

Physicians for  
Human Rights

Southeastern Turkey:  
Health Care Under Siege

August 2016

**PHR**

Physicians for  
Human Rights



## About PHR

For 30 years, Physicians for Human Rights (PHR) has used science and medicine to document and call attention to mass atrocities and severe human rights violations.

PHR is a global organization founded on the idea that health professionals, with their specialized skills, ethical duties, and credible voices, are uniquely positioned to stop human rights violations.

PHR's investigations and expertise are used to advocate for persecuted health workers and medical facilities under attack, prevent torture, document mass atrocities, and hold those who violate human rights accountable.

## Acknowledgments

This report is based on research conducted by Christine Mehta, researcher at Physicians for Human Rights (PHR), and Önder Özkalipci, MD, forensic medical expert advisor to PHR during a two-week investigation in Turkey (April 25 - May 10, 2016). The report was written by Christine Mehta and Önder Özkalipci and benefited from review by PHR leadership and staff, including Widney Brown, director of programs; DeDe Dunevant, director of communications; Vincent Iacopino, MD, PhD, medical director; Donna McKay, executive director; and Marianne Mollmann, senior researcher. Claudia Rader, MS, content and marketing manager, edited and prepared the report for publication.

The report has also undergone external review by Michele Heisler, MD, MPA, PHR board member and medical advisor, professor of internal medicine and health behavior and health education at the University of Michigan Medical School, and associate director of the University of Michigan Medical School's Global REACH program.

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The research protocol for this report was approved by PHR's Ethics Review Board.

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*Cover: A hospital that was damaged by clashes during a 79-day curfew from December 14, 2015 to March 2, 2016 in the city of Cizre in southeastern Turkey.*

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## Glossary

AKP	Justice and Development Party
CHC	Community Health Center
ECHR	European Court of Human Rights
FHC	Family Health Center
HDP	People's Democratic Party
HRFT	Human Rights Foundation of Turkey
KESK	Teachers' Union in Turkey
PKK	Kurdistan Workers' Party
SES	Health Workers' Union in Turkey
TAK	Kurdistan Freedom Falcons
TMA	Turkish Medical Association
TPC	Turkish Penal Code
TMK	Anti-Terror Act
YDG-H	The Patriotic Revolutionary Youth Movement

## Executive Summary

In May 2016, Physicians for Human Rights (PHR) sent a team of investigators to southeastern Turkey to investigate alleged human rights abuses against the largely Kurdish population. This research provides the basis for the following report. On July 15, 2016, as the report was being finalized, a faction of the Turkish military attempted to overthrow Turkish President Recep Tayyip Erdoğan and his government. The military's failed attempt has drastically altered the human rights conditions within the country.

The imposition of a three-month, nationwide state of emergency by President Erdoğan and his government in the immediate aftermath of the failed coup is, in many ways, an expansion of a *de facto* state of emergency that has kept the country's Kurdish-dominated southeast under intermittent siege since July 2015 and silenced any criticism of the government's tactics against the Kurds. These tactics included widespread, round-the-clock curfews which cut off entire cities and resulted in hundreds of civilian deaths.

This report details the widespread grave human rights violations committed by Turkish security forces in the southeast over the past year. The

Turkish government's response to Kurdish opposition has failed to respect international human rights norms, and is a warning for political dissidents in the rest of the country. Under the state of emergency, Turkey is blatantly abdicating its human rights responsibilities in its quest to eradicate political dissent and silence critics of any kind.

In addition to declaring a state of emergency, in the weeks immediately following the failed coup President Erdoğan dismissed nearly 60,000 people from their posts at every level of the government – from the Ministry of Education to the Prime Minister's office. Thousands of military personnel, including a third of the force's senior leadership, were arrested, and the judiciary ground to a halt after nearly 3,000 judges were dismissed from their jobs overnight for suspected links to the attempted coup. Rule of law has disintegrated in Turkey, and the authorities – led by President Erdoğan – have flouted human rights norms with impunity. In addition to wide-ranging restrictions on freedom of expression, the potentially arbitrary arrests of nearly 10,000 people and reports of ill-treatment in detention raise serious concerns.

The implications for people living in Turkey, and particularly those in the southeast, are devastating.



*Members of Turkey's pro-Kurdish Peoples' Democratic Party argue with police as they try to enter the Kurdish-dominated city of Cizre, blocked by Turkish security forces, on September 10, 2015.*

*Photo: Ilyas Akengin/AFP/Getty Images*



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**Since July 2015, the Turkish authorities have waged a campaign against the population of southeastern Turkey, imposing a succession of 24-hour sieges, known as curfews, which have blocked access to health care – including emergency medical treatment for life-threatening injuries or illnesses – cut off water, food, and electricity to whole cities, and resulted in thousands of deaths.**

Even before the failed coup, the government punished any individuals or organizations that challenged the government's use of harsh military tactics to quell an armed uprising by Kurdish youth in the southeast. The sweeping post-coup purges in the education, legal, and security sectors, combined with relentless persecution of people voicing dissent – including human rights defenders and journalists – is devastating for the Kurds specifically, and the people of Turkey generally.

For the Kurds, there is no longer any space for journalists or human rights activists to document persecution of the Kurdish population and demand equality and justice. The justice system, which has largely failed the Kurds over the past 30 years, has now been stripped of any vestiges of independence, causing serious concerns about access to justice or redress for the violations described in this report. For the people of Turkey generally, the message is clear: no criticism of the government will be tolerated.

President Erdoğan has repeatedly claimed that the coup was an attack on democracy and the rule of law. Now, it is crucial that he demonstrate his commitment to adhering to Turkey's obligations to uphold international legal standards that protect the rights of all people living in Turkey – even in times of public emergency.

Since July 2015, the Turkish authorities have waged a campaign against the population of southeastern Turkey, imposing a succession of 24-hour sieges, known as curfews, which have blocked access to health care – including emergency medical treatment for life-threatening injuries or illnesses – cut off water, food, and electricity to whole cities, and resulted in thousands of deaths.

State media and officials report at least 7,561 deaths between July 24, 2015 and May 23, 2016 related to the conflict between government forces and Kurdish fighters in the southeast, a period which coincided with the imposition of dozens of curfews on civilian towns in the area.<sup>1</sup> The state figures do not include

estimates of civilian deaths as a direct or indirect result of the military campaign and imposition of the curfews. The Human Rights Foundation of Turkey, a nongovernmental organization, has independently documented reports of at least 338 more deaths of local residents, including 72 children, between August 16, 2015 and April 20, 2016.<sup>2</sup>

The blanket curfews have disastrously impacted access to health care services for the affected areas' Kurdish populations, and have facilitated human rights violations by the Turkish authorities. International human rights law states that in times of "public emergency which threaten the life of the nation ... States ... may take measures derogating from their obligations" under the International Covenant on Civil and Political Rights, to which Turkey is state party. But it stipulates that those measures must be strictly proportional to the threat, and may not infringe upon the rights to life, freedom from torture, and equal recognition before the law.<sup>3</sup> Further, the curfews constitute collective punishment, a practice strictly prohibited by international humanitarian law, even in times of public emergency and threats to a nation's sovereignty, as collective punishment is a tool used by governments to punish entire communities for suspected dissent or other actions deemed offensive to the state.<sup>4</sup> The indefinite curfews imposed by Turkish authorities have failed to meet international standards governing public emergencies, including the conduct of counterterrorism operations.<sup>5</sup>



*Residents of Diyarbakır protest in March 2016 against curfews imposed on the Sur district of the city. Photo: Ilyas Akengin/AFP/Getty Images*

During 11 months of curfews in the southeast, Turkish security forces deliberately and illegally obstructed access to health care by using state hospitals for military purposes, preventing the free movement of emergency medical vehicles, and punishing health professionals for delivering treatment to the wounded and sick. Several emergency medical personnel came under active fire, as security forces did not respect their neutrality and status as humanitarian workers. Local residents were shot at, and some were killed, for attempting to move their wounded family members to safety.<sup>6</sup>

In one case, in the southeastern city of Cizre, more than 100 people with injuries were trapped in three basements for several weeks between January and February 2016 without access to care. Turkish authorities imposed a round-the-clock curfew on the entire city from December 14, 2015 to March 2, 2016 – a total of 79 days. Despite orders from the European Court of Human Rights to provide those trapped with medical care, Turkish authorities ignored the Court, resulting in the death of all the people trapped in the basements. Turkish authorities

also refused to investigate the deaths and disappearances of those trapped in the basements even after the curfew ended on March 2. In fact, Turkish authorities demolished the buildings over the basements with bulldozers immediately after the curfew ended, effectively destroying any remaining evidence of the alleged crimes.

Health professionals working in the emergency rooms of hospitals across the southeast testified that, during the curfews, security forces used hospitals as dormitories and offices and barred health professionals from entering certain areas of the hospitals or health centers they worked in – effectively militarizing hospitals, in violation of international law.<sup>7</sup>

Turkish security forces and armed opposition groups have both interfered with medical transport units through the use of blockades and checkpoints, failed to provide adequate protection to emergency transport vehicles, and failed to prevent the targeting of emergency response vehicles.



*Residents sit in front of their ruined home in Cizre on March 2, 2016, following heavy fighting between government forces and Kurdish fighters.*

*Photo: Yasin Akgul/AFP/Getty Images*



Medical workers providing assistance to the wounded and sick are afforded special protections under international law. Turkish security forces routinely violated these protections in southeastern Turkey between July 2015 and June 2016. PHR documented indiscriminate attacks on emergency health personnel, indicating that parties to the armed struggle have failed to distinguish between a combatant and non-combatant, resulting in the targeting of non-combatants by both sides.

Since July 2015 numerous health care workers have been charged with the crimes of “making terrorist propaganda” and “being part of an illegal organization.”<sup>8</sup> Those not formally charged have been subjected to administrative inquiries by the Ministry of Health for participating in protests calling for peace in the southeast, making statements to the media about the need for peace, and, in some cases, for providing medical treatment in areas under curfew to alleged members of armed opposition groups. These groups have included the Patriotic Revolutionary Youth Movement (YDG-H), a youth militia founded in 2014, and the Kurdistan Workers’ Party (PKK), an armed group that has fought the Turkish state for greater political autonomy for Turkey’s Kurdish population since 1984.

The shutdown of the health care system during the prolonged unrest and persistent curfews has had predictably disastrous effects on people’s ability to access health care services – resulting in death and exacerbating the consequences of untreated injuries and illnesses – and has debilitated the region’s health care infrastructure and resources. It has also potentially given cover to serious human rights violations that have not been effectively investigated. In fact, human rights groups have reported rampant impunity for human rights violations against civilians in southeastern Turkey. These violations have included a lack of effective investigations into deaths, whether caused by Turkish security forces or armed groups (PKK and YDG-H). Family members and their lawyers told PHR that local prosecutors consistently refused to open investigations into reports of unlawful killings.

### **Physicians for Human Rights recommends that the Turkish government act without delay to:**

- Remove all obstructions to accessing medical care, including ending indefinite curfews that violate Article 4 of the International Covenant on Civil and Political Rights; removing security forces, including police, from state hospitals and other health facilities; and ceasing the use of health facilities for any purpose other than strictly medical.
- Provide adequate security and resources to emergency health responders to address calls for emergency medical assistance in areas under curfew and active operations in a timely manner.
- Allow medical professionals to deliver emergency medical treatment and other health services to all individuals seeking treatment, without discrimination or reprisal for their actions, in accordance with international law, medical ethics, and Turkish domestic law (Articles 97 and 98 of the Turkish Penal Code).
- Cease legal actions against individuals for lawfully exercising their right to freedom of expression.
- Cease legal actions against health professionals for adhering to medical ethics and providing impartial treatment without discrimination.
- Ensure that all allegations of human rights violations are investigated in an independent, impartial, and timely manner, and, where evidence amounts to individual criminal responsibility, that the perpetrator is prosecuted in a court meeting international fair trial standards.
- Allow access for international monitors to the southeast to ensure security forces are complying with international norms – a measure that is now all the more urgent following the coup attempt and subsequent state of emergency.



*People at a police barricade near the curfewed Sur district of Diyarbakır on February 3, 2016.  
Photo: Ilyas Akengin/AFP/Getty Images*

# Methodology

The findings of this report are based on a two-week investigation between April 25 and May 10, 2016 in Istanbul, Ankara, and various cities in the southeast of Turkey, including Diyarbakır, Mardin, and Midyat. A Physicians for Human Rights (PHR) research team of two gathered independent evidence – including witness testimonies and documentation – of violations of human rights and international humanitarian law. The researchers focused on violations of the principle of medical neutrality – non-interference with medical services during times of unrest or conflict – under the curfews imposed in the southeast after the dissolution of the ceasefire between the Kurdistan Workers' Party (PKK) and Turkey's government in July 2015.

PHR's delegation visited Istanbul and Ankara to meet with state officials, including representatives of the Department of Forensic Medicine in Istanbul, the Ministry of Justice, and the Ombudsman Institute in Ankara. PHR also met with the director of the Diyarbakır branch of the Forensic Medicine Department under the Ministry of Health, and the mayors of Sur and Bağlar districts in Diyarbakır. PHR sought meetings with the Ministry of Internal Affairs, including the governors of Diyarbakır and Şırnak, Ministry of Defense, and various departments of the Ministry of Health in Ankara, Diyarbakır, and Cizre, but official requests remained unanswered. Upon completion of the investigation, PHR also sent letters requesting a response from the Turkish authorities to PHR's findings. Those requests, too, remain unanswered.

PHR experts met with a wide range of civil society groups based in Ankara, Istanbul, Diyarbakır, Cizre, Mardin, Silopi, Şırnak, and Nusaybin, including the Human Rights Foundation of Turkey, Human Rights Association (Ankara, Diyarbakır, and Cizre), Diyarbakır Bar Association, Turkish Medical Association (Istanbul, Ankara, and Diyarbakır), SES Health Workers' Union (Ankara, Diyarbakır, and Cizre), Mesopotamia Lawyers' Association, Mazlumder (Association for Human Rights and Solidarity for the Oppressed), the Turkish Red Crescent, the Rojava Association, and Gündem Çocuk Derneği (a child rights organization). PHR researchers examined documentation, including secondary and primary sources collected by several of these organizations, as well as legal documents filed by lawyers of the organization on behalf of victims of human rights violations and their families. PHR interviewed 20 family members of victims of alleged human rights violations committed by Turkish security forces. These included both male and female members of the families – including fathers, mothers, brothers, and sisters of the victims. In addition, PHR interviewed

33 health professionals working in various cities of the southeast about violations of medical neutrality, including obstruction of access to health services under curfew and legal actions taken against health professionals by the state for carrying out their duties to treat all patients impartially, regardless of political affiliation. The team interviewed five doctors, including two general practitioners and three forensic medicine specialists, working in Istanbul; ten doctors, primarily general practitioners, based in Ankara; one emergency physician, six general practitioners, two oncologists, and one nurse working in various hospitals in Diyarbakır; two general practitioners and one dentist working in Cizre; four general practitioners working in Mardin; one general practitioner working in a health clinic in Şırnak; and one pediatric orthopedist in Izmir.

Interviews were conducted in Turkish and Kurdish, with the assistance of local interpreters speaking Turkish, Kurdish, and English. The names of people interviewed during the course of research have been withheld for reasons of security and confidentiality. The only exceptions are when the family member or health professional has specifically requested to be named in the report, and PHR has evaluated the level of acceptable risk to the individual and family.

For all interviews, the PHR team obtained informed oral consent from each interview subject following a detailed explanation of PHR, the purpose of the investigation, and the potential benefits and risks of participation.

Interviews were conducted using semi-structured interview instruments developed by PHR staff medical and legal experts and approved by PHR's Ethics Review Board (ERB), a body established by PHR in 1996 to ensure the protection of individual witnesses PHR interviews during the course of investigations and research. PHR's ERB regulations are based on Title 45 CRF Part 46 provisions, which are used by academic Institutional Review Boards. All of PHR's research and investigations involving human subjects must be approved by the ERB and conducted in accordance with the Declaration of Helsinki as revised in 2000.

## Challenges and Limitations

Given the ongoing security operations and clashes between armed groups and security forces, access to cities and towns under curfew was strictly prohibited by Turkish authorities. Access to areas recently under curfew was also severely restricted, making independent documentation of violations extremely challenging, and understanding the true scale of violations of human rights and medical neutrality difficult. Despite scheduled appointments with several local officials and promises from the Ministry of Foreign Affairs of unimpeded



access for international observers, the PHR team was denied access to Cizre, a city in Şırnak province, at a checkpoint manned by police on May 3, 2016. Given these barriers to accessing information and evidence, the report is subjected to limitations in scope. However, the data gathered provides a solid basis on which to make informed recommendations on the violations addressed within the scope of this report.

## Background

The imposition of weeks-long and sometimes months-long 24-hour curfews and their deadly consequences were the latest manifestation of a conflict between the Turkish authorities, the Kurdistan Workers' Party (PKK), and PKK-linked youth militias. The conflict, which has varied in intensity over the years, has characterized the Kurdish-dominated southeast of the country since 1984. The PKK was founded in 1977 and over the years has used violent methods to demand self-determination and cultural independence for the substantial Kurdish minority population within Turkey. Between 1985 and 2016, the conflict has claimed over 30,000 lives.

The political rise of President Recep Tayyip Erdoğan at first appeared positive for the Kurdish minority in Turkey. After Erdoğan became prime minister in 2003, he took steps to repeal laws prohibiting expressions of Kurdish identity, including the use of Kurdish language

in schools and the celebration of Kurdish cultural holidays. In 2013, Erdoğan oversaw the establishment of an historic ceasefire with the PKK. He also began allowing prison visits for the PKK's founder and ideological leader, Abdullah Öcalan, who had been incarcerated since 1999. Corraling Kurdish support for his leadership potentially contributed to Erdoğan's election as president in 2014. In February 2015, Erdoğan's government announced the creation of a 10-point plan for a peaceful resolution to the now low-level conflict, including measures such as disarmament of the PKK and enhanced autonomy for Kurdish districts.

However, renewed tension was already brewing. In 2014, the main Kurdish military force in Syria, the People's Defense Units (YPG),<sup>9</sup> made advances against the self-declared Islamic State (IS), also called ISIS or ISIL, which had occupied Kurdish majority areas in Syria. Iraqi and Turkish Kurds, eager to support Syrian Kurds in their battles against the IS, were stymied as Erdoğan refused to open the borders to allow fighters and convoys to cross. Erdoğan, according to media coverage, appears to view the Kurdish YPG as a threat to Turkey equal to the IS.<sup>10</sup> The Kurds in Turkey, enraged by what they perceived as Turkish support of the Islamic State against the Syrian Kurds, erupted in protests across the southeast, resulting in deaths and injuries as demonstrators clashed with security forces.<sup>11</sup> Soon afterwards, Erdoğan reversed his position on the peace talks, instead vowing to eliminate the PKK.<sup>12</sup>



*Protesters throw rocks as police use a water cannon during a demonstration in Diyarbakır on December 22, 2015 to denounce security operations against Kurdish fighters in southeastern Turkey.*

*Photo: Ilyas Akengin/AFP/Getty Images*

# Protracted Curfews in Southeastern Turkey

In the summer of 2015, in response to the government crackdown against the Kurdistan Workers' Party (PKK), the youth militia Patriotic Revolutionary Youth Movement<sup>13</sup> began to build barricades in the cities and towns of the southeast, declaring them "autonomous zones."<sup>14</sup> Armed fighters linked to the PKK also killed members of the Turkish security forces, including two police officers in Şanlıurfa (a large town close to the Turkey-Syria border) on July 22, 2015.<sup>15</sup> President Erdoğan responded by sending thousands of Turkish soldiers and special operations police forces into the southeast to quell the uprising.<sup>16</sup> Thousands of local residents fled. Those who lacked the resources to leave remained behind and risked being caught in crossfire as Turkish security forces and youth fighters clashed in the streets.<sup>17</sup>

On August 16, 2015, government forces imposed the first curfew on Muş, a city in Varto district. For the following 11 months, curfews were imposed at least 65 times in 22 districts and seven major cities.<sup>18</sup>

The curfews meant round-the-clock sieges imposed on whole neighborhoods and, in some cases, cities, which lasted for days or weeks at a time. Under curfews, access to water, food, and electricity was cut off, and residents risked being shot by snipers or caught in crossfire if they attempted to leave their homes.

Local residents and activists told Physicians for Human Rights that the curfews were largely imposed with little warning. Cizre, a city of 100,000 people in Şırnak province in Turkey's southeast, was one of the hardest hit by the fighting between Turkish security forces and Kurdish rebel fighters in 2014 and 2015. The first of two round-the-clock curfews in Cizre began with little warning on September 4, 2015. "They would go around with loudspeakers announcing the start of a curfew," said Dr. B.K. from Cizre's public hospital. "If you happened to be outside the city, you would never be able to get back in. If you were inside the neighborhood under curfew, you would have a hard time getting out."<sup>19</sup> The second curfew in Cizre lasted 79 consecutive days, from December 14, 2015 to March 2, 2016.

International humanitarian law prohibits collective punishment – even in times of threats to the state – and prohibits governments from depriving populations of the means of survival, including

access to food, water, and medical care.<sup>20</sup> Article 4 of the International Covenant on Civil and Political Rights (ICCPR), to which Turkey is a state party, says that in times of "public emergency which threaten the life of the nation ... States ... may take measures derogating from their obligations" under the ICCPR, but stipulates that those measures must be strictly proportional to the threat, and may not infringe upon the rights to life, freedom from torture, and equal recognition before the law. The indefinite curfews imposed by Turkish authorities have failed to meet international standards governing public emergencies, including the conduct of counterterrorism operations.<sup>21</sup>

By June 2016, three cities in the southeast remained under curfew – Şırnak, Nusaybin, and Yüksekova (Hakkâri province). According to local activists who relocated from those cities, approximately 10,000 - 15,000 local residents (non-combatants) remained in Nusaybin, living under curfew, while 2,000 remained in Şırnak.<sup>22</sup>

From the start of the curfews, residents from the areas under curfew reported that the Turkish military blocked access to urgent medical care for the sick and wounded, that there were government-ordered cuts in water, food, and electricity, and that Turkish authorities were taking legal actions and otherwise harassing human rights activists, including health professionals who called on the government to respect international human rights law.<sup>23</sup> These practices were continuing in Nusaybin and Şırnak in May 2016, with apparent increases in harassment of those criticizing the state.

The curfews in the southeast have no legal basis. Prior to the outbreak of fighting in July 2015, Turkish authorities relied on the imposition of emergency rule under the State of Emergency Law to respond to armed opposition groups operating in the southeast from 1987 to 2002.<sup>24</sup> Since July 2015, provincial governors, or *valis*, have cited the Law on Provincial Administration to invoke a vague and broadly defined provision granting the governor power to "take measures against social unrest."<sup>25</sup> The provision includes no definition of a curfew, or the procedure for imposing one. According to a lawyer based in Ankara,<sup>26</sup> the authorities used this provision to expedite imposing the curfews. Declaring a state of emergency is a multi-step process that requires the government to secure approval from the Council of Ministers on the duration and scope of any measures taken under an emergency.<sup>27</sup> The provincial law, on the other hand, allows the governors to impose curfews through executive order.



## Kurds: An Ethnic Minority Without a State

The Kurds are an ethnic group that inhabits an area comprised of parts of eastern and southeastern Turkey (Northern Kurdistan), western Iran (Eastern or Iranian Kurdistan), northern Iraq (Southern or Iraqi Kurdistan), and northern Syria (Western Kurdistan or Rojava).

The Kurdish people have been persecuted throughout the 20th century. In 1962, Syria stripped 120,000 Syrian Kurds of their citizenship, leaving them stateless – only a few have been reinstated since President Bashar al-Assad came to power. In Turkey, Kurdish language, broadcasts, cultural traditions, and political representation were severely curtailed or outright banned for decades (with some reforms introduced in 2003). In Iraq, Saddam Hussein famously carried out the al-Anfal campaign in 1988 that killed between 50,000 and 180,000 Kurds through mass killings and the use of chemical weapons.

The struggle for a Kurdish homeland has spanned much of the 20th and 21st centuries, since the end of World War I. Some Kurds have sought a unified Kurdistan as an independent sovereign state, while others have merely

called for greater cultural freedoms and political representation within their respective countries.

Historically, Turkey has viewed Kurdish aspirations as a threat to its national security and stability – potentially leading to the destruction of modern nation-state borders drawn by colonial powers and the Turks after World War I.

In 1920, world leaders gathered in France to draw up the Treaty of Sèvres, which divided the territories controlled by the recently dissolved Ottoman Empire. The treaty allowed for the establishment of an independent Kurdistan. Mustafa Kemal Atatürk rejected the agreement, causing the Treaty of Lausanne to replace it by 1923 – this time omitting any mention of a Kurdish homeland. This resulted in the Kurdish population being divided between Iran (8.1 million), Iraq (5.5 million), Syria (1.7 million), and Turkey (14.7 million), and constituting minorities in all states. The Kurds are the largest ethnic minority in the world without a sovereign state.



*Kurds take part in funerals for people killed during clashes between Turkish forces and Kurdish fighters in Cizre on September 13, 2015, following a week-long curfew imposed to support a military operation against Kurdish fighters. Photo: Ilyas Akengin/AFP/Getty Images*



# Findings on Access to Health Care in Southeastern Turkey

During 11 months of protracted round-the-clock lockdowns imposed on residential areas in Turkey's southeast, Turkish security forces deliberately and illegally obstructed access to health care by using state hospitals for military purposes, preventing the free movement of emergency medical vehicles, and punishing health professionals for delivering treatment to the wounded and sick. Several emergency medical personnel came under active fire, as security forces did not respect their neutrality and status as humanitarian workers. Local residents were shot at, and even killed, for attempting to move their wounded family members to safety.

As of June 2016, curfews were lifted in all but two major cities, and security forces had moved out of state hospitals in those areas. Military and police personnel were still stationed in the Nusaybin Public Hospital and Şırnak Public Hospital as of June 2016, as both Şırnak and Nusaybin were still under curfew. But the curfews and closures had lasting consequences for the provision of health care in the southeast. For example, Cizre's eight health centers were all closed during a 79-day curfew ending on March 2; only five had reopened by May 2016, as the remaining three were destroyed during fighting.<sup>28</sup> In addition, many health care professionals fled or transferred out of the southeast during that period.<sup>29</sup>

## Military Occupation of Hospitals and Health Centers

Health professionals working in the emergency rooms of hospitals across the southeast testified that, during the curfews, security forces used hospitals as dormitories and offices, and barred health professionals from entering certain areas of the hospitals or health centers they worked in.

Doctors and lawyers within the curfewed areas also testified that the curfews meant extensive body searches and identity checks for patients and staff at all entrances to the hospitals, measures they said acted as major deterrents to local residents seeking medical care. Dr. A.K., a member of the Mardin Medical Chamber of the Turkish Medical Association (TMA), said about the emergency room in Nusaybin State Hospital during one of the curfews: "People were generally scared to come into the hospital because the security forces were there, and if they had gunshot wounds, sometimes the state would say automatically that person had been fighting."<sup>30</sup>

The *de facto* occupation of hospitals often happened immediately after the curfews were imposed and served several strategic purposes for military personnel. Occupation of state hospitals – the last remaining health care option for local residents and injured militants – provided opportunities to capture injured militants, prevent care of enemy combatants, prevent medical documentation of potential human rights violations, and inhibit the ability of health professionals to provide treatment by intimidating and harassing staff in the hospitals.

In early September 2015, on the same day the provincial governor declared a curfew, Turkish security forces moved troops into Cizre State Hospital, a new building constructed at a strategic location on a hill slightly outside the city center. According to Dr. B.K., soldiers and police officers of the anti-terror police branch turned the third floor of the hospital into a makeshift dormitory and office space. Soldiers continually patrolled the first floor, with large tanks and personnel stationed outside the hospital, at the gates, at all entrances, and in the courtyard of the hospital. "They were in full armor. On their legs, they carried knives, they had ammunition belts on their jackets, guns slung over their backs. They were wearing green army uniforms, like camouflage," Dr. B.K. said.

Dr. C.K., a doctor at Nusaybin State Hospital, told Physicians for Human Rights (PHR) that security forces began moving into the third and fourth floors of the hospital soon after the start of the curfews in Nusaybin in November 2015. Dr. C.K. estimated that between 150 and 200 police and other security forces were stationed there by May 2016.<sup>31</sup>

PHR visited parts of Sur and Bağlar districts in Diyarbakır on April 29, 2016 and observed three family health centers occupied by police. Likewise, the SES Health Workers' Union told PHR during an interview at their offices in Diyarbakır that the Governor's office and the Director of Public Health in Diyarbakır verbally communicated to the administrators at four family health centers to close their centers, since the building would be transferred for use by the security forces.<sup>32</sup>

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**"When we finally entered, the emergency room was like a military base. There were sandbags lining the walls, men with guns everywhere. It wasn't a hospital, it was a fortress."**

*I.Y., resident of Cizre*

Health professionals working in the southeast have argued that the use of hospitals by security forces has put the buildings at risk for attack.<sup>33 34 35</sup>

Dr. B.K., from Cizre's public hospital, experienced this first-hand. On September 5, 2015, she was making her evening rounds in the newborn intensive care unit when she heard the sound of gunshots. "The nurses from the first floor came rushing through the door saying that security forces were downstairs swearing at them and telling them to get out of the way. We could hear gunfire on the roof, as well as the first floor. We moved all the patients into the corridors, away from the windows and tried to use shelving units as shields. The hospital was under attack for the whole night," Dr. B.K. said. "I can't remember exactly how long the fighting lasted – when the curfew started we lost our cell phone connection. But all of us, the patients and medical staff, were confined to the second floor, in the hallways, just waiting for it to end," she said.<sup>36</sup>

### Failure to Protect Health Facilities

Many hospitals and clinics throughout Turkey's southeast have been damaged by fighting between security and opposition forces, particularly when they are positioned near a police station or security force checkpoint.<sup>37</sup>

International humanitarian law requires parties to a conflict to put in place protective measures to ensure the continued operation of health facilities. The right to health under international human rights law mandates that the state take measures to protect the functioning of health services and ensure they continue delivering health care to the highest attainable standard.<sup>38</sup>



*A health care facility in Diyarbakır's Bağlar neighborhood that was being turned into a police station, according to the Health Workers' Union (SES).*

Yet the Turkish authorities have taken few measures to ensure the continued operation of primary health care centers (family health centers) or to ensure access to alternative medical care for residents living in neighborhoods under curfew – measures the state is required to take under international human rights law.<sup>39</sup> Turkish security forces and Kurdistan Workers' Party (PKK)-linked youth militias have also destroyed three family health centers in Cizre out of a total of eight, one family health center in Hani, and another in Bismil (both neighborhoods in Diyarbakır city), and inflicted significant damage to health centers in all other cities subjected to armed clashes, including Şırnak, Silopi, Yüksekova, and Nusaybin, among others.<sup>40</sup>

In several instances, not only did state security forces fail to adequately protect hospitals and health care centers during clashes, they used disproportionate force when addressing protests occurring near hospitals or health centers, and affected the functioning of the hospital and health care workers. In Nusaybin, the TMA documented one case in which health workers and patients were injured by the use of pepper spray by security forces around the hospital. Dr. C.K said security forces used large amounts of tear gas and pepper spray to scatter protesters gathered near Nusaybin hospital, which in turn interfered with the operations of the emergency room.

"Back in July 2015, when the youth began to build the barricades and dig the trenches, our hospital was very close to where the first trenches were dug. Children would hang around and throw stones at the military vehicles passing. One morning, the police came and released an enormous amount of tear gas around the hospital. The emergency unit of the hospital was full of patients. The tear gas filled the emergency room and courtyard of the hospital," he said.<sup>41</sup>

### Attacks on Health Facilities

Health care facilities have also been directly attacked or subjected to search and seizure of suspected militants, preventing health care professionals from providing needed care to the wounded and ill. F.K., an emergency medical worker, told Şırnak Bar Association about the invasion of Beytüşşebap State Hospital in Şırnak province on September 24, 2015: "I was in the x-ray room when I heard yelling and gunshots .... We went to the emergency room. I saw

that everybody was lying on the ground facedown or on their back. Nobody was standing, so I lay down too until the security forces left.”<sup>42</sup>

F.K.’s testimony was corroborated by colleagues. All of the accounts given to the Şırnak Bar Association of this particular raid describe nine heavily armed men, dressed in uniform, entering the hospital, demanding identification, and pointing their weapons at several doctors and other staff.<sup>43</sup>

One health worker assigned to the hospital on temporary duty said the security forces conducting the raid were looking for evidence that the hospital was harboring “terrorists.” The health worker was present in the room when security forces interrogated one of the doctors who was treating an 18- or 19-year-old boy the security forces suspected of being a combatant.<sup>44</sup>

### Obstruction of Access to Emergency Medical Transport and Care

Turkish security and opposition forces have interfered with medical transport units by preventing their passage through blockades and checkpoints, by failing to provide adequate protection to emergency transport vehicles, and by failing to prevent the targeting of emergency response vehicles. The Human Rights Foundation of Turkey has documented the deaths of 338 civilians in the southeast from August 2015 to April 2016, 76 of them because of obstacles in accessing medical treatment, either



*Hali Inan, whose wife and brother were shot and killed in Silopi during curfews in February 2016.*

**“I believe that if they were both taken to the hospital, they would have survived. They wouldn’t be dead.” –**

*Hali Inan, 61, whose wife and brother were shot during curfews in Silopi in February 2016*

for gunfire or artillery wounds, or for treatment for chronic illness.<sup>45</sup>

Hali Inan, 61 years old, is a resident of Silopi. His wife, Taybet Inan, was shot and killed outside their home on December 17, 2015, during the curfew in Silopi. He told PHR that his wife would not have died if the security forces had permitted ambulances to respond to his calls for medical assistance.

“On the third day after the curfew was declared, Taybet had gone outside to deliver some tools to our neighbor across the street. The streets are very narrow and everything was quiet – she said she would go, and come right back. We suddenly heard gunfire outside and my son-in-law heard Taybet shout. We ran out into the courtyard, and hid behind the wall. We could see Taybet lying in the street outside of the courtyard wall. I could see her wounded, she was shot in the leg. I started to run out into the street and she screamed for me to keep away. She was afraid they would shoot me, too.

“My brother, Yusuf, and I called the emergency numbers, both for ambulances and the police. The police told us to take white flags and go out onto the street. We tried three times to go onto the street with white flags, but each time snipers shot the flags, so we retreated. As we took cover behind the wall of our courtyard again, my brother, Yusuf, was shot in the abdomen and started bleeding. We had to leave Taybet in the street overnight. We found out later she had died during the night. At 7 a.m. the next morning, my brother died. We had to leave his body in the basement of our house.

“After eight days, the security forces came through and collected the dead bodies from the houses and the streets, and took them to a temporary morgue at the Silopi customs border point (border with Iraq). They kept the bodies there for two weeks before calling us to come and bury them.

“The doctors told me both Taybet and Yusuf died from bleeding. I believe that if they were both taken to the hospital, they would have survived. They wouldn’t be dead.”

Mr. Inan has filed complaints against Turkish security forces for firing the shots that killed his wife.



**“My son was shot on his leg, and again on the left side of his stomach, but the main reason he died was because of blood loss. If he had been taken to the hospital, he would have survived today.”**

*Netice Çubuk, 54, resident of Dicle neighborhood in Diyarbakır city*

Netice Çubuk lost her 16-year-old son when he bled to death just a few blocks from a hospital, but behind a police barricade blocking access to Sur district in the city of Diyarbakır, where police had fired at civilians gathering to protest the start of another curfew in Sur district. Çekvar Çubuk was shot and killed, allegedly by security forces, on December 2, 2015. His mother told PHR about a conversation she had with a woman who stayed with Çekvar after he was shot, waiting for an ambulance or other assistance for several hours. She was unsure of the exact time when her son was shot.

“A woman [who] was with him ... told me later that the police didn’t allow the ambulance to come beyond the checkpoint until 3 p.m. ... The doctors told me that he died from blood loss .... I waited in that square until 6 p.m. When I went home, I saw on the news that two people were killed – they showed pictures. In one of the pictures, I could tell it was my son from his clothes, even though they blurred his face .... Later, we heard some injured people were taken to Gazi Yaşargil Hospital, so I went to that hospital. They took me to the morgue. His body was lying on a metal cart, and his face was white as snow. I kissed him and I thought he would open his eyes and kiss me back. I couldn’t believe he was dead.”

Mehmet Paksoy gave similar testimony. He told PHR that his brother, Huseyin, died from blood loss as a result of being hit by shrapnel in Cizre after emergency responders were unable to locate him and withdrew before completing the search. Mehmet Paksoy was outside the curfewed area when he received a phone call on January 16, 2016 letting him know that his brother was wounded, and that he was at a local gas station.

“I called the emergency number, 112 .... They told me, ‘We can’t go anywhere because there is a curfew and no security. You’d better call the police.’ I called the police and they told me they would direct an ambulance to the gas station. But then they never called me back. They never sent the ambulance.”

Paksoy appealed to his local member of parliament, who called the governor and the police, but to no avail: “They all said the conflict was too intense and no one would send ambulances.”

The next day, with his brother still missing, Paksoy filed an application to the European Court of Human Rights (ECHR) with the help of a lawyer in Ankara, seeking an interim decision to compel the authorities to send an ambulance to find Huseyin. The ECHR – which hears human rights complaints from Council of Europe states, including Turkey – issued an interim decision granting Paksoy’s request on January 18. That same day, the fire department in Cizre finally sent an ambulance, but withdrew when they did not immediately find Paksoy. “I think my brother may have lost consciousness,” Mehmet Paksoy told PHR. “The next day, the security forces went into that part of the district and reached the area behind the gas station. They called municipal authorities telling them they had found a dead body.”

The Ministry of Justice defended the government’s actions, in this case asserting to the ECHR that “both medical personnel and security officers exerted maximum efforts to provide Huseyin Paksoy with medical assistance and ensure his survival.” The government also stated that Huseyin Paksoy had been charged with being “a member of an armed terrorist organization” on November 6, 2014, after surrendering himself to the Cizre District Security Directorate.<sup>46</sup> The inclusion of the applicant’s criminal record in the government’s response might indicate its reluctance to provide emergency care for those charged with a crime, in contravention of its obligation under international law to ensure health care for all without discrimination of any kind.



*People help a disabled woman near a barricade in the city of Nusaybin on December 24, 2015.*

*Photo: Bulent Kilic/AFP/Getty Images*

## The Cizre Basements

One of the most egregious cases of wholesale denial of emergency medical care was reported in Cizre in early 2016. During the second curfew imposed on Cizre between mid-December 2015 and March 2016, 130 to 190 people were trapped in the midst of heavy clashes and round-the-clock curfews for several weeks in three different basements in Cudi and Nur neighborhoods. According to local activists and lawyers, many of those trapped were injured and repeatedly called for medical assistance, which the authorities denied.<sup>47</sup> All of those who were trapped died, or remain missing. It is unclear if they died from the injuries, lack of access to food and water, or if they were deliberately and extrajudicially executed. Before the authorities lifted the curfew in Cizre on March 2, security forces removed bodies from the basements and transported them to various hospitals. It is unclear whether some bodies were left in the basements, as there was no oversight of the operation or visit to the site by government officials until March 3. Immediately after the curfew was lifted, authorities razed the buildings above the basements, and as of June 2016, no official investigations had been launched.

The sister of two of the victims told PHR she was in frequent contact with her brothers while they were trapped. She said one of her brothers, Mehmet Tunç, repeatedly called to Turkish media and local politicians in Cizre to request medical assistance. However, before that plea could be granted, Mehmet was killed during a security force raid on the basements on February 7. Orhan, his younger brother, survived the attack, which reportedly killed between 30 and 60 people trapped in the basements.<sup>48</sup> The sister told PHR: “The last conversation I had with Orhan was when Orhan called me on February 10 and said the police were going to take them out of the basements and transfer them to the hospital.”

However, nobody was brought to the hospital that day. “The next day, they called me to the hospital to identify their bodies .... I saw Orhan’s body myself. There was a bullet mark on his throat, and his left leg was burnt .... We were given an autopsy report at the hospital but it didn’t contain any detail on how he was killed. It said he was killed by a gunshot wound and because he was a terrorist. The autopsy report also said the basement contained a lot of ammunition.”<sup>49</sup> The exact circumstances of the basement lockdown and subsequent deaths have not



*A view of Cizre showing the area where Turkish authorities razed buildings over a series of basements in which between 130 and 190 people were trapped for several weeks in the midst of heavy clashes and round-the-clock curfews. All of those trapped in the basements died.*



been clarified. In mid-January, family members of Orhan Tunç and others had filed a request with the ECHR seeking interim measures to grant access for ambulances and emergency responders to the neighborhoods where the applicants were trapped in basements. The Court granted the interim measure on January 19, but Orhan's sister and several human rights groups say the measure was never implemented by the Turkish authorities.<sup>50</sup> The local government released a statement denying the claims that medical assistance had not been provided to those trapped in the basements, noting that "10 ambulances along with two other vehicles were sent to the address, but no one showed up even after several hours of waiting."<sup>51</sup>

On February 7, Prime Minister Ahmet Davutoğlu released a statement to the media noting that "60 PKK terrorists were killed during a raid on a basement in the district of Cizre." The prime minister went on to say that "only official statements should be taken into account regarding the clashes," and that "reports are being manipulated to create the image that security forces execute wounded terrorists."<sup>52</sup> On February 11, Minister of Interior Efkân Ala stated that Turkish security forces had completed their operations in Cizre "in a very successful fashion."<sup>53</sup>

Media reported that Turkish security forces sent bulldozers into Cizre to level the ruins when the curfew was lifted.<sup>54</sup> Although PHR was denied access to Cizre, the neighborhoods where the basements were located are visible from a nearby hilltop. Buildings and other rubble had been cleared from a significant swath of the city – including the sites where the basements had been located.

As of June 2016, some families who reported that their relatives were in the basements and remain missing have not received a body or confirmation of death. The Tunçs' sister said she was not permitted to keep a copy of the autopsy report.

Forensic medical experts and lawyers working on collecting evidence from Cizre's basements expressed significant concern about an executive order issued on January 16, 2016 that they believed would allow security forces to obscure evidence of extrajudicial killings, especially in Cizre's basements.<sup>55</sup> The order stated that "in case of public security concerns by authorities, government officials may decide to bury bodies unidentified."<sup>56</sup> Forensic doctors and human rights groups were concerned that the change in procedure gave sweeping authority to security forces to bury bodies without making an effort to identify them, or to

conduct an investigation into the cause of death. Forensic experts were also concerned about the decision to prohibit lawyers and independent forensic experts from observing autopsies.<sup>57</sup>

The TMA, which conducted an assessment of health service delivery in cities and towns under curfew between July 20 and October 4, 2015, reported the widespread absence of security measures to protect health workers and facilities responding to calls for medical assistance from residents trapped in neighborhoods during armed clashes and curfews.<sup>58</sup> When ambulances attempted to respond to emergency calls, security forces responded in one of two ways: they either blocked ambulance access through checkpoints and blockades, saying that they could not guarantee the safety and security of the ambulance and emergency response personnel, or they permitted access but rarely provided additional security escorts for ambulances and emergency response personnel. When security forces did allow access for emergency responders, it was often delayed for hours, or even days in some cases – with deadly results.

Access to emergency medical care in the southeast has been the focus of several petitions to the ECHR. In a decision issued on February 2, 2016, the Court underscored the requirement that the curfews end and that Turkish authorities take all necessary steps within their powers to protect the right to life and physical integrity of those seeking immediate access to medical assistance. On January 26, however, the Court had rejected the petitions from 14 people in Cizre who were requesting immediate medical assistance on the grounds that the applicants had not yet exhausted domestic remedies before



*Men look at a collapsed building over the site of one of the Cizre basements, where 130 to 190 people died. The sites were later razed, reportedly on the orders of Turkish security forces.*



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approaching the ECHR.<sup>59</sup> The applicants applied to the Constitutional Court of Turkey, as directed, which issued a decision on January 29 that the ECHR deemed “relevant” and illustrating the Constitutional Court’s willingness to monitor the situation.<sup>60</sup> However, all the people listed in the ECHR and Constitutional Court applications between February and May 2016 have either been confirmed dead or reported missing by their families – casting doubt on the ECHR’s decision to defer to the Constitutional Court of Turkey.<sup>61</sup>

## Attacks on Health Personnel

Medical workers providing assistance to the wounded and sick are afforded special protections under international humanitarian law. Few of these protections were respected in southeastern Turkey between July 2015 and June 2016. PHR documented indiscriminate attacks on emergency health personnel, indicating that, at the very least, parties to the armed struggle failed to distinguish between a combatant and non-combatant, something they are obligated to do under the laws of war. Various civil society organizations have independently documented assaults on health care workers attempting to provide care to the wounded and sick in neighborhoods under curfew. Whether these deaths constitute extrajudicial or indiscriminate killings, they must be investigated in accordance with Turkey’s obligations under international law to protect against violence and ensure justice for human rights violations.



*A girl looks at a dead body amid the rubble of damaged buildings on March 2, 2016, following heavy fighting between government troops and Kurdish fighters in Cizre.*

*Photo: Ilyas Akengin/AFP/Getty Images*

On September 24, an ambulance driver named Şeyhmus Dursan was killed, allegedly by police fire, in Beytüşşebap, a town in Şırnak province, while responding to a call for emergency assistance at the police headquarters there. A nurse and emergency technician, A.S. and F.K., were with him when he was shot and killed.

A.S. told the Şırnak Bar Association that the ambulance had responded to a directive from the Emergency Service to retrieve casualties near the police headquarters, and had been clearly marked when it came under fire: “We activated the ambulance siren so no one would shoot at us. About 15 meters away from the police checkpoint, we heard gunshots and we stopped the ambulance. We were getting hit, and we couldn’t even get out of the ambulance.”<sup>62</sup>

A.S.’s colleague, Şeyhmus Dursan, was seriously wounded, but the emergency workers were forced to leave him to avoid being targeted themselves: “Şeyhmus was hit and wounded badly. His blood spilled on my face, hair, and all of my body. The rest of us, including myself, leapt out of the vehicle and ran away from the police checkpoint, and we pulled off our duty vests since they are luminous and bright-colored, making us targets.”

Even as the emergency medical personnel tried to retrieve their colleague when the shooting had subsided, they were still targeted. F.K. told the Şırnak Bar Association, “We went out and we heard the police starting to fire their guns in the air. I went to take Şeyhmus’s pulse to learn if he was alive or not, but he was already dead. Then the security forces started firing more, and the crossfire intensified, so I retreated to the house where we had taken refuge. We saw some people take Şeyhmus away to the hospital with a small van.”<sup>63</sup>

The following day, Eyüp Ergen, a nurse and member of the Health Workers’ Union (SES) who worked in the emergency room of Cizre State Hospital, was shot, allegedly by police, on his way home from the hospital. Local residents called for emergency help, but Ergen’s friends and colleagues say that the police denied the ambulance permission to enter the neighborhood, despite the fact that there was no curfew in the neighborhood at that time.<sup>64</sup>

Aziz Yural, a nurse working at Cizre State Hospital and a board member of SES in Cizre, was killed while on duty on December 31, 2015. According to testimony from Yural’s uncle, Sabri Yural, Yural was shot by an unknown gunman while attempting to aid an injured woman in the street outside his home in

the Nur neighborhood of Cizre.<sup>65</sup> Yural had been providing treatment to injured people in the neighborhood who couldn’t reach the hospital. *Gunes*, a daily newspaper aligned with President Erdoğan’s Justice and Development Party, reported on January 4, 2016 that Aziz Yural was a “terrorist” and had been killed in a confrontation with security forces. The news article also reported that Yural and other health workers were organizing attacks on security forces alongside the PKK.<sup>66</sup>

These allegations have not been proven and there have been no investigations opened into the circumstances of Yural’s death. Moreover, the TMA, the civil society organization Mazlumder, the SES, and the Human Rights Association all have documented that Yural had been running an informal first aid center out of his home in Cizre, and had gone out onto the street to help a wounded woman when he was shot and killed.

### *Legal Actions against Health Professionals*

Turkey has a long history of harassing medical providers and of attempting to inhibit the delivery of emergency care as required by Turkish law and international medical ethics.<sup>67</sup> In 2013, Physicians for Human Rights conducted an investigation in Turkey immediately after the protests at Gezi Park. This research demonstrated that, in addition to the use of excessive and unnecessary force by security personnel, Turkish authorities attacked and intimidated the health professionals who provided emergency treatment to wounded protesters – which they did in the absence of an adequate emergency response from state-authorized medical personnel.<sup>68</sup> At Gezi Park, the state not only abdicated its responsibility to provide emergency medical care without discrimination but went on to pass a bill that was used to take legal action against medical personnel who treated injured protesters in accordance with their professional ethics.<sup>69</sup>

In one case, two doctors, Erenç Dokudan and Sercan Yükse, were charged with “protecting perpetrators by extending them first aid,” convicted in October 2015, and sentenced to 10 months in prison.<sup>70</sup> In addition, the Turkish Ministry of Health took legal action against the TMA’s Ankara Chamber of Medicine on January 27, 2014, demanding that the entire board of the Ankara medical chamber be removed from office for its role in organizing urgent medical care for protesters injured during the Gezi Park demonstrations. PHR filed an amicus brief in support

of the TMA on March 26, 2014, arguing that the criminalization of emergency medical care runs counter to the rights to health and life, and to the professional and legal duty of health workers to provide urgent care when and where needed.<sup>71</sup> An Ankara court dismissed the case against the TMA on February 20, 2015.<sup>72</sup>

The Turkish government's crackdown in the southeast prompted further harassment and intimidation of medical professionals who speak out against military action or provide impartial treatment to the wounded and sick under curfew. The TMA has again come under attack by the authorities, including the Ministry of Health. Members of the SES have also come under attack by the authorities.

Between July 2015 and June 2016, numerous health care workers have been either charged with the crimes of "making terrorist propaganda" and "being part of an illegal organization,"<sup>73</sup> or have been subjected to administrative inquiries by the Ministry of Health for participating in protests calling for peace in the southeast, making statements to the media about the need for peace, and, in some cases, for treating alleged members of the Patriotic Revolutionary Youth Movement or PKK in hospitals in areas under curfew.<sup>74</sup> The TMA and SES contracted lawyers to represent many of these health workers. The TMA Secretary General and SES Ankara Chamber and Diyarbakır Chamber estimate that hundreds of cases, both administrative and criminal, have been brought against their members since July 2015.

One such case is that of Abdullah Köçeroğlu, a 24-year-old general practitioner who was tried before a court in Mardin for "providing first-aid medical education to terrorist organization members" after he documented gunshot wounds at the hospital in Nusaybin. Dr. Köçeroğlu was also charged under sections 220/7, 312/2 of the Turkish Penal Code and Anti-Terror Act for "being a member of an illegal organization."<sup>75</sup> Dr. A.K., a member of the Mardin Medical Chamber, said that after Dr. Köçeroğlu had sent the documentation of injuries to Mardin Medical Chamber, he was kept under close surveillance by the security forces and forcibly transferred to Kulzultepeh, a small city outside of Mardin that was not experiencing armed clashes, curfew, or security operations. Dr. Köçeroğlu was arrested on January 18, 2016 and faced a prison sentence of up to 15 years if convicted.

Köçeroğlu and his lawyer argued that the charges against him were fabricated, and were in fact a punitive measure for Köçeroğlu's treatment of

**"The situation in Nusaybin State Hospital is not good .... For months, it has been almost entirely run by security forces. The upper floor of the hospital is occupied by security forces. There is a lot of pressure on the nurses and doctors over there. They are afraid to report any harassment from the security forces. They will not give us lawyers any signed document or testimony for fear that they will lose their jobs, or be transferred out of Nusaybin, or have a criminal case brought against them."**

*N.K., lawyer of a doctor who was charged under anti-terrorism laws after documenting protesters' gunshot wounds in Nusaybin*

suspected militants in Nusaybin's emergency room as well as his use of Kurdish language when speaking to patients. A court in Mardin ultimately dismissed the charges against Köçeroğlu for lack of sufficient evidence, but he was held in pre-trial detention<sup>76</sup> from January 18 until May 12, 2016.<sup>77</sup> Under international law, Turkey has an obligation to provide an effective remedy to those who have been subjected to arbitrary deprivation of liberty.

These legal actions undoubtedly had a deterrent effect on health care providers speaking out about the abuses happening in the curfewed areas. Köçeroğlu's lawyer, N.K.<sup>78</sup>, moved out of Nusaybin when a curfew was declared in April 2016. She told PHR: "The situation in Nusaybin State Hospital is not good. Köçeroğlu was one of a few who stayed. For months, it has been almost entirely run by security forces. The upper floor of the hospital is occupied by security forces. There is a lot of pressure on the nurses and doctors over there. They are afraid to report any harassment from the security forces. They will not give us lawyers any signed document or testimony for fear that they will lose their jobs, or be transferred out of Nusaybin, or have a criminal case brought against them."

Another nurse in Nusaybin State Hospital who works closely with Köçeroğlu told N.K. that police officers threatened them if they treated members of the PKK or YDG-H, and instructed health staff to withhold blood transfusions if a member of the YDG-H came into the hospital.

"Abdullah (Dr. Köçeroğlu) symbolizes us all in a way. We could all very easily be thrown in jail for doing our duty," said Dr. A.K.<sup>79</sup>



Legal actions, both criminal and administrative, that serve to punish medical personnel for carrying out medical activities are in direct violation of the Turkish state's obligation to protect medical personnel as they perform their duties. Moreover, arresting medical personnel for providing care may amount to a violation of the protection against arbitrary arrest and detention, even if it is done lawfully under national legislative frameworks.<sup>80</sup> International humanitarian law states that medical personnel cannot be punished for carrying out activities that are compatible with medical ethics.<sup>81</sup>

Further, the UN General Assembly on the Principles of Medical Ethics mandates that states should not punish medical personnel for carrying out medical activities compatible with medical ethics, or compel them to undertake actions that contravene these standards. The treatment or provision of first aid to anyone, regardless of affiliation, cannot be criminalized, as it is in accordance with the principles of medical ethics to ensure emergency care in situations that are life-threatening.<sup>82</sup>

The routine practice of bringing criminal charges and administrative inquiries against health professionals for providing emergency care in the southeast is part of the government's objective of suppressing dissent expressed by anyone in all parts of Turkey. Dr. A.K. was charged with "insulting the President" for his participation in a demonstration condemning an October 10, 2015 bombing in Ankara.<sup>83</sup> As of June 15, 2016, his trial was ongoing. If convicted, he faces a two-year prison sentence. "Our crime is said to be that during the protest we chanted 'Murder Erdoğan!' – which, of course, we didn't," he said.

The Ministry of Health opened an administrative inquiry into Dr. A.K.'s involvement at the protest. This inquiry could result in either reassignment to another city, or – more onerously – dismissal from his job at the Mardin State Hospital. The state hospital system is the largest employer for medical professionals in Turkey. If dismissed from a state

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**"The state wants me to look at the people around me, the people I treat, as enemies, and I cannot do that. My aim is not to be a doctor working for the state, but a doctor working for his people."**

*Dr. D.K., a general practitioner in Mardin who lost his job and faces criminal charges for taking part in a protest advocating for peace in Turkey's southeast*

hospital, health professionals told PHR they are rendered unemployable by state medical institutions, and virtually unemployable by private ones.

Another general practitioner and member of the Mardin Medical Chamber, Dr. D.K.,<sup>84</sup> also faced both criminal charges and administrative inquiry from the Ministry of Health for allegedly "being a member of the PKK and making propaganda for them," after he participated in several protests organized by the SES and TMA to advocate for peace in the region.

"The state does these things in order to intimidate us. Because they do not have enough evidence to substantiate these charges, they are not clear about the exact grounds for the charges, or the sentencing. If there were anything concrete, they would have sentenced me by now, or at least brought me to trial," he told PHR.<sup>85</sup>

"We don't see the state as an enemy, but the state looks at people from this [Kurdish] region as enemies. The state wants me to look at the people around me, the people I treat, as enemies, and I cannot do that. My aim is not to be a doctor working for the state, but a doctor working for his people. The police and security forces are protecting the state – that is their duty, but the state expects the same from us [doctors]. That is inconsistent with our oath and obligation as doctors to serve the people."

When Dr. D.K. spoke to PHR in May 2016, the criminal proceedings against him were still ongoing, but he had heard informally about the results of his administrative hearings: his contract with the state hospital was cancelled. He would be dismissed upon receiving formal notification of his contract's cancellation – a potentially career-ending penalty.

Another doctor, a member of the TMA's Istanbul Medical Chamber and general practitioner at a public hospital in Istanbul, had also been the subject of an administrative inquiry after his participation in a protest calling for peace in the southeast. Dr. E.K.<sup>86</sup> said he was asked 12 questions by hospital administrators, including: "'Peace now, today,' and 'Peace for the children, no to war,' are slogans that belong to the PKK – they are widely used by the PKK. So, why would you use those slogans? What do you think and feel when shouting such slogans?"<sup>87</sup>

The list of questions presented to Dr. E.K. are consistent with questions posed to other doctors interviewed by PHR who are facing administrative inquiries by the Ministry of Health.

## Impact of Curfews on Access to Health Care

The shutdown of the health care system during the prolonged unrest and persistent curfews has had predictably disastrous effects on people's ability to access health care services, and has been debilitating for the region's health care infrastructure and resources.

The TMA's 2015 assessment found that health center closures and the presence of security forces at state hospitals severely interrupted access to health care for local residents in at least 13 provinces. All primary health care centers in Cizre, Diyarbakır (Sur district), Hakkâri, Mardin, and Şırnak were closed during the first wave of curfews starting in August 2015, affecting a population of approximately 470,000 people.<sup>88</sup> In addition, the state hospitals in each area were occupied by Turkish security forces, a presence which discouraged people living in each area from seeking treatment short of a life-threatening emergency.<sup>89</sup>

Dr. B.K. at Cizre State Hospital told PHR that, normally, between 250 and 300 patients are treated at the hospital every day. But, during curfews that began on September 4, 2015, and then again on December 14, Dr. B.K. said that no more than 15 patients on average were being treated daily at the hospital, part of which had been occupied by military forces. "There was no reason given for why the security forces had settled in the hospital. During the second curfew, we were not allowed to go to the third floor, and there were no beds open for service at all," she said.



*A Turkish police officer patrols a street in the Sur district of Diyarbakır on December 30, 2015 after a curfew was partially lifted.*

*Photo: Ilyas Akengin/AFP/Getty Images*

Nusaybin State Hospital previously had 200 beds, but, by June 2016, no longer treated civilians.<sup>90</sup> All cases were then transferred to Mardin State Hospital, approximately 62 kilometers to the northwest of Nusaybin. The Bağlar district of Diyarbakır city had 420,000 residents, served, before the beginning of the curfews and armed clashes, by 23 family health centers. Four have since been converted to police stations, with no known plans to replace the health services to the local community that those centers provided.<sup>91</sup>

Even when hospitals stayed open during the curfews and military occupation, the presence of security forces and the apparently random shutdowns and shootings in the streets had a decidedly chilling effect on residents, who only sought out care when forced to. One resident of Cizre described entering Cizre's public hospital during the second curfew after his one-year-old daughter had shut a finger in the kitchen door and needed stitches. Fearful he would be unable to return home after leaving the house, he waited for two days to take his daughter to the hospital, until the finger's failure to heal made the trip a necessity. "When we arrived, armed guards checked our identity cards at the entrance of the emergency room. Then they searched me. They also searched my one-year-old baby, including in her diaper. When we finally entered, the emergency room was like a military base. There were sandbags lining the walls, men with guns everywhere. It wasn't a hospital, it was a fortress."<sup>92</sup>

In Cizre, residents reported that they were often unable to reach the public hospital, their last remaining health care option after the city's eight health care centers closed, and rarely attempted to travel to the hospital during curfews unless in an emergency.

Moreover, the functioning of public hospitals and family health centers appears to have been severely compromised in all areas placed under curfew.<sup>93</sup>

Many public health centers closed under curfew either because health professionals were not able to reach the centers, or because the general insecurity and threat of indiscriminate attacks damaging the centers prevented health professionals from treating patients. In Cizre, three family health centers were destroyed in the fighting. In the Sur district of Diyarbakır, all of the family health centers were destroyed or converted to stations and lodging for police and military officers.

With the closing of public health centers, public hospitals became the only option for health care.<sup>94</sup>

However, the services offered at public hospitals during security operations were severely limited. The staff of hospitals in areas under curfew and security operations had been reduced by approximately 75 percent, as resident health professionals either fled or were forcibly or voluntarily transferred out of the area. Of 60 medical specialists working in Nusaybin State Hospital, 45 were transferred to other hospitals, including Dr. C.K., ostensibly for security reasons. Doctors employed by the military replaced some of them, and provided emergency services only.

Some health professionals posted to state hospitals and health centers in southeastern Turkey have requested transfers and re-posting to safer areas. This means maintenance of an adequate health care workforce has become a challenge, despite the lifting of curfews in some areas. In the curfewed Sur district of Diyarbakır, by May 2016 all health staff had been relocated to centers elsewhere in city, leaving the residents of the newly reopened parts of Sur with no access to primary health services in their district. Although residents of Sur district can visit health centers in other parts of the city, the services they can access without insurance, or by being a registered resident of that district, are limited. In some areas under curfew, volunteers were sent from other parts of Turkey by the Ministry of Health; this potentially lowered the quality of care, as, according to local medical chambers, the majority of the volunteers do not speak Kurdish.<sup>95</sup>

While the state hospitals in areas no longer under curfew are beginning to restore services, the region's network of primary health care – comprised of family health centers and community health centers – face a long road to returning to their pre-unrest level of care.

## Lack of Investigations into Denial of Care and Other Violations

The protracted curfews in southeastern Turkey have not only had a devastating effect on the region's health care system, they have also potentially given cover to serious human rights violations – such as those described in this report – that have not been effectively investigated. In fact, human rights groups have reported impunity for human rights violations against civilians in southeastern Turkey. These include a lack of effective investigations into deaths, whether caused by security forces or armed groups

(the Kurdistan Workers' Party [PKK] and the Patriotic Revolutionary Youth Movement [YDG-H]).<sup>96</sup> Family members and their lawyers told Physicians for Human Rights (PHR) that local prosecutors consistently refused to open investigations into reports of unlawful killings. Forensic doctors and lawyers reported that prosecutors concealed forensic medical evidence such as autopsy reports and failed to use them in opening criminal investigations into allegations of human rights violations. Many family members did not even report human rights abuses, discouraged by a precedent for impunity.

Since July 2015, the government, both provincial and national, has made numerous statements through the media regarding the number of “terrorists made ineffective” and the deaths of state security forces killed in the line of duty. However, the government has failed to address, or even mention, the deaths of ordinary citizens in the region, despite the significant levels of reporting on civilian injuries and deaths by human rights groups in Turkey, and growing concern from the international community.<sup>97</sup>

Documentation and reporting of human rights violations have been made even more challenging for civil society organizations, lawyers, and international observers by the lack of access to places where violations have been committed, and by the legal persecution of health professionals who document killings. The result has been severely compromised justice processes.

In Cizre, the very site of potential violations was demolished. On the day the curfew was lifted, a lawyer from the Mesopotamia Lawyers' Association went to Cizre with a group of other lawyers and visited the basements where more than 100 people had been trapped for weeks.<sup>98</sup> She told PHR that the authorities were very reluctant to investigate what had happened there, and in fact actively destroyed evidence:

“We went to the chief prosecutor of Cizre and petitioned him to make an investigation into these killings. His answer to us was, ‘What is wrong with you? The soldiers and army died, too.’ When he finally agreed to make visits to the basements, he came in an armored police car, wearing a bullet-proof vest. He told us he didn't feel safe. ‘It's not secure, the walls might collapse on me,’ he said. We told him there are body parts in the basements and that he must inspect. He told us to bring them out to show him. So, we did that. A few days later, the police demolished the basements through an order of the governorship with the help of the military.”<sup>99</sup>



Many activists and lawyers who PHR spoke with expressed anger and suspicion about the length of the second curfew in Cizre, which lasted 79 days in total. Some alleged that the extension of the curfew allowed the security forces to remove bodies from the basements without the local prosecutor conducting a proper crime scene investigation.<sup>100</sup> Five nongovernmental groups concluded in separate reports that no investigations had been carried out into the allegations that well over 100 people were killed in Cizre's basements.<sup>101</sup>

But individual cases were also not investigated. Fifteen days after her 16-year-old son, Çekvar, was shot and left to bleed to death without access to emergency care, Netice Çubuk filed a complaint with the prosecutor in Diyarbakır. Her lawyer also requested a copy of the autopsy report from the hospital. However, Çubuk said that when they received the report, there was only an empty sheet. The report had not been filled out.

"In the complaint to the prosecutor, we wrote that my son was shot on his leg, and again on the left

side of his stomach, but the main reason he died was because of blood loss. If he had been taken to the hospital, he would have survived today," Çubuk said. "The prosecutor is doing nothing about the complaint – if he refuses to do anything about investigations, I will file a case with the European Court of Human Rights."

Lawyers and families in other cases also described the refusal of local prosecutors to open investigations into allegations of civilian deaths.

Rozerin Çukur, 15, was shot and killed on January 8, 2016, allegedly by Turkish security forces. Rozerin had ventured into Sur district in Diyarbakır just after a nine-day curfew was lifted, and a few hours before another curfew was declared in the neighborhood. Her father, Mustafa Çukur, said he and his wife were unable to contact their daughter after her cell phone's battery lost its charge, and the curfew continued for several weeks. They found out Rozerin had died on the evening news.<sup>102</sup>



*PHR researchers speak with the families of people killed during curfews in southeastern Turkey, including the parents of 15-year-old Rozerin Çukur (photo, right), who was shot and killed in the Sur district of Diyarbakır on January 8,*

“We learned about her death through a Turkish media channel that had subtitles in Kurdish – it showed her picture and said a ‘terrorist’ had been killed by snipers,” said Çukur. “We went straight to the Human Rights Association because we thought this might be a human rights violation case. She was a child. She had no gun in her hand to fight against the state.”

The Çukurs filed a complaint with the prosecutor and attempted to meet local officials. The prosecutor responded by asking Mr. Çukur for some evidence of his allegation that his daughter had been killed by security forces. Çukur replied by pointing out that the neighborhood where his daughter was killed was still under curfew, and according to the military and police, still undergoing clashes with the armed groups. “You have a very strong military and you say you can’t go into the streets of Sur,” Çukur said he told the prosecutor. “If you cannot bring together evidence to open the investigation, how can you expect me to do it?”

A lawyer at the Human Rights Association (HRA) confirmed the authorities’ reluctance to investigate: “Generally when you make an application, the prosecutor is supposed to take it and give it a number, but that doesn’t mean they will do any investigation. In Rozerin’s case, they took the application, gave it a number, but then didn’t do anything.”<sup>103</sup>

Media reported that Rozerin Çukur’s body was identified on June 6, almost six months after she was first reported dead. Her family buried her the next day.<sup>104</sup>

PHR interviewed lawyers with the HRA representing approximately 300 other such cases. These included claims for compensation as well as allegations of human rights violations, including torture and extrajudicial killings by Turkish security forces. The lawyers told PHR that, as a result of prosecutors refusing to open investigations, there was very little information on record to support the cases – typically only an autopsy report. There were no attempts to conduct further investigations. Prosecutors pointed to the curfews as a main obstacle for conducting investigations, saying that crime scenes were inaccessible. The HRA lawyers said prosecutors were reluctant to investigate allegations accusing Turkish security forces of human rights violations.

## Turkey’s Legal Obligations

### Medical Neutrality and the Right to Health

The severe limitations on access to health care documented in this report – including deliberate attacks on health care transport and personnel – run counter to Turkey’s obligations under both international human rights and humanitarian law. Regardless of whether or not the armed clashes in the country’s southeast qualify as an internal conflict, a state of emergency, or a crackdown on alleged criminal activity, the Turkish authorities are obligated to ensure access to emergency health care as well as effective protection for health care workers to allow them to provide care for all. Where rights are infringed, the authorities must investigate. As this report shows, the Turkish government has systematically ignored these obligations.

International humanitarian law strictly prohibits the use of health facilities in times of armed conflict for any purposes other than for health care needs.<sup>105</sup> Moreover, international human rights law requires that states respect the right to health by not allowing any kind of interference with access to medical care.<sup>106</sup>

The state’s obligation to maintain a functioning health care system, and to protect medical personnel’s ability to fulfill their professional duties according to their ethical responsibilities, remains the same during peacetime as in situations of armed conflict or internal unrest.<sup>107</sup> Governments should protect health professionals’ independence and impartiality in treating the sick and injured.<sup>108</sup>

Respect for medical neutrality<sup>109</sup> requires:

- the protection of medical personnel, patients, facilities, and transport from attack or interference;
- the provision of unhindered access to medical care and treatment;
- the humane treatment of civilians; and
- non-discriminatory treatment of the injured and sick.<sup>110</sup>

Medical neutrality also protects medical personnel from interference by criminalization or other state measures to influence or penalize health professionals for impartially treating the sick and injured, regardless of political affiliation, ethnicity, race, gender, or other factors. The arrest of medical personnel for delivering treatment may amount to arbitrary arrest and detention under the International

Covenant on Civil and Political Rights (ICCPR), to which Turkey is a state party.<sup>111</sup>

The right to health encompasses states' obligations to ensure equal access to the highest attainable standard of care without discrimination based on socioeconomic status, geographic location, ethnicity, or any other factor.

The right to health is contained in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ratified by Turkey in 2003).<sup>112</sup> Under international human rights law, states have the obligation to maintain a functioning health care system in both peacetime and in times of armed conflict or internal unrest.<sup>113</sup> They must maintain essential primary health care, access to minimum essential food, basic shelter, housing, and sanitation, and an adequate supply of safe and potable water, as well as provide essential drugs, while respecting the principles of non-discrimination and equitable access.<sup>114</sup>

In addition, Articles 97 and 98 of Turkey's penal code criminalize medical professionals who neglect their duty to provide emergency medical aid. Under Turkish law, medical professionals not only have an ethical obligation to provide care without discrimination, they are also criminally responsible if they fail to do so. Thus, the Turkish government's arbitrary restrictions under Article 46 of the health bill on the provision of emergency medical aid by "unauthorized" personnel not only violate Turkey's international human rights obligations but also compel medical professionals to break national law.

### Right to an Effective Remedy

Turkey's human rights obligations extend not only to preventing violations of the right to life and taking all necessary measures to protect that right, but also to effectively investigating all deaths resulting from use of force. The purpose of effective investigations is to ensure accountability in all cases, and in particular to contribute to the protection of the right to life by ensuring appropriate use of force by state security forces.<sup>115</sup>

The duty to investigate a victim's right to an effective remedy forms part of the duty of all states as recognized in international human rights law and standards, including Articles 2(3), 6, and 14(1) of the ICCPR.<sup>116</sup> State obligations in this regard are further spelled out in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of

International Humanitarian Law, and include the rights to reparation and access to justice.<sup>117</sup>

In addition, ensuring the right to know the truth about past human rights abuses – for victims and family members as well as the general public – is recognized in international human rights law as part of a state's obligation to investigate and provide remedy for violations of human rights.<sup>118</sup> States must take measures to:

- Establish the truth about the crimes, including the reasons, circumstances, and conditions of the human rights abuses.
- Document the progress and results of any investigation.
- Reveal the identity of perpetrators, and in the event of death or enforced disappearance, the fate and whereabouts of the victims.

Truth is crucial in helping victims and their families understand what happened to them, counter misinformation, and highlight factors that led to abuses. It helps societies to understand why abuses were committed, so that they can prevent repetition.

## Conclusion

The renewal of open hostilities between Turkish security forces, the Kurdistan Workers' Party (PKK), and affiliated youth militias in July 2015 ushered in a period of widespread violations of health rights and medical neutrality, in particular on the part of the Turkish government. Turkish security forces have besieged entire cities in the southeast, unlawfully used health facilities for military purposes, obstructed and denied access to emergency medical treatment, destroyed health facilities, attacked and persecuted health workers, and otherwise violated the rights to health and life of local residents.

Armed groups, including the PKK and linked youth militias, have contributed to civilian loss of life and obstruction of emergency medical assistance by conducting indiscriminate attacks that have caused serious damage to health facilities, building barricades that make entry to neighborhoods under curfew difficult, and instigating clashes with Turkish security forces in densely populated urban neighborhoods, thereby exacerbating the damage to civilian life.

The presence of visibly armed security personnel in the courtyards and emergency rooms of state hospitals has created a climate of fear for local residents seeking emergency medical services at



public hospitals. State security forces have consistently failed to make a clear distinction between combatants and non-combatants during security operations in the southeast, and have treated local health professionals as sympathetic parties to the PKK cause, likely to aid and abet terrorism. Residents who remained behind in areas under curfew are viewed with suspicion by security forces as cooperating with, sheltering, or otherwise harboring sympathies for the PKK-backed fighters.

Doctors and other health professionals have been targeted with legal harassment for doing their jobs, and many have fled or been forcibly transferred out of the region. The predictable result of all these factors has been a weakening of the health care system throughout the southeast, and hundreds of unnecessary and preventable deaths and injuries to local residents.

In addition, Turkish authorities have failed to hold security forces accountable for alleged human rights violations, and have violated human rights by imposing indefinite curfews and a nationwide attack on free speech to suppress those protesting military intervention in the southeast. The opposition PKK and Patriotic Revolutionary Youth Movement have also failed to take measures to protect civilian life by constructing barricades and planting explosives in densely populated urban areas.

The counterterrorism operations conducted by Turkish security forces have been directly supported and lauded by Turkish authorities, including

President Erdoğan, who have failed to acknowledge any civilian deaths or address allegations of human rights violations. Turkish authorities have actively obstructed any efforts toward monitoring and accountability for actions in the southeast by denying access to international observers, and by persecuting civil society attempting to seek justice for victims of human rights violations.

As the latest iteration of the 33-year conflict between Turkey and the PKK drags on, it is essential that Turkey adhere to international human rights and humanitarian law to prevent the loss of more life and to address the entrenched alienation of an entire population that has suffered during the course of the decades-long struggle.

Physicians for Human Rights (PHR) calls upon the Turkish government to demonstrate its respect for the rights of all citizens by ceasing unlawful practices that obstruct access to health care and by investigating all allegations of human rights abuses committed since July 2015 in the southeast, including by Turkish security forces. PHR also calls on the Turkish government to respect the rule of law and international human rights standards during the three-month state of emergency imposed on July 21, 2016. Turkey must reinstate compliance with the European Convention of Human Rights – suspended during the state of emergency – cease the blanket arrest and detention of tens of thousands of people without providing due process, and provide protection from torture and other ill-treatment for anyone detained during the government crackdown.



*A man sits in front of his home in Cizre, destroyed by fighting between government forces and Kurdish fighters, on March 2, 2016.*

*Photo: Cagdas Erdogan/Getty Images*

# Recommendations

## To President Recep Tayyip Erdoğan, Prime Minister Binali Yıldırım, and the Turkish Government:

- Immediately cease and prohibit unlawful practices that violate Turkey's human rights obligations under international law, including:
  - Obstructing access to medical care, including, but not limited to, indefinite curfews.
  - The use of state hospitals for military purposes. Turkish security forces must immediately withdraw personnel from all state hospitals, and prohibit the future use of state hospitals and other health facilities for any purpose other than the delivery of health care for the sick and wounded.
  - Punishment of medical personnel for exercising their right to freedom of expression and for carrying out activities in accordance with international principles of medical ethics – this includes criminal charges and administrative action taken against medical personnel by the Ministry of Health.
  - All attacks on medical personnel who provide emergency assistance to injured protesters. Hold accountable all perpetrators of violence against medical personnel and/or facilities, according to international standards.
  - Disregard for Articles 97 and 98 of the Turkish penal code, which make it a crime for medical personnel to neglect their duty of providing emergency medical care to those in need. Turkey must repeal 2014 legislation criminalizing the provision of “unlicensed” or “unauthorized” emergency medical care by independent medical personnel.
- Immediately cease barring international observers from full and independent access to all areas of the southeast, including those under curfew and subjected to ongoing security operations.
- Support a country visit to Turkey by the Office of the UN High Commissioner for Human Rights, and other international monitors requesting access to southeastern Turkey.
- Cease legal actions against all individuals for exercising lawfully their right to freedom of expression, including journalists, lawyers, health professionals, and academics.
- Ensure that all allegations of human rights violations are investigated in an independent, impartial, and timely manner, and where evidence amounts to individual criminal responsibility, that the perpetrator is prosecuted in a court meeting international fair trial standards.

- Ensure effective forensic investigation and documentation of deaths and alleged abuses in accordance with international Minnesota Protocol and Istanbul Protocol standards.

## To the European Union:

- Recognize that Turkey's refusal to act on cases filed to the Constitutional Court eliminates the requirement for exhausting domestic remedies prior to referral to the European Court of Human Rights and other international mechanisms. This includes suits challenging the legality of curfews and alleged extrajudicial killings of civilians during curfews, and cases brought by those facing criminal charges for exercising their right to freedom of expression – including doctors criminalized for providing impartial treatment according to international medical ethics.
- Support trips by independent international observers and investigators to southeastern Turkey, including areas under curfew, to facilitate effective and transparent monitoring of human rights conditions.

## To the Kurdistan Workers' Party (PKK), Patriotic Revolutionary Youth Movement (YDG-H), and other opposition armed groups:

**Note:** The PKK and other armed groups operating in the southeast have not exercised *de facto* control over towns and cities in the southeast and thus are not legally bound by the laws of war. Nonetheless, PHR recommends that the PKK and other armed groups respect the rules of distinction and proportionality in conflict situations, namely by enacting the following:

- Immediately cease all indiscriminate attacks that violate obligations under international law to protect the right to life for those not party to the conflict, including:
  - Obstructions to accessing medical care, including, but not limited to, the construction of barricades and the deliberate or indiscriminate targeting of health facilities. This includes damage to health facilities when either occupied by, or in close proximity to, Turkish security forces which armed groups view as a legitimate military target.
  - Attacks on state hospitals occupied by Turkish security forces. Under no circumstances can a functioning hospital or health facility be viewed as a legitimate military target.
  - Indiscriminate attacks causing civilian deaths.
  - Indiscriminate attacks on medical personnel who provide emergency assistance to injured protesters.

## Endnotes

<sup>1</sup> Ana Sayfa, “7 bin 78 PKK’li etkisiz hale getirildi,” Yeniçağ, May 23, 2016, <http://www.yenicaggazetesi.com.tr/7-bin-78-pkkli-etkisiz-hale-getirildi-138066h.htm>; “7,078 PKK ‘made ineffective’ in last 10 months, Turkish military sources say,” Daily Sabah, May 23, 2016, accessed May 24, 2016, <http://www.dailysabah.com/war-on-terror/2016/05/23/7078-pkk-terrorists-killed-in-last-10-months-in-counter-terror-ops-turkish-military-sources-say>.

<sup>2</sup> “List of Curfews and Civilians Who Lost Their Lives,” Human Rights Foundation of Turkey, April 20, <http://en.tihv.org.tr/fact-sheet-on-declared-curfews-between-august-16-2015-and-april-20-2016-and-civilians-who-lost-their-lives/>; Record of primary source documentation provided by Human Rights Foundation of Turkey to Physicians for Human Rights (PHR) over email on May 28, 2016.

<sup>3</sup> Article 4, International Covenant on Civil and Political Rights.

<sup>4</sup> See Customary International Humanitarian Law, Rule 103: Collective Punishment, [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule103](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule103).

<sup>5</sup> Article 4, International Covenant on Civil and Political Rights, <http://www.legislationline.org/documents/action/popup/id/7774>. Also see “Framework Principles for Securing the Human Rights of Victims of Terrorism,” by Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, May 7, 2012, <http://www.legislationline.org/topics/topic/5/organization/2>.

<sup>6</sup> Protocol II to the Geneva Conventions Relating to the Protection of Victims of Non-International Armed Conflicts, Articles 7: Protection and care – “All the wounded, sick and shipwrecked, whether or not they have taken part in the armed conflict, shall be respected and protected;” and 8: Search – “All possible measures shall be taken, without delay, to search for and collect the wounded, sick and shipwrecked, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead... and decently dispose of them.”

<sup>7</sup> See “Turkey’s Legal Obligations” p. 25 of this report for more details; Ethical Principles of Health care in Times of Armed Conflict and Other Emergencies, General Principle 4, International Committee of the Red Cross; Geneva Convention IV, Article 18: “In view of the dangers to which hospitals may be exposed by being close to military objectives, it is recommended

that such hospitals be situated as far as possible from such objectives;” Additional Protocol I, Article 12.4: “Under no circumstances shall medical units be used in an attempt to shield military objectives from attack. Whenever possible, the Parties to the conflict shall ensure that medical units are so sited that attacks against military objectives do not imperil their safety.”

<sup>8</sup> Turkish authorities have charged health care workers using both provisions under the Turkish Penal Code and Law on Fighting Terrorism. The Law on Fighting Terrorism defines selected provisions in the Turkish Penal Code as “terrorist offences” and prescribes specific criminal procedures for addressing them when committed on behalf of a terrorist organization, as defined by Article 1 of the Law on Fighting Terrorism. Provisions often used include: Article 220 of the Turkish Penal Code: “A person who makes propaganda through the medium of press and media about the goals of an organization which has been established in order to commit crimes” can be imprisoned for three to nine years; Article 7(2) of the Law on Fighting Terrorism: “Those who assist members of organizations constituted in the manner described above or make propaganda in connection with such organizations shall be punished with imprisonment of between one and five years.” Article 7(1) of the Law on Fighting Terrorism includes Articles 313, 314, and 315, which include offences committed as part of an illegal organization, which are then criminalized under the Law on Fighting Terrorism when committed for an organization defined by Article 1 of the Law.

<sup>9</sup> The Syrian Kurds’ fighting force is known as the People’s Defense Units (called the YPG), and is the armed wing of the Democratic Union Party in Rojava, Syria, considered the historic homeland of the Kurdish people.

<sup>10</sup> Constanze Letsch and Ian Traynor, “Kobani: anger grows as Turkey stops Kurds from aiding militias in Syria,” The Guardian, October 8, 2014, <https://www.theguardian.com/world/2014/oct/08/kobani-isis-turkey-kurds-ypg-syria-Erdoğan>.

<sup>11</sup> BBC, “Turkey Kurds: Kobane protests leave 19 dead,” October 8, 2014, accessed June 3, 2016, <http://www.bbc.com/news/world-middle-east-29530640>.

<sup>12</sup> Hurriyet Daily News, “Turkish President Erdoğan rules out ‘negotiation’ with PKK,” April 4, 2016, <http://www.hurriyetdailynews.com/turkish-president-Erdoğan-rules-out-negotiation-with-pkk.aspx?PageID=238&NID=97312&NewsCatID=338>.



<sup>13</sup> In February 2013 (one month before the ceasefire was established), pro-PKK media announced the formation of the Patriotic Revolutionary Movement (YDG-H). “YDG-H Çatı Örgütü İlan Edildi” [“The YGD-H Umbrella Organisation Announced”], Sterk TV, 24. <http://tr.sterk.tv/2716-idgh-cat-orgutu-ilan-edildi.html#.VIYent8rLGJIn>, accessed June 3, 2016; Mahmut Bozarslan, “Young Guns Rule Their Turf,” Al-Monitor, October 7, 2015, accessed June 6, 2016, <http://www.al-monitor.com/pulse/originals/2015/10/turkey-kurdish-rebels-new-youth-wing-or-deep-pkk.html>.

<sup>14</sup> International Crisis Group, “The Human Cost of the PKK Conflict,” Crisis Group Europe Briefing No. 80, March 17, 2016, page 3. Available online: <http://www.crisisgroup.org/en/regions/europe/turkey-cyprus/turkey/b080-the-human-cost-of-the-pkk-conflict-in-turkey-the-case-of-sur.aspx>.

<sup>15</sup> The Telegraph, “Kurdish militants claim ‘revenge’ killing of two Turkish policemen,” July 22, 2015, accessed June 2, 2016, <http://www.telegraph.co.uk/news/worldnews/europe/turkey/11755018/Two-Turkish-police-officers-killed-close-to-Syria-border.html>.

<sup>16</sup> The PKK leader in Iraq, Cemil Bayik, denied PKK involvement with organizing the YDG-H, but an International Crisis Group report, “A Sisyphean Task? Resuming Turkey-PKK Peace Talks,” states that a “Crisis Group researcher... was told in the embattled town of Cizre that the local YDG-H militia was reinforced by regular PKK fighters.” Crisis Group Europe Briefing N.77 Istanbul/Brussels, December 17, 2015.

<sup>17</sup> Mahmut Bozarslan, “Turkish Kurds flee ‘self-rule’ neighborhoods,” Al-Monitor, December 14, 2015, <http://www.al-monitor.com/pulse/originals/2015/12/turkey-clashes-pkk-kurds-flee-self-rule-neighborhoods.html>.

<sup>18</sup> HRFT Curfews Table, April 20, 2016. Provided by Human Rights Foundation of Turkey to PHR over email on May 28, 2016.

<sup>19</sup> PHR interview with general practitioner working in Cizre Public Hospital during the first curfew imposed in Cizre from September 4 to 9, 2015. PHR interviewed the doctor in Istanbul on April 27, 2016.

<sup>20</sup> See Customary International Humanitarian Law, Rule 103: Collective Punishment, [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule103](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule103).

<sup>21</sup> Article 4, International Covenant on Civil and Political Rights, <http://www.legislationline.org/documents/action/popup/id/7774>. Also see “Framework Principles for Securing the Human Rights of Victims of Terrorism,” by Special Rapporteur on the promotion and protection of human rights and fundamental

freedoms while countering terrorism, Ben Emmerson, May 7, 2012, <http://www.legislationline.org/topics/topic/5/organization/2>.

<sup>22</sup> PHR interviews with a member of the Şırnak Bar Association (anonymity requested) in Diyarbakır on May 1, 2016, and members of the Mardin Medical Association (anonymity requested) on May 2, 2016 in Mardin.

<sup>23</sup> PHR, “PHR and Leading Medical Groups Demand an End to Curfews and Access to Emergency Medical Care,” February 8, 2016, <http://physiciansforhumanrights.org/press/press-releases/turkish-security-forces-blocking-access-to-medical-care-in-southeastern-turkey.html>.

<sup>24</sup> Emergency rule was imposed to enforce military rule in the southeast between 1994 and 2002. BBC News, “Turkey lifts last state of emergency,” November 30, 2002, <http://news.bbc.co.uk/2/hi/europe/2529853.stm>.

<sup>25</sup> Article 11, Law No. 5442, “Law on Provincial Administration,” <http://www.mevzuat.gov.tr/MevzuatMetin/1.3.5442.pdf>.

<sup>26</sup> Email correspondence with Senem Dağoğlu, lawyer at the Human Rights Foundation of Turkey, between March 21 and 24, 2016.

<sup>27</sup> State of Emergency Law, Act no. 2935, October 25, 1983, published by Official Gazette on October 27, 1983, No. 18204, accessed June 2, 2016, <http://www.legislationline.org/documents/action/popup/id/6974>.

<sup>28</sup> PHR interview with general practitioner working in one of the family health centers in Cizre on May 3, 2016 at a roadside stop outside of Cizre.

<sup>29</sup> Mahmut Bozarslan, “Ongoing violence, curfews keep doctors from tending to sick in southeastern Turkey,” Al-Monitor, September 15, 2015, <http://www.al-monitor.com/pulse/originals/2015/09/turkey-pkk-clashes-cizre-violence-plagues-southeastern.html>.

<sup>30</sup> PHR interview with Dr. A.K. in Mardin on May 2, 2016.

<sup>31</sup> PHR interview with Dr. C.K. in Mardin on May 2, 2016.

<sup>32</sup> PHR interview at the SES Union of Health Workers’ office in Diyarbakır on April 29, 2016.

<sup>33</sup> Thereby violating Article 18 of the Fourth Geneva Convention, and Article 12, section 4 of the Additional Protocol 1 to the Geneva Conventions.

<sup>34</sup> Daily Sabah, “PKK hits hospital again in mortar attack on Turkey’s southeastern town of Cizre,” November 9, 2015, <http://www.dailysabah.com/nation/2015/11/09/pkk>

[-hits-hospital-again-in-mortar-attack-in-turkeys-southeastern-town-of-cizre.](#)

<sup>35</sup> PHR interview with Dr. B.K. on April 27, 2016 in Istanbul: "Actually, security forces settled into the hospital on Friday and so tension started to rise when they settled there," she said in reference to an attack on Cizre State Hospital the following night. PHR interview with Dr. Raşit TÜKEL, vice-president of the Turkish Medical Association in Istanbul on April 26, 2016: "It's very important to remember that because the soldiers were in the [Cizre] hospital, it's a target for the PKK. For example, in December 2015, a rocket hit a room of the hospital – the Turkish military were fighting from the hospital."

<sup>36</sup> PHR interview with Dr. B.K. on April 27, 2016 in Istanbul.

<sup>37</sup> Milliyet News, "PKK hits hospital, again!" November 10, 2015, <http://www.milliyet.com.tr/pkk-hits-hospital-again-en-2145599/en.htm>; Cihan News, "Former State Hospital attacked in Turkey's Mardin," January 7, 2016, <https://www.cihan.com.tr/en/former-state-hospital-attacked-in-turkeys-mardin-1979607.htm>; Daily Sabah, "PKK targets hospital in southeastern Turkey," October 22, 2015, <http://www.dailysabah.com/politics/2015/10/22/pkk-targets-hospital-in-southeastern-turkey>; Hurriyet Daily News, "PKK bomb attack hits public offices, hospital in Turkey's southeast," October 21, 2015, <http://www.hurriyetdailynews.com/pkk-bomb-attack-hits-public-offices-hospital-in-turkeys-southeast.aspx?pageID=238&nID=90197&NewsCatID=341>.

<sup>38</sup> General Comment 14 on Article 12 of the International Covenant on Economic, Social and Cultural Rights, "CESCR General Comment no. 14: The Right to the Highest Attainable Standard of Health (Art 12)," August 11, 2000, <http://www.refworld.org/pdfid/4538838d0.pdf>.

<sup>39</sup> See "Medical Neutrality and the Right to Health," under "Turkey's Legal Obligations" in this report.

<sup>40</sup> Turkish Medical Association, "Rapid Assessment of Health Services in Eastern and Southeastern Anatolia Regions in the Period of Conflict Starting from 20 July 2015," October 2015, copy provided to PHR by the Turkish Medical Association on April 27, 2016.

<sup>41</sup> PHR Interview with Dr. C.K. in Mardin on May 2, 2016.

<sup>42</sup> Written copy of F.K.'s testimony was provided to PHR by the Şırnak Bar Association on May 1, 2016 during interviews in Diyarbakır.

<sup>43</sup> Written copy of testimonies provided to PHR by the Şırnak Bar Association on May 1, 2016 during interviews in Diyarbakır. PHR was unable to independently interview the health personnel who gave testimony to the Şırnak Bar Association due to

denied access by Turkish police to areas of Şırnak province, which included Cizre and Silopi.

<sup>44</sup> Written copy of testimonies provided to PHR by the Şırnak Bar Association on May 1, 2016 during interviews in Diyarbakır.

<sup>45</sup> Tom Stevenson, "Turkish forces accused of 'mass murder' in southeast," DW, February 12, 2016, <http://www.dw.com/en/turkish-forces-accused-of-mass-murder-in-southeast/a-19044651>.

<sup>46</sup> Human Rights Department, Ministry of Justice, Republic of Turkey, "Information on the Interim Measure Concerning the Application No. 3758/16 Paksoy vs. Turkey," dated January 25, 2016, copy on file with PHR.

<sup>47</sup> Jeremy Bowen, "Inside Cizre: Where Turkish forces stand accused of Kurdish killings," BBC, May 23, 2016, <http://www.bbc.com/news/world-europe-36354742>; European Court of Human Rights, "Curfew measures in southeastern Turkey: Court decides to give priority treatment to a number of complaints," ECHR 054 (2016), February 5, 2016. Mazlumder Conflict Investigation and Resolution Group, "Cizre Investigation and Monitoring Report," March 4-6, 2016, copy on file with PHR; Human Rights Association, Human Rights Foundation of Turkey, Health and Social Service Workers' Union (SES), Diyarbakır Bar Association, and Agenda Child Association, "Cizre Review Report," March 31, 2016, copy provided to PHR by representatives of the above-listed groups on April 30, 2016.

<sup>48</sup> Tom Stevenson, "Turkish forces accused of 'mass murder' in southeast," DW, February 12, 2016, <http://www.dw.com/en/turkish-forces-accused-of-mass-murder-in-southeast/a-19044651>.

<sup>49</sup> Interview with PHR on May 4, 2016 in Midyat, Turkey.

<sup>50</sup> People's Democratic Party (HDP) website, "Our Application to the Committee of Ministers of the Council of Europe," January 20, 2016, <https://hdpenglish.wordpress.com/2016/01/20/our-application-to-the-committee-of-ministers-of-the-council-of-europe/>. Interim measures are not available on the ECHR's database, HUDOC.

<sup>51</sup> Daily Sabah, "Şırnak governorate ends ambulance confusion with statement," January 31, 2016, <http://www.dailysabah.com/politics/2016/02/01/sirnak-governorate-ends-ambulance-confusion-with-statement>.

<sup>52</sup> Daily Sabah, "PM Davutoğlu advises information on clashes in southeast to be received from official sources," February 7, 2016, <http://www.dailysabah.com/nation/2016/02/07/pm-davutoglu-advises-information-on-clashes-in-southeast-to-be-received-from-official-sources>.

<sup>53</sup> Reuters, "Turkish security complete operations in Kurdish town: minister," February 11, 2016, <http://www.reuters.com/article/us-turkey-kurds-idUSKCN0VK13N>.

<sup>54</sup> Jeremy Bowen, "Inside Cizre: Where Turkish forces stand accused of Kurdish killings," BBC, May 23, 2016, <http://www.bbc.com/news/world-europe-36354742>; Mahmut Bozarslan, "Residents return to devastated Turkey town as curfew lifted," AFP, March 2, 2016, <https://www.yahoo.com/news/cizre-residents-return-battered-town-turkey-lifts-curfew-140026859.html?ref=gs>.

<sup>55</sup> ABC Gazetesi, "Adli Tip uzmanlari: Cenaze kacirmaya yasal kilif hazirlandi," quotes Dr. Şebnem Korur Financı and Professor Umit Bicer in speaking out against the rule changes, <http://www.abcgazetesi.com/adli-tip-uzmanlari-cenaze-kacirmaya-yasal-kilif-hazirlandi-5613h.htm>; Cihan News, "Diyarbakır Barosu 'kimsesizlerin cenazesi' düzenlemesini Danistay'a tasidi." From Diyarbakır Bar Association when they appealed to the court challenging the change in rules. <https://www.cihan.com.tr/tr/Diyarbakir-barosu-kimsesizlerin-cenazesi-duzenlemesini-danistaya-tasidi-1984050.htm>.

<sup>56</sup> Resmi Gazete, "Mezarlık Yerlerinin İnşası ile Cenaze Nakil Ve Defin İşlemleri Hakkında Yönetmelikte Değişiklik Yapılmasına Dair Yönetmelik," January 16, 2016, <http://www.resmigazete.gov.tr/eskiler/2016/01/20160116-5.htm>.

<sup>57</sup> PHR interview with Mesopotamia Lawyers' Association, Turkish Medical Association, and Human Rights Foundation of Turkey, including forensic medical expert Dr. Şebnem Korur Financı, who collected evidence from two of Cizre's basements before they were demolished in mid-March 2016. Members of the Mesopotamia Lawyers' Association and Turkish Medical Association had visited the basements, and/or made attempts to observe autopsies being conducted in Silopi in March 2016, but were denied permission to observe.

<sup>58</sup> Turkish Medical Association. "Rapid Assessment of Health Services in Eastern and Southeastern Anatolia Regions in the Period of Conflict Starting from 20 July 2015." October 2015, copy provided to PHR by the Turkish Medical Association on April 27, 2016.

<sup>59</sup> The European Court of Human Rights requires applicants to pursue complaints within national systems – including courts and appellate courts – before applying to the ECHR. According to the ECHR's admissibility guide, the "Court is intended to be subsidiary to the national systems safeguarding human rights and it is appropriate that the national courts should initially have the opportunity to

determine questions regarding the compatibility of domestic law with the Convention."

<sup>60</sup> European Court of Human Rights, "Curfew measure in south-eastern Turkey: Court decides to give priority treatment to a number of complaints," Press release February 5, 2016, ECHR 054 (2016), accessed online June 6, 2016, [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKewi00PbfgZTNAhWC2D4KHXYCV4QFggcMAA&url=http%3A%2F%2Fhudoc.echr.coe.int%2Fapp%2Fconversion%2Fpdf%2F%3Flibrary%3DECCHR%26id%3D003-5293529-6585232%26filename%3DCurfew%2520measures%2520in%2520south-eastern%2520Turkey%2520-%2520priority%2520treatment%2520of%2520complaints.pdf&usq=AFQjCNGD4rbtcR\\_q2UUV3hxFDwOAPC\\_9Zg&sig2=S7fw\\_NnGVc3l5AfO3OJ1zA&bvm=bv.123664746.d.cWw](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKewi00PbfgZTNAhWC2D4KHXYCV4QFggcMAA&url=http%3A%2F%2Fhudoc.echr.coe.int%2Fapp%2Fconversion%2Fpdf%2F%3Flibrary%3DECCHR%26id%3D003-5293529-6585232%26filename%3DCurfew%2520measures%2520in%2520south-eastern%2520Turkey%2520-%2520priority%2520treatment%2520of%2520complaints.pdf&usq=AFQjCNGD4rbtcR_q2UUV3hxFDwOAPC_9Zg&sig2=S7fw_NnGVc3l5AfO3OJ1zA&bvm=bv.123664746.d.cWw).

<sup>61</sup> Mazlumder Conflict Investigation and Resolution Group. "Cizre Investigation and Monitoring Report on Developments During the Round-the-Clock Curfew Imposed Between December 14, 2015 and March 2, 2016." The report is based on interviews with local officials in Cizre, including the chief prosecutor, mayors, district governor, and neighborhood *muhtars* (community leaders), as well as representatives of civil society organizations, lawyers, and families of victims. PHR also independently corroborated the allegation that individuals represented by ECHR applications were confirmed dead or remained missing by interviews with families of some of the victims, and lawyers and forensic medical doctors with the Human Rights Foundation of Turkey who conducted examinations of the basements on March 3, 2016, the day after the curfew was lifted and they were permitted to enter Cizre.

<sup>62</sup> PHR interview with members of SES leadership in Diyarbakır on April 30, 2016. The President of SES presented PHR with a list of deaths of health personnel recorded by SES. The union has documented a total of four deaths of health personnel since the beginning of the conflict; PHR interview with Ergen's colleague, Dr. B.K. in Istanbul on April 27, 2016.

<sup>63</sup> Ibid.

<sup>64</sup> Ibid.

<sup>65</sup> PHR was unable to independently interview Sabri Yural due to denied access into Cizre by police at a checkpoint outside of Cizre. A delegation from the civil society organization Mazlumder (Association for Human Rights and Solidarity for the Oppressed) visited Cizre from March 4 to 6, 2016 after the



second curfew ended, and interviewed Sabri Yural as part of their visit.

<sup>66</sup> Gunes, "Hastanede hain var," January 4, 2016, <http://www.gunes.com/Gundem/hastanede-hain-var-653020>.

<sup>67</sup> Turkish Penal Code, Art. 97: "Any person who abandons another person who is under protection... due to state of disability bound to old age or sickness, is sentenced to imprisonment from three months to two years." Art. 98: "Any person who fails to render assistance to an old, disabled or injured person at the extent of his or her ability, or fails to notify the concerned authorities in time, is punished with imprisonment up to one year or punitive fine."

<sup>68</sup> Physicians for Human Rights, "Contempt for Freedom: State Use of Tear Gas as a Weapon and Attacks on Medical Personnel in Turkey," September 2013, <http://physiciansforhumanrights.org/library/reports/contempt-for-freedom.html>.

<sup>69</sup> Article 46 of Turkey's Health Bill (draft bill as of 2013, and passed by Parliament and signed by the President in January 2014). The provision was then used to criminalize doctors retroactively for treating protesters at Gezi Park.

<sup>70</sup> British Medical Association, "Drop charges against protester-helping doctors, says BMA," October 29, 2014, accessed June 7, 2016, <https://www.bma.org.uk/news/2014/october/drop-charges-against-protester-helping-doctors-says-bma>;

Medikal Adademi, "Doktorlara 'camiyi kirletme' iddiasıyla 10 ay hapis cezası verildi," October 23, 2015, accessed June 7, 2016,

<https://www.medikalakademi.com.tr/doktorlara-camiyi-kirletme-iddiasıyla-10-ay-hapis-cezası-verildi/>.  
<sup>71</sup> PHR, "Members of the Turkish Medical Association Charged for Providing Care to Injured Protesters," March 26, 2014, <http://physiciansforhumanrights.org/press/press-releases/phr-files-legal-brief-in-support-of-turkish-medical-association.html?referrer=https://www.google.com/>;

PHR, "Brief of Amicus Curiae in Case No. 2014/64," [https://s3.amazonaws.com/PHR\\_other/tma-amicus-brief-2014.pdf](https://s3.amazonaws.com/PHR_other/tma-amicus-brief-2014.pdf).

<sup>72</sup> PHR, "Judge Dismisses Case Against Turkish Medical Association," February 20, 2015, <http://physiciansforhumanrights.org/press/press-releases/judge-dismisses-case-against-turkish-medical-association.html>.

<sup>73</sup> Turkish authorities have charged health care workers using both provisions under the Turkish Penal Code and Law on Fighting Terrorism. The Law on Fighting Terrorism defines selected provisions in the Turkish Penal Code as "terrorist offences" and prescribes specific criminal procedures for

addressing them when committed on behalf of a terrorist organization, as defined by Article 1 of the Law on Fighting Terrorism. Provisions often used include: Article 220 of the Turkish Penal Code: "A person who makes propaganda through the medium of press and media about the goals of an organization which has been established in order to commit crimes" can be imprisoned for three to nine years. Article 7(2) of the Law on Fighting Terrorism: "Those who assist members of organizations constituted in the manner described above or make propaganda in connection with such organizations shall be punished with imprisonment of between one and five years." Article 7(1) of the Law on Fighting Terrorism includes Articles 313, 314, and 315, which include offences committed as part of an illegal organization, which are then criminalized under the Law on Fighting Terrorism when committed for an organization defined by Article 1 of the Law.

<sup>74</sup> PHR interviews with members of the Health Workers' Union in Ankara and Diyarbakır (SES), the Turkish Medical Association in Istanbul, Ankara, Diyarbakır, Mardin, and Cizre (TMA), all facing criminal charges and/or administrative sanctions for participating in protests, demonstrations, or treating alleged "members of terrorist organizations." Copies of testimonies as recorded by PHR, and legal documents, including indictments and records of questions asked during administrative inquiries in these cases, on file with PHR.

<sup>75</sup> Turkish Penal Code, section 220/7: "Any person who knowingly and willingly helps an organized criminal group although not taking place within the hierarchic structure of the group, is punished as if he is a member of the organized group; 312/2: Enlisting to an organized criminal group.

<sup>76</sup> Mardin City E-type Prison.

<sup>77</sup> The authorities also invoked sections 58/9 and 53/1 of the Turkish Penal Code in Köçeroğlu's case. Section 58/9: "Recidivism and offenses of special risk" says that if he commits the crime again, he would be imprisoned even if the option of an administrative fine is available. Section 53/1 disqualifies the accused of certain rights, including the right to vote, and the undertaking of a permanent or temporary public service, including an office in any department of the State, province, or municipality, or employment in an institution and corporation controlled by these administrations. As Köçeroğlu is employed by the Ministry of Health as part of the state system, his ability to practice at a state hospital or health facility is effectively terminated.

<sup>78</sup> Name withheld for security purposes.

<sup>79</sup> PHR interview with Dr. A.K. on May 4 in Mardin, Turkey.

<sup>80</sup> Article 9(1) International Covenant on Civil and Political Rights: "No one shall be deprived of his liberty except... in accordance with such procedures as are established by law." General Comment No. 35, Human Rights Committee, 16 December 2014. CCPR/C/GC/35 on Article 9, chapter 2(12): "An arrest or detention may be authorized by domestic law and nonetheless be arbitrary. The notion of "arbitrariness" is not to be equated with "against the law", but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality." 1134/2002, Gorji-Dinka v. Cameroon, para. 5.1; 305/1988, Van Alphen v. Netherlands, para. 5.8.

<sup>81</sup> These rights are derived from the same rules of humanitarian law as a medical practitioner's responsibilities: the First, Second, and Fourth Geneva Conventions; Additional Protocol I, Part II (Articles 8-34); Additional Protocol II, Part III (Articles 7-12); and customary humanitarian law.

<sup>82</sup> General Comment No. 6 of the Human Rights Committee, Resolution 37/194 of the UN General Assembly on the Principles of Medical Ethics <http://www.un.org/documents/ga/res/37/a37r194.htm>: "Convinced that under no circumstances a person shall be punished for carrying out medical activities compatible with medical ethics regardless of the person benefiting therefrom, or shall be compelled to perform acts or to carry out work in contravention of medical ethics." Articles 2.2. and 3 of the ICESCR, the right to health must be exercised without discrimination, General Comment No. 14 of the Human Rights Committee.

<sup>83</sup> The Islamic State claimed responsibility for the deadly bombing in Ankara that killed 103 people, and injured 250 more on October 10, 2015. The bombing was one of a series that have struck Turkey's metropolitan cities since early 2015. The Independent, "Ankara explosion: Timeline of bomb attacks in Turkey between 2015 and 2016," February 17, 2016, <http://www.independent.co.uk/news/world/europe/a-timeline-of-bomb-attacks-in-turkey-between-2015-2016-a6879841.html>.

<sup>84</sup> Name withheld for security purposes.

<sup>85</sup> PHR interview with Dr. D.K. on May 2, 2016 at the Mardin Medical Chamber in Mardin city, Turkey.

<sup>86</sup> Name withheld for security purposes.

<sup>87</sup> Hakkında İnceleme Yapılanın İfade Tutanagi. Copies provided to PHR on April 29, 2016. Description: Transcription of inquiry made by

hospital administrator during the course of the administrative investigation on April 21, 2016. Question 9 is as follows: "Eylemde atılan "yaşasın halkların kardeşliği" "Savaşa hayır, barış hemen şimdi" şeklindeki sloganlar; o dönemin gündemi ile düşünüldüğünde PKK çizgisine ait sloganlar. Bu sloganları kim veya kimler hazırladı? Bilinçli ve isteyerek mi attınız?" Translation (Google translate): "'Long live the brotherhood of peoples" and "No war, peace now" are the slogans of the PKK. This is the motto that you were conscious of and you've taken willingly?"

<sup>88</sup> An estimate calculated by PHR, based on the population of each urban center in which curfews were imposed upon an entire district or city, was confirmed through records provided by the Human Rights Foundation of Turkey. Urban centers that were under total curfew between August and October 2015 were Yüksekova, Hakkâri, Sur district in Diyarbakır city, Cizre in Şırnak province, Silopi in Şırnak province, and Nusaybin in Mardin province. There were 32 curfews imposed in total between August and October 2015, but PHR was unable to confirm complete closure of health centers in other areas under curfew, which included Varto, Muş; Lice, Diyarbakır; Silvan, Diyarbakır; Bismil, Diyarbakır; Sason, Batman; Kozluk, Batman; Hani, Diyarbakır; Yenisehir, Diyarbakır; and Dargeçit, Mardin.

<sup>89</sup> Turkish Medical Association, "Rapid Assessment of Health Services in Eastern and Southeastern Anatolia Regions in the Period of Conflict Starting from 20 July 2015," October 2015, copy provided to PHR by the Turkish Medical Association on April 27, 2016, Section 2.1 "Are people allowed to enter facilities carrying their guns?"

<sup>90</sup> PHR interview with Dr. C.K. in Mardin on May 2, 2016.

<sup>91</sup> PHR interview at the SES Health Workers' Union office in Diyarbakır on April 29, 2016.

<sup>92</sup> PHR interview with Cizre residents at a roadside stop outside of Cizre on May 3, 2016.

<sup>93</sup> Turkish Medical Association, "Rapid Assessment of Health Services in Eastern and Southeastern Anatolia Regions in the Period of Conflict Starting from 20 July 2015," October 2015, copy provided to PHR by the Turkish Medical Association on April 27, 2016; PHR interview on May 3, 2016 outside of Cizre with a general practitioner working in a family health center in Cizre who lived in Cizre during the curfews.

<sup>94</sup> Bianet, "Life Stopped in Nusaybin, Central Şırnak," April 29, 2016, accessed Jun 7, 2016, <http://bianet.org/english/human-rights/174338-life-stopped-in-nusaybin-central-sirnak>.

<sup>95</sup> Volunteer units sent by the Ministry of Health are called UMKE, <http://www.umke.org/saglik->

[bakanligi/umke-personellerinin-gozlerinden-opuyorum-h8263.html](http://bakanligi.umke-personellerinin-gozlerinden-opuyorum-h8263.html).

<sup>96</sup> Mazlumder Conflict Investigation and Resolution Group, "Cizre Investigation and Monitoring Report on Developments During the Round-the-Clock Curfew Imposed Between December 14, 2015 and March 2, 2016. The report is based on interviews with local officials in Cizre, including the chief prosecutor, mayors, district governor, and neighborhood *muhtars* (community leaders), as well as representatives of civil society organizations, lawyers, and families of victims; "Cizre Investigation and Monitoring Report," March 4-6, 2016, copy on file with PHR; Human Rights Association, Human Rights Foundation of Turkey, Health and Social Service Workers' Union (SES), Diyarbakır Bar Association, and Agenda Child Association, "Cizre Review Report," March 31, 2016, copy provided to PHR by representatives of the above-listed groups on April 30, 2016.

<sup>97</sup> Office of the High Commissioner for Human Rights, "Need for transparency, investigations, in light of 'alarming' reports of major violations in south-east Turkey – Zeid," May 10, 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19937&LangID=E>; Council of Europe, "Turkey: security trumping human rights, free expression under threat - Nils Muižnieks," April 14, 2016, <http://www.coe.int/en/web/commissioner/-/turkey-security-trumping-human-rights-free-expression-under-threat>; Human Rights Watch, "Turkey: Mounting Security Operation Deaths," December 22, 2015, <https://www.hrw.org/news/2015/12/22/turkey-mounting-security-operation-deaths>.

<sup>98</sup> Mazlumder Conflict Investigation and Resolution Group, "Cizre Investigation and Monitoring Report," March 4-6, 2016, copy on file with PHR; Human Rights Association, Human Rights Foundation of Turkey, Health and Social Service Workers' Union (SES), Diyarbakır Bar Association, and Agenda Child Association, "Cizre Review Report," March 31, 2016, copy provided to PHR by representatives of the above-listed groups on April 30, 2016.

<sup>99</sup> Interview with PHR in the office of the Mesopotamia Lawyers' Association on May 6, 2016. Name withheld for security purposes.

<sup>100</sup> Tom Stevenson, "Unprecedented destruction of Kurdish city of Cizre," DW, May 18, 2016, <http://www.dw.com/en/unprecedented-destruction-of-kurdish-city-of-cizre/a-19265927>.

<sup>101</sup> Mazlumder Conflict Investigation and Resolution Group, "Cizre Investigation and Monitoring Report on Developments During the Round-the-Clock Curfew Imposed Between December 14, 2015 and March 2,

2016. The report is based on interviews with local officials in Cizre, including the chief prosecutor, mayors, district governor, and neighborhood *muhtars* (community leaders), as well as representatives of civil society organizations, lawyers, and families of victims; "Cizre Investigation and Monitoring Report," March 4-6, 2016, copy on file with PHR; Human Rights Association, Human Rights Foundation of Turkey, Health and Social Service Workers' Union (SES), Diyarbakır Bar Association, and Agenda Child Association, "Cizre Review Report," March 31, 2016, copy provided to PHR by representatives of the above-listed groups on April 30, 2016.

<sup>102</sup> Interviews with PHR at the Firat Culture Center on April 29, 2016, and at the Human Rights Association office in Diyarbakır on May 7, 2016.

<sup>103</sup> Interview with PHR at the Human Rights Association office in Diyarbakır. Names withheld for security purposes.

<sup>104</sup> Bianet, "Rozerin Çukur's Body Identified," June 6, 2016, <http://bianet.org/english/human-rights/175555-rozerin-cukur-s-body-identified>.

<sup>105</sup> Ethical Principles of Health Care in Times of Armed Conflict and Other Emergencies, General Principle 4, International Committee of the Red Cross; Geneva Convention IV Article 18: "In view of the dangers to which hospitals may be exposed by being close to military objectives, it is recommended that such hospitals be situated as far as possible from such objectives;" Additional Protocol I Article 12.4: "Under no circumstances shall medical units be used in an attempt to shield military objectives from attack. Whenever possible, the Parties to the conflict shall ensure that medical units are so sited that attacks against military objectives do not imperil their safety."

<sup>106</sup> Article 12, International Covenant on Economic, Social and Cultural Rights.

<sup>107</sup> Human Rights Committee, General Comment 14 on Article 12, International Covenant on Economic, Social and Cultural Rights.

<sup>108</sup> Drawing on the Declaration of Geneva, the World Medical Association formulated a more detailed code of ethics, which states: "A physician shall be dedicated to providing competent medical services in full technical and moral independence, with compassion and respect for human dignity." See WMA International Code of Medical Ethics. See also Art. 5 of the WMA Declaration of Tokyo, which states: "A physician must have complete clinical independence in deciding upon the care of a person for whom he or she is medically responsible. The physician's fundamental role is to alleviate the distress of his or her fellow human beings, and no



motive, whether personal, collective or political, shall prevail against this higher purpose.”

<sup>109</sup> In a groundbreaking investigation that helped define “medical neutrality,” PHR’s 1989 medical investigation in El Salvador reported on allegations of the assault, arrest, intimidation, and execution of health care workers. PHR has published pieces on medical neutrality since 1988, including reports on the West Bank and Gaza Strip (1988); Panama (1988); Chile (1988); El Salvador (1990); Kuwait (1991); Burma (1992); Somalia (1992); Thailand (1992, 2010); India (1993); Mexico (1994); former Yugoslavia (1996); Turkey (1996); Iraq (2003); United States (2003–2007); Libya (2011); Bahrain (2011, 2012); and Syria (2012).

<sup>110</sup> Annas and Geiger, *War and Human Rights*, 37.

<sup>111</sup> International Covenant on Civil and Political Rights (ICCPR), Art. 26, G.A. Res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 52, UN Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by Turkey September 23, 2003, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

<sup>112</sup> Office of the High Commissioner for Human Rights, Status of Ratification Interactive Dashboard, accessed June 3, 2016, <http://indicators.ohchr.org/>.

<sup>113</sup> International Committee of the Red Cross, “Respecting and Protecting Health Care in Armed Conflicts and in Situations Not Covered by International Humanitarian Law - Factsheet,” March 31, 2012, <https://www.icrc.org/en/document/respecting-and-protecting-health-care-armed-conflicts-and-situations-not-covered>.

<sup>114</sup> CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12), Adopted at the twenty-second Session of the Committee on Economic, Social and Cultural Rights, on 11 August 2000 (contained in Document E/C.12/2000/4).

<sup>115</sup> Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Article 22 and 23 under “Reporting and Review Procedures.” 22. Governments and law enforcement agencies shall

establish effective reporting and review procedures for all incidents referred to in principles 6 and 11 (f). For incidents reported pursuant to these principles, Governments and law enforcement agencies shall ensure that an effective review process is available and that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control; 23. Persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process. In the event of the death of such persons, this provision shall apply to their dependents accordingly.

<sup>116</sup> Article 2(3) ICCPR: “Ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; Human Rights Committee General Comment No. 6: Article 6 (Right to Life) section 4: “States should establish effective facilities and procedures to investigate thoroughly cases of missing and disappeared persons in circumstances that may involve violation of the right to life”; Article 14(1): Equality before the law.

<sup>117</sup> General Assembly resolution 60/147 of 16 December 2005, Office of the High Commissioner for Human Rights, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>.

<sup>118</sup> United Nations Human Rights Commission, Human Rights Resolution 9/11, “Right to the truth,” September 24, 2008, A/HRC/RES/9/11; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1125 UNTS 3, entered into force December 7, 1978; International Convention for the Protection of All Persons from Enforced Disappearance, December 20, 2006, E/CN.4/2005/WG.22/WP.1/Rev.4.