

# TURKEY

## SMALL GROUP ISOLATION IN TURKISH PRISONS: An Avoidable Disaster

*Prisoners cannot simply be left to languish for weeks, possibly months, locked up in their cells, and this regardless of how good material conditions might be within the cells.*

*European Committee for the Prevention of Torture, 2nd General Report on the Committee for the Prevention of Torture's activities covering the period January 1 to December 31, 1991.*

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## SUMMARY

Human Rights Watch is deeply concerned that the Turkish government has implemented an isolation regime for prisoners being held in cells at Kartal Special Type Prison in Istanbul while on trial for offenses under the Anti-Terror Law. This regime of solitary confinement or small group isolation severely limits the range of human contact and the variety of activities and environment to which a prisoner has access.<sup>1</sup> In fact, most prisoners under this regime typically sit in their cell alone or in the company of two to five other inmates, for twenty-four hours a day, seven days a week. International prison experts have determined that such a regime may seriously endanger the mental and physical health of the inmates and falls far short of international standards for the treatment of those in detention.

Most Turkish prisoners are still held in large wards. Prison staff patrol the corridors and gendarmes guard the perimeters, but rarely enter the actual wards. Daily activities and discipline are largely organized by the prisoners themselves. In the late 1980s the Turkish Ministry of Justice, which oversees the prison system in Turkey, constructed a number of cell-based Special Type prisons and during the 1990s several ward-based prisons were partially converted into cells. However, cell doors in Special Type prisons were usually left open so that inmates in a given wing were able to associate much as they had under the ward system. In Kartal Special Type Prison in Istanbul, however, cell doors remain permanently closed other than to allow prisoners to emerge once a week if they are fortunate enough to have a visiting relative.

To Human Rights Watch's knowledge, the regime of small group isolation at Kartal Special Type Prison is so far only applied to prisoners who are on trial for security offenses.

Human Rights Watch has interviewed former prisoners and current prisoners' families about the conditions and regime in the Kartal Special Type Prison. From their testimonies, it appears that these prisoners are suffering the physical and psychological symptoms recorded elsewhere as an effect of small group isolation, including depression, anxiety, and deteriorating eyesight. The regime at Kartal Special Type Prison may amount to cruel, inhuman, and degrading treatment.

The confinement of prisoners who are persistently violent towards staff or other prisoners can sometimes be justified, so long as these conditions meet minimum standards—they cannot be cruel, inhuman, or degrading under any circumstances. Restrictive conditions should only be imposed to the extent absolutely necessary and not simply as an additional punishment for security prisoners.

THE TURKISH GOVERNMENT IS CURRENTLY IN THE PROCESS OF BUILDING A NEW GENERATION OF PRISONS—THE F-TYPE—AND RESTRUCTURING ITS WHOLE PRISON SYSTEM. IT IS WIDELY BELIEVED THAT THE SMALL GROUP ISOLATION REGIME CURRENTLY INSTITUTED IN THE KARTAL SPECIAL TYPE PRISON IS A PROTOTYPE FOR F-TYPE PRISONS CURRENTLY UNDER CONSTRUCTION. THESE CONCERNS ARE FUELED, AT LEAST IN PART, BY THE GOVERNMENT'S FAILURE TO PROVIDE COMPREHENSIVE INFORMATION ABOUT THE TYPE OF REGIME IT INTENDS TO INSTITUTE IN THESE NEW FACILITIES.

In 1999, Human Rights Watch sent a letter to the Turkish government raising concerns about small group isolation and urging that the extreme isolation regime in place at the Kartal Special Type Prison not be copied in other parts of the prison system, but rather abolished. Furthermore, because of the great uncertainty and tension created by a lack of public information about the exact nature of the prison regime planned for F-type prisons, Human Rights Watch asked the government for specific information on the type of regime to be instituted in the new prisons and, in a later letter, also asked for access to Kartal Special Type Prison. The government denied that its administration of this prison violates international standards, but failed to provide any information about the nature of the isolation regime and did

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<sup>1</sup> "Solitary confinement" refers to a regime in which an inmate is housed alone, with severely limited contact with others and little or no access to outside stimulation. "Small-group isolation" refers to a regime in which detainees are confined to their cells together with up to five other inmates, most if not all of the day, without opportunities for proper exercise, work, or other productive activities, or interaction with detainees other than those confined to the cell. A "cell-based" detention system consists of rooms or cells occupied by up to six inmates, which for the purposes of this memorandum does not include an isolation regime, and is therefore not objectionable per se.

not agree to our request to visit the prisons. Human Rights Watch remains deeply concerned about the government's decision to enforce extreme isolation measures and continues to urge the Turkish prison authorities to ensure that all prison regimes are both transparent and in strict compliance with international law.

Human Rights Watch does not oppose the cell-system as such, and indeed recognizes that under the right scheme of management, there may be benefits for prisoners and prison authorities alike in such an arrangement. The Turkish Justice Ministry has embarked on this project with the stated intention of improving the human rights situation for prisoners as well as increasing security. However, Human Rights Watch has two primary concerns: (1) to the extent the cell-based system is accompanied by an isolation regime that provides prisoners with no access to educational or recreational activities or other sources of mental stimulation, the system may itself amount to ill-treatment, and (2) a regime of isolation that severely limits access to other inmates as well as the outside world may also increase the risk of ill-treatment of prisoners by prison staff. In this regard, the lack of information on the nature of the regime is already exacerbating tensions in the prisons and unnecessarily increasing the chances of violent confrontation if or when an attempt is made to begin transfers.

## RECOMMENDATIONS

### To the Justice Ministry:

The Turkish authorities have an obligation under international human rights law to provide a prison regime that respects the inherent dignity of each inmate and not to subject prisoners to torture or other cruel, inhuman, or degrading treatment or punishment. Human Rights Watch therefore urges the Turkish government:

- AS A MATTER OF URGENCY, TO MAKE PUBLIC DETAILED PLANS FOR THE MANAGEMENT OF THE NEW GENERATION OF F-TYPE PRISONS, ENSURING THAT THOSE PLANS REFLECT THE U.N. STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS, WHICH EMPHASIZE THE IMPORTANCE OF CONTACT WITH THE OUTSIDE WORLD, THE REHABILITATIVE ASPECTS OF IMPRISONMENT, AND ACCESS TO CONSTRUCTIVE WORK, EDUCATION, AND RECREATION.
- PROVIDE PRISONERS WITH DETAILS ABOUT THE REGIME TO WHICH THEY MAY BE TRANSFERRED AND REITERATE TO THE PRISONER POPULATION THE GOVERNMENT'S UNAMBIGUOUS COMMITMENT TO OPERATE THE CELL SYSTEM HUMANELY AND IN COMPLIANCE WITH INTERNATIONAL STANDARDS.
- ABOLISH SOLITARY AND SMALL GROUP ISOLATION AT KARTAL SPECIAL TYPE PRISON.
- ENSURE THAT PRISONERS HELD IN CELL-BASED PRISONS, INCLUDING KARTAL SPECIAL TYPE PRISON SPEND "A REASONABLE PART OF THE DAY (EIGHT HOURS OR MORE) OUTSIDE THEIR CELLS, ENGAGED IN PURPOSEFUL ACTIVITY OF A VARIED NATURE" AS THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE (CPT) HAS RECOMMENDED IN SIMILAR SITUATIONS. (SEE CPT REPORT TO THE SWEDISH GOVERNMENT (CPT/INF (92) 4 [EN]; MARCH 12, 1992, PARA 160; EMPHASIS ADDED).
- ENSURE THAT PRISONERS ARE NOT SUBJECTED TO SPECIAL SECURITY MEASURES, INCLUDING ISOLATION EXCEPT WHEN THEIR BEHAVIOR TOWARD PRISON STAFF OR OTHER PRISONERS HAS SHOWN THIS TO BE NECESSARY FOR THE SAFETY OF OTHERS OR THEIR OWN SAFETY. THE EXCEPTIONAL DECISION TO IMPOSE ANY FORM OF ISOLATION SHOULD ONLY BE CONSIDERED ON AN INDIVIDUAL BASIS, SHOULD NOT BE IMPOSED AUTOMATICALLY ON PRISONERS HELD UNDER THE ANTI-TERROR LAW, AND SHOULD BE SUBJECT TO INDEPENDENT REVIEW. SOLITARY CONFINEMENT OR SMALL GROUP ISOLATION SHOULD BE FOR THE SHORTEST PERIOD OF TIME POSSIBLE IN LIGHT OF LEGITIMATE SECURITY AND SAFETY CONSIDERATIONS AND INMATES SHOULD BE ABLE TO REDUCE THEIR TIME IN ISOLATION THROUGH GOOD BEHAVIOR AND THE ACCOMPLISHMENT OF IDENTIFIED PROGRAM GOALS.
- INTRODUCE PRISON MONITORING SYSTEMS THAT INCLUDE ARRANGEMENTS FOR ACCESS AND INSPECTION BY IMPARTIAL BODIES—SUCH AS BAR ASSOCIATIONS, NONGOVERNMENTAL HUMAN RIGHTS ORGANIZATIONS, OR A BOARD OF PRISON VISITORS—THAT ARE NOT UNDER JUSTICE MINISTRY AUTHORITY. SUCH SYSTEMS WOULD HELP TO GIVE CONFIDENCE TO INMATES THAT ISOLATION WILL NOT BE RE-INTRODUCED SURREPTITIOUSLY OR IN REMOTE CORNERS OF THE PENAL SYSTEM.

NO PRISONERS SHOULD BE HELD IN THE NEW GENERATION OF PRISONS UNTIL THE GOVERNMENT MAKES A CLEAR, DETAILED, AND PUBLIC COMMITMENT TO MANAGE THEM IN LINE WITH INTERNATIONAL STANDARDS, AND HAS PUT IN PLACE PROVISIONS FOR INDEPENDENT MONITORING AND OTHER SAFEGUARDS TO ENSURE THAT PRISONERS WILL NOT BE ILL-TREATED OR SUBJECTED TO CONDITIONS, SUCH AS PROLONGED ISOLATION, THAT CONSTITUTE CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.

## FROM WARDS TO CELLS

TRADITIONALLY, TURKISH PRISONERS HAVE BEEN HELD IN VERY LARGE WARDS WITH UP TO ONE HUNDRED PRISONERS. PRISON STAFF SUPERVISE THE CORRIDORS AND GENDARMES PATROL THE PERIMETER OF THE PRISONS, BUT ARE NORMALLY NOT PRESENT WITHIN THE WARDS. BECAUSE THESE WARDS BRING TOGETHER LARGE NUMBERS OF PEOPLE WITH MINIMAL OUTSIDE SUPERVISION, THEY PROVIDE AN ENVIRONMENT IN WHICH GANG-LIKE STRUCTURES, CRIMINAL OR POLITICAL, CAN DEVELOP. IN SOME PRISONS THERE ARE WARDS EXCLUSIVELY POPULATED BY PEOPLE CONVICTED OF MEMBERSHIP OF ONE OR ANOTHER ILLEGAL ARMED POLITICAL GROUP. THESE GROUPS ORGANIZE THE DAILY LIFE OF THE WARDS, WHICH MAY INCLUDE SESSIONS OF POLITICAL DISCUSSION AND INDOCTRINATION. SOME POLITICAL ORGANIZATIONS EXERT TOUGH PARTY CONTROL, EVEN TO THE EXTENT OF "SENTENCING" AND "EXECUTING" FELLOW PRISONERS SUSPECTED OF BEING SPIES OR INFORMERS. THERE ARE APPROXIMATELY TEN THOUSAND PRISONERS HELD FOR OFFENSES UNDER THE ANTI-TERROR LAW, OUT OF A TOTAL PRISON POPULATION OF ABOUT SEVENTY THOUSAND.

AS FOR COMMON CRIMINAL WARDS, MUCH ANECDOTAL EVIDENCE SUGGESTS THAT THERE IS A HARSH PECKING ORDER IN WHICH ACCESS TO BASIC NEEDS AND PRIVILEGES DEPENDS ON PHYSICAL STRENGTH AND THE ABILITY TO PAY A BRIBE. THE WORD SYSTEM IS CLEARLY NOT A MODEL FOR THE PROTECTION OF PRISONERS' RIGHTS—BUT THE TRANSFORMATION TO A REGIME OF ISOLATION AND EVEN GREATER SECRECY OFFERS TO COMPOUND, NOT RESOLVE, THE DIFFICULTIES OF TURKEY'S PRISON SYSTEM.

IN RECENT YEARS, THE TURKISH GOVERNMENT HAS BEGUN A PROCESS OF SHIFTING FROM WARD- TO CELL-BASED PRISONS. FOR SECURITY PRISONERS, THERE IS THE THREAT THAT THIS SHIFT WILL BE ACCOMPANIED BY THE APPLICATION OF AN ISOLATION REGIME. IN APRIL 1991, THE TURKISH PARLIAMENT ENACTED THE ANTI-TERROR LAW, WHICH REQUIRES THAT: "THE SENTENCES OF THOSE CONVICTED UNDER THE PROVISIONS OF THIS LAW WILL BE SERVED IN SPECIAL PENAL INSTITUTIONS BUILT ON A SYSTEM OF CELLS CONSTRUCTED FOR ONE OR THREE PEOPLE ... CONVICTED PRISONERS WILL NOT BE PERMITTED CONTACT OR COMMUNICATION WITH OTHER CONVICTED PRISONERS."<sup>2</sup> THAT SUMMER MORE THAN A HUNDRED PRISONERS CONVICTED OF OFFENSES INCLUDED IN THE ANTI-TERROR LAW WERE FORCIBLY TRANSFERRED TO ESKISEHIR SPECIAL TYPE PRISON. IN OCTOBER 1991, A NEW GOVERNMENT RESPONDED TO PUBLIC OUTCRY OVER THE ISOLATION REGIME AND THE VIOLENCE THAT HAD ACCOMPANIED THE TRANSFER BY TEMPORARILY CLOSING ESKISEHIR SPECIAL TYPE PRISON. ISOLATION WAS NOT RESUMED WHEN THE PRISON REOPENED. THE GOVERNMENT CONTINUED TO CONSTRUCT NEW CELL-BASED PRISONS, AND TO CONVERT OLDER PRISON WARDS INTO CELLS, BUT THESE WERE GENERALLY MANAGED IN MUCH THE SAME WAY AS THE OLD WARDS, WITH CELL DOORS LEFT OPEN AND PRISONERS FREE TO CONGREGATE IN COMMON AREAS.

IN EARLY 1999, HOWEVER, THE MINISTRY OF JUSTICE BEGAN TO APPLY A REGIME OF SMALL GROUP ISOLATION TO THOSE PRISONERS HELD AT KARTAL SPECIAL TYPE PRISON CHARGED UNDER THE ANTI-TERROR LAW. THE ANTI-TERROR LAW REQUIRES THAT NOT ONLY CONVICTED PRISONERS BUT ALSO THOSE ON REMAND SHOULD BE SUBJECTED TO SMALL GROUP ISOLATION. OUT OF AN ESTIMATED INMATE POPULATION OF 200, APPROXIMATELY SIXTY PRISONERS ARE CURRENTLY HELD IN CONDITIONS OF ISOLATION AT KARTAL SPECIAL TYPE PRISON. TO HUMAN RIGHTS WATCH'S KNOWLEDGE, ONLY ONE OF THESE PRISONERS HAS BEEN CONVICTED AND SENTENCED.

TODAY, WHILE EXISTING PRISONS IN NIGDE, AFYON, BURDUR, AMASYA, NEVSEHIR, ELBISTAN, CEYHAN, YOZGAT, AND ÇANKIRI PRISONS ARE BEING REMODELED AND PROVIDED WITH CELL LAYOUTS SIMILAR TO THOSE AT KARTAL SPECIAL TYPE PRISON, A NEW GENERATION OF CELL-BASED PRISON—THE F-TYPE—IS UNDER CONSTRUCTION, THOUGH NONE ARE YET IN OPERATION.

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<sup>2</sup> Anti-Terror Law defines "terrorism" in extremely wide terms, and imposes prison sentences for some nonviolent political activities as well as offenses of violence and conspiracy to commit violence. Human Rights Watch, May 2000, Vol. 12, No. 8 (D)

Ministers have repeatedly stated that a move away from the ward system will allow the prison administration to establish control over those held under the Anti-Terror Law and address the dangers and difficulties for common criminal prisoners arising from the law of the jungle that holds sway in their wards. In a statement reported by the newspaper *Radikal* on October 5, 1999, Justice Minister Hikmet Sami Turk stated: "F-type prisons based on the room system will solve the problems."<sup>3</sup>

While remodeling and construction work continues, the Justice Ministry has remained inexplicably silent on how the new prisons are to be run. Yet this is the vital piece of information that will determine whether the planned changes represent improved conditions for Turkish prisoners or a serious retrograde step that violates basic human rights. Many prisoners fear that the ministry plans to introduce a small group isolation regime for the new F-type prisons similar to that currently in place in the Kartal Special Type Prison.

### THE REGIME OF SMALL GROUP ISOLATION

Small group isolation is a regime whereby prisoners remain in their cells, shared with from two to five other inmates, for lengthy periods of time with no other human contact and little or no possibility for activities, proper exercise, or educational programs. In fact, most prisoners held under the Anti-Terror Law at Kartal Special Type Prison typically sit in their cell for twenty-four hours a day, seven days a week, with only the possibility of a half-hour family visit once a week.

Human Rights Watch has received information from two prisoners released from Kartal Special Type Prison and written statements from ten prisoners currently remanded there for trial on charges of political violence under the Anti-Terror Law, including one juvenile. Information was also received from a number of relatives of prisoners who have visited the prison. Human Rights Watch also sought information from the Turkish Ministry of Justice regarding the nature of the regime in place in Kartal Special Type Prison, and a summary of their reply is given below (see "The Turkish Government's Response to Human Rights Watch's Concerns").

Prisoners reported that on arrival at Kartal they were held for two weeks or more in solitary confinement before being transferred to cells holding up to six people. The cells are not spacious, but provide room for bunks, a table, a shower, and a toilet. Although there is no natural light within the cell, a door leads into a high walled courtyard with an estimated area of sixteen square meters to which the prisoners seem to have more or less unrestricted access. Photographs confirm that the prison has few if any external windows. The door from the corridor to the cell is kept closed night and day.

Prisoners rarely see human beings other than their cell-mates and rarely if ever leave their cell. Prisoners' families and former prisoners reported that meals are usually delivered under or through the door. Although some cells are permitted to have a television or radio, no facilities are provided for proper exercise or sport, and no access is provided to a library or canteen. Therefore, apart from weekly family visits lasting half an hour, prisoners have no social—or even visual—contact with any person outside their cell.

Initially, there seemed to be an attempt to impose military-style discipline on the prisoners. Warders who did not reveal their names required prisoners to stand at attention when they entered the cell. It was later reported that there had been a "softening" in this aspect of the regime.

The physical plant as described above does not in and of itself violate international standards for minimum prison conditions, but the imposition of a regime of small group isolation may cause mental and physical harm that amounts to cruel, inhuman, and degrading treatment or punishment.

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<sup>3</sup> The Justice Ministry prefers to use the word "room" to avoid the pejorative associations of "cell."

PSYCHOLOGICAL DIFFICULTIES WERE REPORTED BY MOST OF THE PRISONERS FROM WHOM HUMAN RIGHTS WATCH RECEIVED INFORMATION. THE FAMILY OF YUNUS CALIS, WHO WAS SEVENTEEN WHEN FIRST IMPRISONED AT KARTAL SPECIAL TYPE PRISON IN APRIL 1999, SAID THAT HE HAD BECOME VERY DEPRESSED AND WITHDRAWN, AND THAT HE TOLD THEM: "I FEEL AS IF I AM IN A GRAVE HERE—THE ONLY WAY OUT IS TO JOIN A HUNGER STRIKE OR BURN MYSELF."<sup>4</sup>

GURSEL AVCI, CHARGED WITH MEMBERSHIP OF AN ILLEGAL ARMED ISLAMIST ORGANIZATION, WROTE TO HUMAN RIGHTS WATCH:

FOR THOSE IN SOLITARY CONFINEMENT, LIFE IN THE CELL IS LIKE DEATH. THE [PRISON AUTHORITIES] ARE DOING THIS IN ORDER TO INDUCE PSYCHOLOGICAL CRISIS. FOR THOSE IN GROUPS OF THREE OR FOUR THE SITUATION IS NOT MUCH DIFFERENT IN THE LONG TERM. THE YARD IS VERY SMALL, AIRLESS, AND DOES NOT SEE THE SUN FOR MOST OF THE TIME. GETTING OUT FOR HALF AN HOUR ONCE A WEEK FOR YOUR VISIT IS LIKE A FESTIVAL. THOSE FROM OTHER CITIES, WITHOUT VISITORS, DO NOT LEAVE THESE UNHEALTHY CONDITIONS FOR MONTHS ON END. THE PRISON IS JUST STEEL AND CONCRETE. THERE IS NO OPPORTUNITY FOR SPORT OR WALKING. SPORTS EQUIPMENT IS FORBIDDEN ...THE SAZ [A STRINGED MUSICAL INSTRUMENT] IS FORBIDDEN.<sup>5</sup>

ALI OSMAN ZOR, WHO, ACCORDING TO HIS LAWYER, HAS BEEN IN SOLITARY CONFINEMENT SINCE JANUARY 2000, WROTE: "YOUR SENSES OF TASTE, SMELL, HEARING, FEELING, AND SIGHT FADE. YOU CANNOT LAUGH AT ANYTHING AND YOU CRY AT THE SMALLEST THING." ZOR EXPRESSED HIS SENSE OF VULNERABILITY, STATING: "ISOLATING A PERSON TAKES AWAY ALL THEIR SENSE OF PERSONAL SECURITY... YOU FEEL THAT YOU COULD BE KILLED AT ANY MOMENT. OF COURSE, THEIR AIM IS TO ENCOURAGE THAT FEAR AND TO URGE YOU TO SUICIDE OR AT LEAST TO BREAK YOU PSYCHOLOGICALLY."<sup>6</sup>

SOME PRISONERS HAVE ALSO REPORTED PHYSICAL HEALTH PROBLEMS. FOR EXAMPLE, RELATIVES OF TWO PRISONERS AT KARTAL SPECIAL TYPE PRISON—YUNUS CALIS AND METIN YAMALAK—TOLD HUMAN RIGHTS WATCH THAT THEY HAD BOTH SUFFERED PROBLEMS WITH THEIR EYESIGHT FOR THE FIRST TIME IN THEIR LIVES. EXPERTS HAVE NOTED THAT THE LACK OF OPPORTUNITY TO FOCUS ON OBJECTS MORE DISTANT THAN A FEW METERS CAN CAUSE DETERIORATION IN THE EYESIGHT OF PRISONERS PERMANENTLY CONFINED TO A CELL. OTHER PRISONERS HAVE COMPLAINED OF DIZZINESS AND NAUSEA.

## ISOLATION – A DANGER TO MENTAL AND PHYSICAL HEALTH

MANY PENAL EXPERTS BELIEVE THAT A REGIME OF EXTREME SOCIAL ISOLATION IS DANGEROUS TO MENTAL AND PHYSICAL HEALTH. ACCORDING TO THESE EXPERTS, ALL PRISONERS NEED STIMULATION TO THE BRAIN AND SENSES PROVIDED BY A RANGE OF HUMAN CONTACT AND SOME VARIETY OF ACTIVITY AND ENVIRONMENT. PRISONERS WHO DO NOT RECEIVE ADEQUATE STIMULATION MAY BECOME PHYSICALLY AND MENTALLY ILL. MOST PRONOUNCED IN SOLITARY CONFINEMENT, THESE EFFECTS MAY ALSO OCCUR WHEN PRISONERS ARE HELD IN SMALL GROUPS OF UP TO SIX, AS IS THE CASE AT KARTAL.

THE EUROPEAN COMMISSION FOR HUMAN RIGHTS, AN ORGAN OF THE COUNCIL OF EUROPE LATER ABSORBED INTO THE EUROPEAN COURT OF HUMAN RIGHTS, STATED (IN ITS RULING ON APPLICATIONS 7572/76, 7586/76 AND 7597/76 BY GUDRUN ENSSLIN, ANDREAS BAADER, AND JAN RASPE) THAT "THE INTERNATIONAL LITERATURE ON CRIMINOLOGY AND PSYCHOLOGY INDICATE THAT ISOLATION CAN BE SUFFICIENT IN ITSELF GRAVELY TO IMPAIR PHYSICAL AND MENTAL HEALTH. THE FOLLOWING CONDITIONS MAY BE DIAGNOSED: CHRONIC APATHY, FATIGUE, EMOTIONAL INSTABILITY, DIFFICULTIES OF CONCENTRATION, AND DIMINUTION OF MENTAL FACULTIES." SIMILARLY, A STATEMENT BY DR. STUART GRASSIAN SUBMITTED TO THE COURT IN A CASE BROUGHT BY PRISONERS AGAINST OFFICIALS AT PELICAN BAY PRISON IN CALIFORNIA, U.S.A. (MADRID V GOMEZ, 1995) ASSERTED THAT: "SOLITARY AND SMALL GROUP CONFINEMENT CAN CAUSE SEVERE PSYCHIATRIC HARM IN THE FORM OF A SPECIFIC SYNDROME THAT HAS BEEN REPORTED BY MANY CLINICIANS IN A VARIETY OF SETTINGS."

SPEAKING ABOUT THE PLAN TO INSTITUTE AN INDIVIDUAL CELL SYSTEM, THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE (CPT) (OF WHICH TURKEY IS A MEMBER) SAID, IN A REPORT TO THE TURKISH GOVERNMENT ON ITS VISIT IN OCTOBER 1997 (CPT/INF (99) 2 [EN]; FEBRUARY 23, 1999): "IT IS IMPERATIVE FOR MOVES TOWARD SMALLER LIVING UNITS FOR PRISONERS IN TURKEY TO BE ACCOMPANIED BY MEASURES TO ENSURE THAT PRISONERS SPEND A REASONABLE PART OF THE DAY ENGAGED IN PURPOSEFUL ACTIVITIES OUTSIDE THEIR LIVING UNIT. INDEED, THE EFFECTS OF THE CURRENT ALMOST TOTAL ABSENCE OF ANY ORGANIZED PROGRAM OF ACTIVITIES FOR PRISONERS WOULD BE FELT EVEN MORE KEENLY IN SMALLER LIVING UNITS. IN THE ABSENCE OF A SIGNIFICANT IMPROVEMENT IN ACTIVITIES FOR PRISONERS, THE INTRODUCTION OF SMALLER LIVING UNITS WILL ALMOST

<sup>4</sup>Interview with family members, Istanbul April 1999.

<sup>5</sup> Written statement, May 12, 2000.

certainly cause more problems than it solves." Although the CPT asked for detailed information about the planned regime, the Turkish government failed to address this question in its public reply to the CPT's report.

Turkish law, in common with other contemporary legal systems, assumes that confinement in a prison is a punishment sufficient in itself. The Turkish penal code does not impose penalties such as corporal punishment or forced labor in addition to the prison term. The segregation of prisoners held under the Anti-Terror Law, imposed under article 16 thereof, was presumably intended to ensure a high degree of security for that category of prisoner rather than to inflict a special and additional punishment to those held under this law. The Turkish prison administration obviously has legitimate security concerns but the prison regime should be only as restrictive as is strictly required and never cruel, inhuman, or degrading. During its visit to Turkey between February 27 and March 3, 1999, the European Committee for the Prevention of Torture (CPT) examined the conditions under which Abdullah Ocalan, leader of the Workers' Party of Kurdistan (PKK), was being held, and in its report on that visit summarized the basic criteria used by the Council of Europe in assessing the regime in a high security unit: "prisoners who present a particularly high security risk should, within the confines of their special unit, enjoy a relatively relaxed regime (able to mix freely with fellow prisoners in the unit; allowed to move without restriction within what is likely to be a relatively small physical space; granted a good deal of choice about activities, etc.) by way of compensation for their severe custodial situation." The committee emphasizes the importance of developing a good atmosphere between staff and prisoners and a program of activities that should include education, sport, and work.

Recommendation No. R (92) 17 of the Committee of Ministers of the Council of Europe (September 24, 1992), urges member governments, including Turkey, to apply ordinary prison regulations as far as possible to dangerous prisoners, to apply security measures in a way respectful of human dignity, to counteract, to the extent feasible, the possible adverse effects of reinforced security conditions and "to provide education, vocational training, work and leisure-time occupations, and other activities to the extent that security permits." The regime at Kartal Special Type Prison, by contrast, appears to be one of severe isolation, falling far short of such criteria, and may amount to cruel, inhuman, and degrading treatment.

Clearly, prisoners with a history of very violent or dangerous behavior directed against staff or fellow inmates may leave prison officials with no choice but to impose security measures that might include a form of isolation. As noted above, prisoners convicted under the Anti-Terror Law may have been charged with a range of crimes—from peaceful expression, the criminalization of which violates international standards, to murder and other violent acts—that raise dramatically different security concerns. However, the decision to impose isolation should be considered on a case by case basis and not imposed automatically, as proposed for prisoners held under the Anti-Terror Law. Isolation should be for the shortest period of time possible in light of legitimate security and safety considerations and inmates should be able to reduce their time in isolation through good behavior and the accomplishment of identified program goals.

Inmates should also have a meaningful opportunity to contest assignment to, or continuation of an isolation regime, and they should have a meaningful opportunity to appeal such decisions to an impartial, independent authority. All inmates should be given a detailed, individualized explanation in writing of the specific reasons for their original and continued isolation. Isolation measures should be periodically reviewed and subject to regular independent monitoring.

### PRISONERS' FEARS OF ILL-TREATMENT

Typically, prisoners held under the Anti-Terror Law have been strongly opposed to the cell-based system. In part, as noted above, this is due to prisoners' preferences to remain together with other members of their own ideological group, and to be somewhat less exposed to day-to-day interaction with prison staff. Many prisoners also believe that they face a greater risk of ill-treatment by prison staff if they are transferred to a cell-based system, where there is only limited communication with other prisoners or with the outside world. It is hard to determine whether prisoners actually see these as two separate issues, because most are firmly convinced that any cell-based prison will inevitably be accompanied by an isolation regime.

International law does not prohibit holding prisoners in cells, but instead focuses on the conditions and regime applied in the facility, whether cell- or ward-based. Human Rights Watch does not oppose the use of cells as such (provided that they meet

international standards), and even believes that cells can provide protection for prisoners who might be particularly vulnerable to violence by other inmates. As noted above, our concerns with the cell-based system are limited to two areas:

(1) The cell-based system may amount to ill-treatment if accompanied by an isolation regime that permits no access to educational or recreational activities or other sources of mental stimulation, confines prisoners to a monotonous unvaried environment and enforces either solitary confinement or social interaction with a strictly limited group of cell-mates.

(2) Isolation may also increase the risk of ill-treatment of prisoners by prison staff.

In this regard, the current lack of information on the nature of the regime to be established can exacerbate tensions in the prisons, unnecessarily increase the chances of hunger strikes and violence that may lead to the loss of life.

Human Rights Watch believes that there are compelling reasons for providing prisoners with as much information as possible about the regime to which they are being transferred. Turkey has a long history of prisoner unrest, protests, and hunger strikes, as well as very violent interventions by security forces resulting in prisoners being killed. Prisoners' fears and anxiety about imminent transfer to a cell-based system can lead them to resort to potentially fatal methods of protest. For example, in April 1996, when the then justice minister ordered that prisoners arrested under the Anti-Terror Law and tried at Istanbul State Security Court should thenceforth be held in cells at Eskişehir Special Type Prison, twelve prisoners starved themselves to death in a hunger strike throughout the prison system.

Prisoners have also refused to attend roll-call or have occupied parts of prison buildings when informed of an imminent transfer to what they feared would be an isolation regime. This has repeatedly provoked ruthless and brutal interventions, usually by the gendarmerie who are responsible for the external security of the prison. Three prisoners were beaten to death when security forces entered Buca Prison in İzmir in September 1995, and four prisoners died of beatings at Ümraniye Prison in Istanbul in January 1996. Ten prisoners were beaten to death during an incursion into Diyarbakır Prison in September 1996. Ten prisoners were killed at Ankara Ulucanlar Closed Prison in September 1999.<sup>7</sup>

As of this writing, six F-type prisons are approaching completion, but still no public information has been provided on the regime to be imposed there.

Given the tensions mounting in the prison system, the Turkish government must provide, as a matter of urgency, detailed information about the regime to which prisoners will be transferred and express an unambiguous commitment to operate the cell system humanely and in compliance with international standards. Such openness on the part of the government might help to defuse tensions and prevent unnecessary violence, even though some prisoners may still protest or resist transfer to a cell-based system regardless of the regime in place.

### INDEPENDENT MONITORING ESSENTIAL

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<sup>7</sup> There is strong evidence that security forces used force far in excess of that warranted by the circumstances when they entered the Ankara Ulucanlar Closed Prison in September 1999: some prisoners were shot dead in execution-style killings and others were tortured before being killed. The government claims that the prisoners were heavily armed with pistols, a shotgun, and a Kalashnikov, but that they clumsily shot each other instead of the security forces. No member of the security forces was injured by bullets. One was injured in the hand, reportedly by a broken chair. On February 22, 2000, eighty-six prisoners were arraigned at Ankara Criminal Court on charges of "murder, attempted murder, assault, riot against the prison administration, possession of firearms, and damaging prison property." A group of Ankara lawyers has attempted to bring two legal actions with respect to the killings. A decision not to prosecute was made with respect to a complaint against the prison director and prison staff. Another complaint against 150 gendarmes was blocked by the Ankara governor under Law 4283 on the Prosecution of Civil Servants. The lawyers appealed against this decision to the local administrative court, which had not made a decision at the time of writing.

IN ADDITION TO PLEDGING THAT ANY REGIME IMPOSED IN THE NEW PRISONS WILL STRICTLY COMPLY WITH INTERNATIONAL STANDARDS, THE JUSTICE MINISTRY SHOULD CREATE MONITORING MECHANISMS TO ENSURE THAT ISOLATION IS NOT IMPOSED SURREPTITIOUSLY OR IN REMOTE CORNERS OF THE PENAL SYSTEM. THESE MONITORING SYSTEMS SHOULD INCLUDE ARRANGEMENTS FOR ACCESS AND INSPECTION BY IMPARTIAL BODIES NOT UNDER JUSTICE MINISTRY AUTHORITY—SUCH AS BAR ASSOCIATIONS, NONGOVERNMENTAL HUMAN RIGHTS ORGANIZATIONS, OR A BOARD OF PRISON VISITORS. THE IDEA OF NONGOVERNMENTAL SCRUTINY OF STATE INSTITUTIONS IS RELATIVELY NEW IN TURKEY, BUT IS BEGINNING TO GAIN ACCEPTANCE. THE COMMITTEE FOR THE PREVENTION OF TORTURE, IN OUTLINING ITS GENERAL APPROACH TO EVALUATING IMPRISONMENT THROUGHOUT EUROPE, HAS SAID:

PRISONERS SHOULD HAVE AVENUES OF COMPLAINT OPEN TO THEM BOTH WITHIN AND OUTSIDE THE CONTEXT OF THE PRISON SYSTEM, INCLUDING THE POSSIBILITY TO HAVE CONFIDENTIAL ACCESS TO AN APPROPRIATE AUTHORITY. THE CPT ATTACHES PARTICULAR IMPORTANCE TO REGULAR VISITS TO EACH PRISON ESTABLISHMENT BY AN INDEPENDENT BODY (E.G. A BOARD OF VISITORS OR SUPERVISORY JUDGE) POSSESSING POWERS TO HEAR (AND IF NECESSARY TAKE ACTION UPON) COMPLAINTS FROM PRISONERS AND TO INSPECT THE ESTABLISHMENT'S PREMISES. SUCH BODIES CAN INTER ALIA PLAY AN IMPORTANT ROLE IN BRIDGING DIFFERENCES THAT ARISE BETWEEN PRISON MANAGEMENT AND A GIVEN PRISONER OR PRISONERS IN GENERAL.<sup>8</sup>

IN MARCH 2000, A SUPPLEMENTARY HUMAN DIMENSION IMPLEMENTATION MEETING OF THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE), OF WHICH TURKEY IS A MEMBER, MADE SIMILAR RECOMMENDATIONS:

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<sup>8</sup> European Committee for the Prevention of Torture, 2nd General Report on the CPT's activities covering the period 1 January to 31 December 1991, Paragraph 54. <sup>9</sup> Human Rights Watch, May 2000, Vol. 12, No. 8 (D)

GOVERNMENTS NEED TO STRENGTHEN TRANSPARENCY AND ACCOUNTABILITY IN THE PENITENTIARY SYSTEM AS ONE OF THE KEY SAFEGUARDS AGAINST ILL TREATMENT OF CONVICTED PERSONS. THIS NEEDS TO INCLUDE BOTH REGULAR INTERNAL INSPECTION AS WELL AS EXTERNAL OVERSIGHT BY A COMBINATION OF ACTORS. THE COMPLEMENTARY VALUE OF OVERSIGHT BY GOVERNMENTAL BODIES, NATIONAL HUMAN RIGHTS INSTITUTION AND OMBUDSMAN, AS WELL AS NGOs AND OTHER CIVIL SOCIETY ACTORS AND INTERNATIONAL ORGANIZATIONS SHOULD BE RECOGNIZED AND ACCESS OF THESE GROUPS TO PRISONS SHOULD BE GRANTED.<sup>9</sup>

THE NONGOVERNMENTAL ORGANIZATION PENAL REFORM INTERNATIONAL HAS DESCRIBED HOW SUCH ARRANGEMENTS CAN WORK:

IN ADDITION TO OFFICIAL BODIES, USE CAN AND SHOULD BE MADE OF ASSESSMENTS MADE BY EXTERNAL PERSONS AND BODIES. PRISON VISITORS, FOR EXAMPLE, CAN COME ACROSS CASES OF INJUSTICE OR IMPROPER TREATMENT WHICH DEMAND REDRESS. CONCERNED NONGOVERNMENTAL ORGANIZATIONS, IN PARTICULAR, HAVE A LONG EXPERIENCE IN MANY PARTS OF THE WORLD OF SEEKING TO IMPROVE PRISON CONDITIONS. THEY HAVE AN IMPORTANT ROLE TO PLAY IN ENSURING THAT JUST LAWS AND REGULATIONS ARE UPHOLD AND THAT PRISON CONDITIONS ARE IN CONFORMITY WITH [THE UNITED NATIONS STANDARD MINIMUM RULES] AND OTHER HUMAN RIGHTS INSTRUMENTS. BY VISITING PRISONS, COLLECTING DOCUMENTATION AND THROUGH CONTACT WITH PRISONERS, EX-PRISONERS AND PRISON STAFF THEY CAN GAIN AND PRESENT VALUABLE INFORMATION ABOUT PRISON CLIMATE, CONDITIONS AND PRACTICE. THE INVOLVEMENT OF NONGOVERNMENTAL ORGANIZATIONS IN THE INSPECTION OF PRISONS CAN, MOREOVER, BE A MAJOR CORRECTIVE TO THE EROSION OF INSPECTORAL INDEPENDENCE THROUGH "CO-OPTION."<sup>10</sup>

### THE TURKISH GOVERNMENT'S RESPONSE TO HUMAN RIGHTS WATCH'S CONCERNS

IN A LETTER TO THE TURKISH GOVERNMENT IN JULY 1999, HUMAN RIGHTS WATCH EXPRESSED CONCERN ABOUT THE DANGEROUS LACK OF INFORMATION ABOUT THE REGIME PLANNED FOR F-TYPE PRISONS, RECOMMENDED WIDE CONSULTATION ON THE MANAGEMENT OF THE NEW PRISONS, AND URGED AN END TO SMALL GROUP ISOLATION AT KARTAL SPECIAL TYPE PRISON.<sup>11</sup> ON SEPTEMBER 16, 1999, THE JUSTICE MINISTRY SENT A REPLY THROUGH THE TURKISH EMBASSY IN WASHINGTON. THE REPLY COMMENDS THE PHYSICAL FABRIC OF KARTAL PRISON, STATING THAT "EVERY SINGLE UNIT IN THE PRISON IS EQUIPPED WITH SHOWER CABINS, TOILETS, WASHING BASINS, TELEVISIONS, REFRIGERATORS." UNFORTUNATELY IT CONTAINS NO INFORMATION ON THE PLANNED MANAGEMENT OF THE NEW PRISONS OTHER THAN THAT CELLS OR ROOMS WILL BE PROVIDED FOR ONE TO THREE PERSONS, AND THAT "THE REGIME IN THESE PRISONS WILL NOT BE DIFFERENT FROM OTHERS AND WILL BE SUBJECT TO THE SAME REGULATIONS GOVERNING OTHER CORRECTIONAL INSTITUTIONS IN TURKEY."<sup>12</sup>

THE JUSTICE MINISTRY'S REPLY DID NOT ADDRESS THE CENTRAL ISSUE SET OUT IN HUMAN RIGHTS WATCH'S MEMORANDUM, WHICH IS THAT THE LACK OF INFORMATION ABOUT THE REGIME PLANNED FOR NEW PRISONS RISKS PROVOKING A POTENTIALLY FATAL CRISIS. MOREOVER, THE REPLY CONTAINED NO INFORMATION ABOUT OUT-OF-CELL TIME. HUMAN RIGHTS WATCH'S MEMORANDUM STATED THAT THIS WAS A CRITICAL QUESTION AND URGED THE TURKISH GOVERNMENT TO CONSIDER THE CPT'S RECOMMENDATION IN ITS REPORT TO THE SWEDISH GOVERNMENT (CPT/INF (92) 4 [EN]: 12 MARCH 1992, PARA 160) THAT PRISONERS SHOULD SPEND "A REASONABLE PART OF THE DAY (EIGHT HOURS OR MORE) OUTSIDE THEIR CELLS, ENGAGED IN PURPOSEFUL ACTIVITY OF A VARIED NATURE."

THE JUSTICE MINISTRY DID NOT COMMENT ON THIS RECOMMENDATION, BUT SUGGESTED THAT HUMAN RIGHTS WATCH HAD BEEN "MISLEADING" IN APPLYING COMMENTS MADE BY THE CPT IN THE SPECIFIC CONTEXT OF ABDULLAH OCALAN'S IMPRISONMENT (QUOTED ABOVE) TO THE BROADER GROUP OF

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<sup>9</sup> Available at [www.osce.org/odihr/docs/m00-1-final.htm](http://www.osce.org/odihr/docs/m00-1-final.htm).

<sup>10</sup> Penal Reform International, "Making Standards Work - An International Handbook on Good Prison Practice," The Hague, March 1995, p. 162.

<sup>11</sup> Throughout Human Rights Watch's memorandum, this prison was referred to as "Kartal Soganlik F-type Prison." The Turkish government's response states that "it should first of all be underlined that the Kartal Soganlik Prison is not an "F-type" prison. [The] report is apparently erroneous beginning with the title." In fact, there has been some inconsistency in the government's own references to this newly opened prison; for example, the Justice Ministry also referred to it as "Kartal Soganlik F-Type Closed Prison" in a letter addressed to an Istanbul lawyer on August 6, 1999.

<sup>12</sup> One of the fundamental problems with the prison service is that it is not regulated by a single, modern body of law. Speaking on the Panorama program on Turkish state television, on October 4, 1999, the justice minister expressed regret that Human Rights Watch prisons were being run on the basis of legislation dating from 1930. May 2000, Vol. 12, No. 8 (D)

PRISONERS HELD UNDER THE ANTI-TERROR LAW. IN FACT, THE CPT'S REPORT INTRODUCES THE COMMENTS QUITE CLEARLY AS "THE BASIC CRITERIA USED BY THE CPT WHEN ASSESSING THE REGIME IN A HIGH SECURITY UNIT" FOR GENERAL APPLICATION THROUGHOUT EUROPE. MOREOVER, THE JUSTICE MINISTRY WOULD SURELY CONCEDE THAT THE OPPORTUNITIES FOR HUMAN CONTACT, FREEDOM OF MOVEMENT, AND CHOICE OF ACTIVITIES RECOMMENDED BY THE CPT FOR A PRISONER CONVICTED OF FOUNDED AND LEADING A VIOLENT ARMED POLITICAL ORGANIZATION SHOULD BE RECOGNIZED AS A MINIMUM FOR PRISONERS CONVICTED OF LESS SERIOUS OFFENSES OR, AS IS THE CASE WITH THE RELEVANT PRISONERS AT KARTAL, NOT YET CONVICTED OF ANY OFFENSE AT ALL.

THE JUSTICE MINISTRY'S REPLY DESCRIBES THE PROBLEMS ASSOCIATED WITH THE WARD SYSTEM MENTIONED ABOVE AND IN HUMAN RIGHTS WATCH'S ORIGINAL MEMORANDUM, AND ALSO SPEAKS OF RISKS TO PRISON STAFF OF ASSAULT OR HOSTAGE TAKING, DIFFICULTIES IN CARRYING OUT ROLL-CALLS AND SEARCHES, AND PRISONERS BEING OBSTRUCTED BY THE ILLEGAL POLITICAL ORGANIZATION ON THE WARD FROM COMMUNICATING WITH THE OUTSIDE WORLD OR APPEARING IN COURT.

THE REPLY DISMISSES AS "ALL FALSE" HUMAN RIGHTS WATCH'S ALLEGATIONS THAT MEALS ARE DELIVERED UNDER OR THROUGH THE DOOR, THAT NO FACILITIES ARE PROVIDED FOR PROPER EXERCISE OR SPORT, AND THAT NO ACCESS IS PROVIDED TO A LIBRARY OR CANTEEN. YET WHEN QUESTIONED A SECOND TIME BY HUMAN RIGHTS WATCH, PRISONERS' FAMILIES INSIST THAT THESE ASSERTIONS ARE TRUE.

FAMILY MEMBERS WERE ESPECIALLY ASTOUNDED BY THE GOVERNMENT'S CLAIM THAT PRISONERS HAVE ACCESS TO A LIBRARY AND CANTEEN. IN DECEMBER 1999, RESIT CALIS, FATHER OF YUNUS CALIS, TOLD HUMAN RIGHTS WATCH THAT: "IF THERE WERE SUCH A THING AS A SPORTS FACILITY OR A LIBRARY OR A SINGLE BLADE OF GRASS IN THAT PRISON WE WOULD FEEL PRIDE - YES, PRIDE!"

IN THE FINAL PARAGRAPH OF THE JUSTICE MINISTRY'S MEMORANDUM, THIS ISSUE IS ADDRESSED A SECOND TIME IN THE FOLLOWING PHRASE: "THERE IS BOTH A LIBRARY AND A CANTEEN AT THE DISPOSAL OF THE PRISONERS." HOWEVER, THE MEMORANDUM FAILS TO ADDRESS THE ISSUE OF ACTUAL ACCESS TO THESE FACILITIES: HUMAN RIGHTS WATCH'S ORIGINAL MEMORANDUM WAS CLEAR THAT "ACCESS" SHOULD INCLUDE AN OPPORTUNITY TO LEAVE THE CELL AND PHYSICALLY VISIT A LIBRARY OR CANTEEN. RULE 40 OF THE U.N. STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS STATES THAT "EVERY INSTITUTION SHALL HAVE A LIBRARY FOR THE USE OF ALL CATEGORIES OF PRISONERS, ADEQUATELY STOCKED WITH BOTH RECREATIONAL AND INSTRUCTIONAL BOOKS, AND PRISONERS SHALL BE ENCOURAGED TO MAKE FULL USE OF IT."

THE GOVERNMENT COULD EASILY RESOLVE THESE FACTUAL DISPUTES BY GRANTING HUMAN RIGHTS ORGANIZATIONS AN OPPORTUNITY TO VISIT KARTAL SPECIAL TYPE PRISON AND EXAMINE THE SITUATION THERE. THE ISTANBUL BRANCH OF THE TURKISH HUMAN RIGHTS ASSOCIATION, AS WELL AS HUMAN RIGHTS WATCH, HAVE ASKED TO BE ABLE TO VISIT THE PRISON, BUT IN NEITHER CASE HAS PERMISSION BEEN GIVEN. IN AN EFFORT TO OBTAIN FIRST HAND ACCOUNTS OF THE CURRENT SITUATION, ON JANUARY 4, 2000, HUMAN RIGHTS WATCH WROTE TO SEVERAL OF THE PRISONERS MENTIONED ABOVE TO REQUEST THEIR COMMENTS ON THE ORIGINAL MEMORANDUM AND THE GOVERNMENT'S RESPONSE. FAMILY MEMBERS AFFIRM THAT THESE LETTERS NEVER REACHED THE PRISONERS.

## DISCUSSIONS WITH THE MINISTRY OF JUSTICE

ON MAY 22, 2000, HUMAN RIGHTS WATCH DELEGATES MET WITH THE DIRECTOR OF PRISONS AND PLACES OF DETENTION AND OTHER OFFICIALS IN THE SAME DEPARTMENT AT THE MINISTRY OF JUSTICE IN ANKARA, ALL OF WHOM EXPRESSED AN INTEREST IN MEETING INTERNATIONAL STANDARDS AND SOLVING LONGSTANDING PROBLEMS WITHIN THE PRISON SYSTEM.

MINISTRY OFFICIALS PROVIDED USEFUL BASIC INFORMATION ABOUT THE F-TYPE PRISONS. THERE WILL BE ELEVEN PRISONS OF WHICH SIX, AT ANKARA, BOLU, EDIRNE, IZMIR, KOCAELI, AND TEKIRDAG ARE DUE FOR COMPLETION BEFORE THE END OF 2000. EACH PRISON WILL HOLD 386 HIGH SECURITY PRISONERS CONVICTED UNDER THE ANTI-TERROR LAW OR FOR ORGANIZED CRIME. THE PRISONS WILL HAVE A LIBRARY, ASSEMBLY HALL, SPORTS FIELD, AND WORKSHOPS. THE PRISONERS WILL BE HOUSED IN 103 THREE-PERSON UNITS AND FIFTY-NINE SINGLE UNITS. THE THREE-PERSON UNITS, LARGER THAN THOSE AT KARTAL, CONSIST OF A DAY ROOM OF TWENTY-FIVE SQUARE METERS WITH A DORMITORY OF THE SAME SIZE. THE DAY ROOM OPENS ONTO A FIFTY SQUARE METER COURTYARD SURROUNDED BY HIGH WALLS.

FROM THE GOVERNMENT'S RESPONSE, IT REMAINS UNCLEAR WHETHER PRISONERS AT F-TYPE PRISONS WILL AS A GENERAL RULE BE CONFINED TO THEIR UNIT OR PERMITTED TO LEAVE IT DURING THE DAY TO PARTICIPATE IN A MORE VARIED PROGRAM OF ACTIVITIES AND TO ASSOCIATE WITH OTHER

PRISONERS. MINISTRY OFFICIALS SUGGESTED THAT THOSE WHO DEMONSTRATED GOOD BEHAVIOR WOULD ENJOY THOSE PRIVILEGES, BUT DID NOT CLEARLY IDENTIFY THE CRITERIA AND PROCEDURES FOR DETERMINING WHO WOULD BE PERMITTED TO PARTICIPATE IN OUT-OF-UNIT ACTIVITIES. MINISTRY REPRESENTATIVES STATED THAT SOME ISSUES WERE STILL UNDER DISCUSSION, AND THAT THE TEXT OF THE REGULATION FOR THE ADMINISTRATION OF THE F-TYPE PRISONS WAS NOT YET FINALIZED.

MINISTRY OFFICIALS STRONGLY DISAGREED THAT THE TERM "SMALL GROUP ISOLATION" COULD BE APPLIED TO A REGIME IN WHICH THREE PEOPLE ARE HELD MORE OR LESS PERMANENTLY IN A CONFINED UNIT. THEY DID NOT DENY THAT AT KARTAL SPECIAL TYPE PRISON, WHICH IS ALSO EQUIPPED WITH SPORTS FACILITIES AND A LIBRARY, MANY PRISONERS ARE HELD MORE OR LESS EXCLUSIVELY IN THEIR CELLS. MINISTRY OFFICIALS STATED THAT THIS WAS APPROPRIATE FOR PRISONERS HELD UNDER THE ANTI-TERROR LAW FOR VIOLENT CRIMES.

HOWEVER, UPON FURTHER QUESTIONING, MINISTRY OFFICIALS INSTEAD CLAIMED THAT PRISONERS AT KARTAL SPECIAL TYPE PRISON WERE OFFERED A DAILY CHOICE OF ACTIVITIES, BUT HAD BEEN INSTRUCTED TO DECLINE THE OFFER BY ILLEGAL ARMED POLITICAL GROUPS. UNCONVICTED PRISONERS ARE ENTITLED TO REFUSE REHABILITATION. IT WAS STATED THAT ALL PRISONERS AT F-TYPE PRISONS WOULD BE CONVICTED AND THEREFORE COULD BE REQUIRED TO PARTICIPATE IN SUCH ACTIVITIES. FORMER PRISONERS OR PRISONERS CURRENTLY HELD AT KARTAL SPECIAL TYPE PRISON HAVE NEVER REPORTED BEING OFFERED ANY OUT-OF-CELL ACTIVITIES.

HUMAN RIGHTS WATCH RECOGNIZES THAT UNRESTRICTED ACCESS TO AN OUTDOOR COURTYARD ATTACHED TO A PRISONER'S CELL PROVIDED IN MANY TURKISH PRISONS IS A SUBSTANTIAL BENEFIT FOR PRISONERS, WORTHY OF CONSIDERATION BY PRISON AUTHORITIES ELSEWHERE. HOWEVER, THIS CANNOT BE TREATED AS A SUBSTITUTE FOR A PROGRAM OF OUT-OF-CELL ACTIVITIES AND ASSOCIATION WITH PEOPLE OTHER THAN TWO CELL-MATES—PARTICULARLY FOR PRISONERS WHO MAY BE SERVING LONG SENTENCES.

## DUBIOUS FOREIGN MODELS

THE JUSTICE MINISTRY, IN ITS 1999 REPLY TO HUMAN RIGHTS WATCH, JUSTIFIED THE INITIAL "ASSESSMENT" PERIOD OF SOLITARY CONFINEMENT BY REFERRING TO UNITED STATES AND EUROPEAN CORRECTIONAL SYSTEMS. THE JUSTICE MINISTRY ALSO FORWARDED AN UNATTRIBUTED LETTER CONTAINING THE "NOT OFFICIAL ...VIEWS OF SOME PRISON STAFF" WHICH STATED THAT THE PLANNED F-TYPE PRISONS ARE "NOT DIFFERENT FROM AMERICAN OR EUROPEAN PRISONS." IT WOULD BE A GRAVE MISTAKE FOR THE JUSTICE MINISTRY UNQUESTIONINGLY TO TREAT THE PENAL SYSTEMS OF THE UNITED STATES OR EUROPE AS MODELS, SINCE BOTH INCLUDE SYSTEMS THAT FAIL TO MEET INTERNATIONAL STANDARDS. THE TREATMENT AND CONDITIONS OF DETENTION FOR HIGH SECURITY PRISONS AND PRISONERS DETAINED FOR ILLEGAL ARMED POLITICAL ACTIVITIES HAVE BEEN PARTICULARLY PROBLEMATIC.

FOR EXAMPLE, HUMAN RIGHTS WATCH HAS RAISED CONCERNS ABOUT SEVERAL HIGH SECURITY PRISONS IN THE UNITED STATES, INCLUDING PELICAN BAY IN CALIFORNIA, AS WELL AS SUPER-MAXIMUM SECURITY CONFINEMENT IN INDIANA<sup>13</sup> AND VIRGINIA.<sup>14</sup> IN *OUT OF SIGHT: SUPER-MAXIMUM SECURITY CONFINEMENT IN THE UNITED STATES* (FEBRUARY 2000, VOL. 12, NO 1 (G)), HUMAN RIGHTS WATCH LOOKED AT THE MANY FACTORS IN THE UNITED STATES THAT CONTRIBUTE TO THE GROWING RELIANCE ON "SUPERMAX" INCARCERATION — A POTENTIALLY CRUEL AND INHUMAN SYSTEM OF SOLITARY AND SMALL GROUP ISOLATION WHICH ONE FEDERAL JUDGE SAID "MAY PRESS THE OUTER BOUNDS OF WHAT MOST HUMANS CAN PSYCHOLOGICALLY TOLERATE."<sup>15</sup> FOR PRISON MANAGERS, "SUPERMAX" (SOLITARY AND SMALL GROUP ISOLATION) HAS ALLURE AS A STRAIGHTFORWARD TECHNICAL SOLUTION TO THE MANY, VARIED AND INTRACTABLE PROBLEMS OF RUNNING A PRISON SYSTEM ON A BUDGET. ONCE BUILT, THERE ARE PRESSURES TO FILL THE PRISONS, REGARDLESS OF WHETHER THE PRISONERS' BEHAVIOR REALLY WARRANTS THIS FORM OF INCARCERATION. THE REPORT SHOWS HOW AN INHUMANE PENAL POLICY CAN GO UNCHALLENGED EITHER BY AN INDIFFERENT PUBLIC OR BY POLITICIANS WHO FEAR BEING BRANDED "SOFT ON CRIME." MEANWHILE JUDICIAL SCRUTINY HAS BEEN LIMITED BY "THE COURTS' TRADITION OF DEFERENCE TO THE JUDGMENTS OF PRISON OFFICIALS AND BY JURISPRUDENCE THAT SETS AN EXTRAORDINARILY HIGH THRESHOLD FOR FINDING PRISON CONDITIONS TO BE UNCONSTITUTIONALLY CRUEL." IN ITS FIRST STATE REPORT TO THE U.N. COMMITTEE AGAINST TORTURE, THE UNITED STATES ITSELF ACKNOWLEDGED THESE CRITICISMS OF ITS "SUPERMAX" DETENTION REGIMES AND THAT

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<sup>13</sup> Human Rights Watch, "Cold Storage: Super-Maximum Security Confinement in Indiana," October 1997.

<sup>14</sup> Human Rights Watch, "Red Onion State Prison: Super-Maximum Security Confinement in Virginia," April 1999, vol 11, no. 1 (G).

<sup>15</sup> Madrid v. Gomez, 889 F. Supp 1146, 1267 (N.D. Cal. 1995).

litigation has forced it to amend some practices in such facilities.<sup>16</sup> On May 15, 2000 the U.N. Committee against Torture expressed concern about "the excessively harsh regime of the 'supermaximum' prisons."<sup>17</sup>

Amnesty International's report "United Kingdom: Special Security Units: Cruel, Inhuman or Degrading Treatment" (AI index: EUR 45/06/97, March 1997) deals with small group isolation of prisoners at high risk of trying to escape. The report described conditions very similar to those at Kartal Special Type Prison, including burdensome and intrusive security measures that seemed designed more to harass the prisoners and their families than to prevent escapes. The report drew attention to the damage to family relations inflicted by closed visits in which prisoners were separated from visitors by a glass barrier with communication by telephone, as is also the case in Kartal. In the United Kingdom, open family visits were later permitted in the renamed High Security Units.

Amnesty International reported that medical evidence underscored the damaging effects of small group isolation on prisoners being held in the United Kingdom's Special Security Units (SSUs):

Independent medical and psychological examinations were conducted on some of the prisoners in SSUs in December 1994 and May 1995, the results of which were communicated to the Prison Service. At that time doctors highlighted a pattern in the symptoms of the prisoners: loss in weight, headaches and stomach pains, generalized muscle wasting, anaemia, oral thrush, deteriorating vision and memory, and anxiety symptoms.

In May 1996 the Director-General of the U.K. Prison Service commissioned an inquiry by Sir Donald Acheson, the former Chief Medical Officer, into the effects of the SSUs on prisoners' health. The report of that inquiry, completed in mid-1996, was never published. It recommended that prisoners should be held in SSUs for as short a period as possible; that more opportunities for mental stimulation and proper physical exercise should be provided, including the provision of meaningful activities. The Amnesty International report also described how the very limited physical confines of the units gave rise to eyesight problems, as described in the section dealing with Kartal Special Type Prison (above).

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<sup>16</sup> Available at [www.state.gov/www/global/human-rights/torture\\_articles.html](http://www.state.gov/www/global/human-rights/torture_articles.html)

<sup>17</sup> Conclusions and Recommendations of the Committee against Torture: United States of America, 15/05/2000, Human Rights Watch, June 2000, Paragraph 5, item f. 13 May 2000, Vol. 12, No. 8 (D)

Human Rights Watch investigated isolation in a Swedish remand prison<sup>18</sup> in a report on Swedish asylum policies in 1996. The report was particularly critical of the isolation imposed on asylum seekers and illegal aliens awaiting deportation, but the criticisms of Swedish practice, echoed by the European Committee for the Prevention of Torture, equally apply to the isolation of criminal detainees.

To avoid the risk of importing bad practice when investing scarce resources, the Justice Ministry should examine the findings and recommendations of the CPT and the U.N. Committee against Torture with respect to high security prisons, as well as the reports of nongovernmental organizations. Human Rights Watch believes that if the Justice Ministry carefully reviews its plan for the management of these prisoners in the light of international standards, and openly consults with international intergovernmental institutions with experience in this field, as well as with domestic and international nongovernmental human rights organizations, it will be able to move toward a system that reconciles the need for security and proper management with humane treatment.

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<sup>18</sup> Human Rights Watch, *Swedish Asylum Policy in Global Human Rights Perspective*, (1996), pp.19-22.

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