of her asylum claim on the ground that she had failed to register with the police within five days of her arrival.²⁹

The UNHCR indicated that this problem was temporarily brought under control through the Turkish authorities' "regularization" of asylum seekers who entered the country illegally and failed to meet the preconditions.

In 2000, the Turkish Government's system for examining asylum applications did not contain the minimum safeguards required under international law for fair and accurate refugee determination. Local police officers recorded the substance of claims with the assistance of interpreters who were often incompetent, and case decisions were made by officials of Interior and Foreign Ministries who lacked expertise and independence. There were no provisions for oral hearings or legal assistance. Applicants were not provided with a written notification of the reasons for their rejection and appeal rights were ineffective or inaccessible.

Moreover, anyone who eventually managed to be recognized by the Turkish authorities as fitting the UN Convention's definition of a refugee was not classified as a "refugee," but only as an "asylum-seeker." "Asylum seeker" status did not carry a guarantee against *refoulement*, but only qualification for a temporary residence permit so that the person could submit his or her case for consideration by UNHCR with a view to resettlement in another country. The asylum regulations, in direct violation of the principle of *non-refoulement*, authorized the deportation of recognized "asylum seekers" who had not been resettled in a third country after a "reasonable time".

Human Rights Defenders

Criticizing the authorities or questioning the State's view of society was often

viewed as a form of disloyalty bordering on treason. Organisations viewed as disloyal were harassed, raided or closed down; their members risked prosecution or worse. Members of the Turkish Human Rights Association's (HRA) 59 branches were detained, tortured, imprisoned and subjected to death threats and 11 HRA members had been murdered by unknown assailants by late 2000, in some cases in circumstances that suggested security force involvement.

◆ Sixteen alleged members and supporters of the ultra-nationalist Turkish Revenge Brigade faced trial in late 2000 for attempting to kill Akin Birdal, then President of the HRA, in May 1999. The defendants included a retired army major and a serving gendarmier officer. They were also accused of "forming an armed gang to commit crime for social and political objectives." Birdal was shot six times at HRA headquarters. Immediately after the shooting, then Prime Minister Mesut Yılmaz claimed that the attack was "an internal settling of accounts" and that the HRA was connected to the PKK.³⁰

◆ The Diyarbakir and Van branches of the HRA and the Malatya branch of the Association of Human Rights and Solidarity for Oppressed Peoples (Mazlum-Der) remained closed in late 2000. Diyarbakir HRA challenged the closure in the courts and won. On 19 April, the court overturned the closure order, and after some delay the branch was permitted to reopen. Their first activity was to be a signature campaign against the new generation of "F-Type" prisons. As the local governor refused permission for publications and meetings associated with the campaign, the branch issued a critical press statement. It was then closed for three months on the orders of the emergency region governor. Thirty minutes after the branch re-opened on 12 August, the emergency region governor closed it once again. The recently opened Van branch of the HRA was also closed by the emergency region governor, because it, too, was planning a campaign relating to the "F-Type" prisons.

Many other human rights defenders faced trial in 2000, including several members and volunteers of the Human Rights Foundation of Turkey (HRFT), which deals mainly with torture victims.³¹

◆ On 23 May, Dr. Zeki Uzun, a volunteer gynaecologist with the HRFT Izmir Treatment and Rehabilitation Center, and 12 other defendants were acquitted due to inadequate evidence. Fatma Kaygisiz and Sabri Suncak were sentenced to three years and nine months imprisonment respectively under Article 169 of the Penal Code (setting up an armed gang). Dr. Uzun was detained in his office on 19 October 1999 and held in detention for seven days, during which time he was tortured. He was charged with "aiding an illegal organisation" simply for providing medical treatment to two patients.

◆ On 13 June, the Izmir Penal Court of First Instance No. 2 sentenced Prof. Dr. Veli Lok and Bahri Akkan to one month imprisonment and fined each of them TL 60 million (U.S.\$100) under Article 30.2 of the press law (No. 5680). The prison sentences were commuted to a fine of TL 60 million under Law No. 647: thus, the two defendants each had to pay a fine of TL 120 million. Professor Lok was charged with violating the press law for making a statement in connection with the unjust arrests carried out during the funeral of Nevzat Ciftci, one of the prisoners killed during the police operation at Ankara Ulucanlar Prison on 26 September 1999. According to the prosecutor, "the defendants made a show, in the aftermath of previous trials, with the press statements they made together with their national and international supporters, and they considered themselves to be above the law. The media also supported them by broadcasting the news about them, thus, violating the principle of impartiality. In addition, the 19 January 2000 press statement by Yavuz Önen, President of the HRFT executive board, is [...] evidence that a crime was committed."

◆ On 11 July, the fifth court hearing in the case against Dr. Alp Ayan and Günseli Kaya - both staff members of HRFT Izmir office - took place in the Izmir Penal Court of First Instance. Ayan and Kaya were among the people arrested when attempting to participate in the funeral of a prisoner killed in the massacre of the Ulucanlar Prison in Ankara in 1999. On 27 March 2001, the Aliğa Penal Court of First Instance decided to adjourn the hearing until 24 May 2001. Between January 2000 and end of March 2001, seven hearings had been held in the case.

◆ The Helsinki Citizens Assembly summer school, to be held between 31 August and 8 September in Canakkale, was abruptly closed down by the police on 2 September by order of the Ministry of Interior: the activity was deemed "not appropriate." The meeting was attended by 19 participants from abroad as well as by local members. Its main theme was "The Importance of NGOs in the Balkans, the Caucasus and Europe: Civil Approaches in Conflict Prevention for a Peaceful World".⁵²

Endnotes

¹ Unless otherwise noted, based on Human Rights Watch/Europe and Central Asia Division, *Turkey: Human Rights and the European Union Accession Partnership*, September 2000, Vol. 12, No. 10 (D).

² See IHF, *Women 2000, an Investigation into the Status of Women's Rights in Central and South-Eastern Europe and the Newly Independent States*, November 2000.

³ The introduction is based also on Human Rights Watch/Europe and Central Asia Division, "Turkey: Insufficiently Clear Human Rights Agenda for E.U. Accession," press release, 8 November 2000.

⁴ See endnote 2.

⁵ See Religious Tolerance, below.

⁶ Article 243 provided for 1-8 years' imprisonment and dismissal from service for security officers who "subject others to torture or cruel, inhuman or degrading treatment." Article 245 imposed up to five years' imprisonment for security officers who "ill-treat or physically give harm to the others." Article 450(3) provided for the death penalty for any person who intentionally tortured their victim to death and article 452 provided for 15 years' imprisonment for unintentional killing by wounding or beating.

⁷ The first and only real practical step to combat torture made by any Turkish Government since the 1980 military coup was the shortening of police detention periods in 1997.

⁸ E/CN.4/1999/61, 113 (a).

⁹ CPT/Inf (99) 2 [EN], 23 February 1999, paragraph 19.

¹⁰ United Nations Committee against Torture, "Report on Turkey under Article 20," November 9, 1993 (A/48/44/Add.1).

¹¹ CPT/Inf (99) 2 [EN], 23 February 1999, paragraph 17.

¹² E/CN.4/1999/61, 113 (j).

¹³ These gendarmes, trained for counter-insurgency in southeastern Turkey, were often called in to quell unrest, and they used this as an opportunity to settle accounts with prisoners accused of links with illegal armed groups that might be fighting security forces elsewhere in the country.

¹⁴ For details, see Human Rights Watch, "Small Group Isolation in Turkish Prisons: An Avoidable Disaster," 24 May 2000.

¹⁵ CPT/Inf (99) 2 [EN]; February 23, 1999.

- ¹⁶ Amnesty International, "New Turkish Law Providing for Conditional Prisoner Releases Simply Does Not Address Concerns Over Turkey's Human Rights Record," 15 December 2000.
- ¹⁷ Amnesty International, "Turkey: Concerns about Risk of Isolation in Turkish Prisons," press release, 28 November 2000.
- ¹⁸ Human Rights Foundation of Turkey, 24 and 26 December 2000.
- ¹⁹ See also IHF, *Human Rights in the OSCE Region: the Balkans, the Caucasus, Europe, Central Asia and North America, Report 2000*.
- ²⁰ Turkish Daily News, 11 February 2000.
- ²¹ *Milliyet*, 15 July 2000.
- ²² The Official Gazette, 20 August 2000.
- ²³ European Court of Human Rights, *Mentes and others*, 28 November 1996; *Akdivar and others*, 18 December 1996; *Selçuk and Asker*, 24 April 1998.
- ²⁴ As described in Human Rights Watch's 1996 report *Turkey's Failed Policy to Aid the Forcibly Displaced in the Southeast*, Vol. 8, No. 9 (D), June 1996.
- ²⁵ The UN Convention on the Status of Refugees, Article 1 B(1). For details of Turkey's reservation, see www.unhcr.ch/refworld/refworld/legal/instrume/asylum/51engsp.htm.
- ²⁶ Article 33.
- ²⁷ US Committee for Refugees, *World Refugee Survey 1999*.
- ²⁸ Figures collected from the US Committee for Refugees' *World Refugee Survey for the years 1996 to 2000*.
- ²⁹ *Hoda Jabari v. Turkey*, European Court of Human Rights, No. 40035/98, July 11, 2000.
- ³⁰ *Milliyet*, 14 May 1998
- ³¹ Information from the Human Rights Foundation (HRFT) of Turkey, 2000.
- ³² Helsinki Citizens Assembly-Turkey, press statement, 6 September 2000.