

**"NOTHING UNUSUAL"**

**The Torture of Children  
in Turkey**

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## **The Torture of Children in Turkey**

**January 1992**

**Helsinki Watch**

**A Division of Human Rights Watch**

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## **ACKNOWLEDGMENTS**

**This report was based largely on a mission to Turkey taken by Lois Whitman, Deputy Director of Helsinki Watch, in late October 1991. It was written by Lois Whitman and Sarai Brachman.**

## **INTRODUCTION**

**"What happened to me is nothing unusual," a 16-year-old girl told Helsinki Watch in October 1991, referring to her detention, torture, and imprisonment for 75 days for the crime of hanging a "No to War" poster in her high school. Sadly, we found that to be true.**

**A Helsinki Watch mission interviewed nine children between the ages of 13 and 17 in Istanbul in late October 1991. All had been picked up by police, detained, physically abused and kept at police stations and prisons for between three days and three months; some had been subjected to truly horrifying methods of torture. In all of the cases, police who are responsible for the protection of civilians had, in fact, deliberately and intentionally inflicted pain on the children.**

**All of the cases took place in 1990 and 1991. Three of the children were accused of ordinary crimes; six of political offenses. None were allowed to see lawyers during their interrogations. None of the children's families were notified by the police of their whereabouts. All of the children were interrogated and detained in adult facilities and those who were incarcerated during the pre-trial period were sent to adult prisons.**

**These cases were not, unfortunately, unusual. During 1990 and 1991, Helsinki Watch received dozens of reports of police torture of children under 18.**

**The techniques used ranged from slapping, punching, and hitting with truncheons, to *falaka* (beating the soles of the feet), the Palestine hanger (suspending a child by the wrists or arms, naked, and applying electric shocks to the genitals and other sensitive parts of the body), and inserting a truncheon into the anus.**

**Helsinki Watch has monitored torture in Turkey since 1982. The Turkish government, while acknowledging that torture takes place, has denied that it is used routinely. The government has asserted that over-zealous interrogators may occasionally torture detainees, but claims that such actions are investigated and punished. Turkish lawyers who represent detainees, however, tell Helsinki Watch that police torture between 80 and 90 percent of political suspects and about 50 percent of ordinary criminal suspects, including children. And those torturers who are investigated, tried and sentenced are few in number in comparison to the number of torture cases reported.**

**International law forbids torture or cruel, inhuman or degrading treatment or punishment. International agreements and standards for the treatment of children require special protections for children.**

**Six of the children interviewed by Helsinki Watch had been detained for crimes of thought: hanging an anti-war poster, distributing in school a pamphlet critical of the school administration, taking part in a legal trade union demonstration. Sadly, their cases are not unique. Many children in Turkey are detained for crimes of thought, association and assembly, although such rights are guaranteed by international law.**

**Helsinki Watch calls on the Turkish government to put an end to the appalling practice of torturing children, to investigate allegations of torture, to prosecute those responsible, and to make certain that such practices never occur again. Helsinki Watch also calls on the Turkish government to stop detaining children for crimes of thought, association and assembly, and to comply with the requirements of international law in its treatment of children.**

**Turkey is the third-largest recipient of American aid. For fiscal year 1992, the Bush administration has asked Congress to approve over \$700 million in military and economic aid to Turkey. Helsinki Watch calls on the United States government to condemn the use of torture in Turkey, and, as required by Section 502B of the Foreign Assistance Act, to state clearly what, if any, extraordinary circumstances warrant provision of military and economic assistance to Turkey in light of its consistent pattern of gross violations of human rights.**

**\* \* \***

**This is the ninth report that Helsinki Watch has issued on human rights in Turkey since 1982. Unlike some of the earlier reports, it does not cover all aspects of human rights in Turkey, but concentrates on the torture of children and their detention for crimes of thought. Unhappily, these grim incidents do not appear to be new in Turkey, but rather a continuation of long-entrenched practices.**

**At this writing, a new government has been elected in Turkey. On November 25, 1991, Prime Minister Suleyman Demirel presented his government's program to Parliament; he said "Torture is a crime. .. It is our duty to put an end to this." We hope that the new government ~~will~~ take a hard look at the torture of children (and at the torture of adults, too) and take steps to end them. Surely, a government that has signed international agreements guaranteeing human rights and forbidding torture can order the abolition of such horrifying and inhumane practices.**



## **NINE RECENT CASES OF TORTURE OF CHILDREN BY POLICE**

Six of the children interviewed by the Helsinki Watch mission in October 1991 had been accused of political crimes; three were charged with ordinary crimes.

### **POLITICAL CASES**

Five of the children picked up for political offenses acknowledged distributing pamphlets or hanging up posters. One denied the accusation of distributing magazines and said she had been picked up by mistake.

**Nermin Alkan.<sup>1</sup>** Nermin Alkan was born on June 28, 1974. On October 4, 1990, when she was 16, she was detained by police for hanging up an anti-war poster in her high school. She was hit and kicked by police, hit on the head and on the back with a club. She spent 75 days in custody before being released; her case is pending in the courts, where she is charged with membership in an illegal organization. Her case was widely reported in the Turkish press. In Istanbul on October 28, 1991, Nermin Alkan described these events to Helsinki Watch:

During the Gulf crisis I was deeply affected. I was afraid that it would be very dangerous if war broke out. I wanted to do something. I thought I should explain my thoughts to my friends, so on October 4, 1990, I made a poster that had a picture of the Halabja massacre [the 1988 gassing of Kurds in Northern Iraq] and of a child putting flowers into the gun of a Nazi soldier. I wrote on the poster, "It is the duty of everyone to say no to this unjust war," and I included a poem on war by Brecht. I put up the poster across from my classroom at Pendik High School during a break between classes. My friends saw me put it up.

One student told Deputy Director Yavuz Eke, who called me in and asked me why I had done it, and told me I could be thrown out of school for it. I told him my views on war. He took me to the director, Suleyman Yolcu, who asked me to tell the truth—that I hadn't done this alone. I told him that I had done it alone because of my views on war. At the time, school had recently opened and people had written anti-war slogans on the school walls. The director wanted to blame the slogans on me. He tried to get me to say that I was working for some organization, and said I should tell the truth, or he would call the police. I told him there was no need to call the police, as I was telling the truth.

The director called the police and at about 11:00 a.m. police came from the Pendik Police Headquarters. Three or four regular police and four police in plain clothes, political police, I think, came. They shouted at me in the director's office—"Why did you do this?" They said they would take me to the political section at police headquarters and make me tell the truth, that others had helped me.

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<sup>1</sup> Nermin Alkan is the actual name of this youngster, who has chosen to make her case public. The names given to the other eight children interviewed by Helsinki Watch are pseudonyms; identifying details have also been changed to protect those children's identities. The names of officials mentioned in these accounts are their real names.

**Then they took me home and searched my house. I asked them if they had a search warrant. They said, "No--how do you know about such things?" They searched my room and took some magazines that I had bought at newsstands.**

**Then they took me to Pendik Police Headquarters. I refused to talk to them, since they had brought me there by force. The police told me I would be forced to talk at the political section at Gayrettepe [the notorious police station in Istanbul where both political and ordinary criminal suspects are routinely tortured].**

**Then police came from Gayrettepe. One of the police shoved me, so I shoved him back. He said, "Don't make me use force." They took me to Gayrettepe and blindfolded me with some black cloth. I was put in a crowded room--I could hear a lot of people around me. Someone started stomping on my feet continuously and asked me questions about the requirements of Islam. Each time I said I didn't know, someone hit me on the head hard with some object. My head was aching.**

**Afterwards they took me downstairs. There were many voices in the room. They started asking me questions: "Who helped you put up the poster? Who are your friends? What is the name of your organization?" They hit and kicked me--I think there were about four of them. They hit me on the head, the arms, my legs. I was still blindfolded.**

**This went on for about half an hour--it became unbearable. Finally I told them that if they would take off the blindfold I would try to tell the truth. They prepared a statement and took my blindfold off. I signed the statement to get rid of them. Then they took me downstairs to a cell. No one bothered me until the morning. Later I found out that they had picked up four or five of my friends at school.**

**My cell was about 6 feet by 10 feet. There was some sort of filthy mattress on the floor that smelled terrible. There was nothing else in the room. There was no light--only the light that came in from the corridor through a small window in the door that could be closed from the outside. To go to the toilet, I had to pound on the door and ask the guard to let me out. I was alone in the cell.**

**For the next four days they took me upstairs every day to interrogate me. It lasted about three hours each time, and sometimes happened several times a day. They asked questions about my friends, and about an organization. Sometimes they beat me. Sometimes I thought I heard them taking my friends upstairs--I thought I recognized their voices. After the fifth or sixth day they gave me another statement that I signed.**

**On October 12 they took me from Gayrettepe. They handcuffed me to a friend. First they took me to the Forensic Medicine Department. The police talked to the doctor before the doctor saw me. While we were in the doctor's waiting room a woman asked why we were handcuffed, and a policeman loosed the handcuffs a little. When I saw the doctor I told him I had been beaten on the back with a club. He said, "yes, yes," but didn't look at my back.**

**Then they took me and my three friends to State Security Court. The police told us that we had to admit what we had signed, and that if we didn't, they would pick us up again and take us back to the police station. So I told the prosecutor my statement was correct. Then we went before Judge Osman Sen--I think that was his name. He said to arrest all four of us, and we were taken to**

**Sagmalcilar Prison. First we were taken to the quarantine room.**

**We three girls were taken to the women's political section. There were three other girls there my age, 16, who had all spoken out against the war.**

**I never saw a lawyer before I was taken to Sagmalcilar. Then a lot of lawyers wanted to represent me (in Turkey it is customary for many lawyers to appear on behalf of a client in a well-known political case to lend moral support). I had 38 lawyers altogether.**

**My first trial date was on December 3, 1990. In the afternoon, they took me and my friends from Sagmalcilar to the detention center at the State Security Court. We waited there in handcuffs. I found out later that just before our case was heard, another "No to War" case was heard. When we went into the courtroom it was very crowded and people were yelling "No to imperialist wars." There were lots of journalists and the lawyers' section was crowded. The prosecutor said, "I propose that the hearing be postponed."**

**Just then, a huge group of police rushed into the courtroom and started hitting people. One of the people they hit was my father. The police were hitting lawyers and journalists too. The judge never answered the prosecutor, and police pushed me and my friends out of the courtroom, hitting and kicking us. Then they put our handcuffs back on (they had taken them off before we went into the courtroom) and took us back to Sagmalcilar Prison. There were lots of pictures of the beatings in the newspapers the next day, and I read in the paper that my father had been detained. Other members of my family--cousins and my sister--were detained too, as well as some members of my friends' families. I found out later that my father had been hit a lot, and asked, "What kind of child did you bring up?" He was detained for one day and then released. Also I found out that there was a demonstration outside the court about our case, and nine people were detained.**

**On December 25, a second hearing was held. That day it was very calm. The judges were very polite, and didn't interrupt us. I read an eight-page statement. Then I was released--police took me to Sagmalcilar to get my belongings, and then I went home. Altogether I was detained for 75 days, counting the time at Gayrettepe and in Sagmalcilar. My case is still in State Security Court; I'm not sure what the next trial date is.**

**When I got out of prison I tried to go back to school, but I found that I had been expelled. I finally found another school that would take me, so I'm back in school now. Before this happened, I wanted to study art history, but now I want to be a criminal lawyer. What happened to me is nothing unusual in Turkey. The government says there is democracy in Turkey, but really it doesn't exist.**

**Mustafa Gunes. Mustafa Gunes was born in 1974. On April 19, 1990, when he was 16 years old, he was picked up by police for distributing pamphlets in a coffee house asking people to go to Taksim Square on May 1 for a May Day demonstration. At the local police station he was hit with sticks and clubs, his testicles were squeezed, he was hit on the ear with a walkie-talkie, and his front teeth were knocked out of place. He spent four days in Gayrettepe, where he was given falaka (beatings on the soles of the feet), kicked and threatened with death. On April 23, he was taken to State Security Court, where a judge ordered him sent to Sagmalcilar Prison to await trial on charges of membership in an illegal organization. After three months of incarceration he was released. In July 1991, he was acquitted after Parliament abolished the article of the Penal Code under which he had been charged.**

**Mustafa described his ordeal to Helsinki Watch:**

**On April 14, 1990, I was distributing pamphlets in a coffee house on the Asia side of the Bosphorous. The pamphlets called for people to go to Taksim Square on May 1st. Five plainclothes policemen were in the coffee house. They took me to the local police station. For four and a half hours they cursed me, hit me with their hands, fists, sticks and clubs. Many police hit me at one time. I was hit on the head, the genitals (kicked and then squeezed hard), and in the teeth. Then I was hit on the ear with a walkie-talkie; my shirt was soaked in blood from the cut on my ear. [He showed Helsinki Watch a scar on his ear.] My teeth were knocked crooked--the front teeth knocked backwards in my mouth.**

**Then they took me to Gayrettepe because I wouldn't tell them anything. I was there for a day and a half. They blindfolded me and lay me on the floor and tied my ankles together. Then they gave me falaka, hitting me hard on the soles of my feet. While someone was doing that, others were kicking me everywhere on my body. One of them said, "We killed so-and-so--your life is at stake. If you try to run away, we'll shoot you." I was beaten like this for about an hour and a half. They then put me in a cell. For 36 hours they would take me out of the cell, beat me, search me, ask me questions, and then put me back. It was a very difficult period; 36 hours of anxiety.**

**After 36 hours they took me back to the local police station, and then it was calmer. On April 23rd they took me to the local prosecutor; first they took away my bloody shirt and gave me a clean one.**

**The prosecutor decided that he didn't have jurisdiction, and on April 24th I was taken to Istanbul State Security Court with four others. We were all sent to Sagmalcilar Prison; I was charged with being a member of an illegal organization. On July 25th, at our first hearing, we were all released. I had spent three months in Sagmalcilar. When Article 141 of the Penal Code was lifted, I was acquitted--that was on July 20, 1991.**

**I never saw a lawyer until I was in Sagmalcilar; the Istanbul Human Rights Association got me one. My family didn't find out where I was until I was in Sagmalcilar. They even went to the local police station while I was there, but the police told them I wasn't there.**

**The psychological torture is still going on; if anything happens in school, they pick on me. For instance, someone put a poster on the wall in school. The director called me to his office--the police chief was there. He slapped me on the face and accused me of hanging up the poster. I will never trust a policeman again; I feel they could kill me at any time. If police can pick you up from class and hit you, how can you feel safe?**

**This whole thing has really changed my life. I lost a whole year from school, and some of my friends don't want to be friends with me any more. And now I have a record, even though I was acquitted. I wanted to be a sea captain, like my cousin, but now I can't go to maritime school; they won't take anyone with a record, even if he's been acquitted.**

**I'm going to have to change my school. People run from you if you've been in prison. In front of everyone, my teacher said, "What happened? You were in prison last year." Most of my classmates never talked to me again. They leave empty seats next to me.**

**Sevinc Ekinci. Sevinc Ekinci is a 17-year-old girl who was picked up by police on September 1, 1991, for distributing political magazines, an allegation she denies. She spent one day at the local police headquarters, five days in Gayrettepe, and 33 days in Sagmalcilar Prison. She has been charged with "aiding a terrorist organization and distributing Kurdish propaganda." Police slapped her, hit her head against a wall, pulled her hair, hit her on the back and chest with fists, and threatened her with the Palestine Hanger. She signed a statement while blindfolded. She was handcuffed on the way to court. Sevinc described the events to Helsinki Watch:**

**It happened at about 9 o'clock at night. I was walking on the street with a friend, a 17-year-old boy. Police stopped us and asked for our identification. They they took us to the police station. In the car they asked us where we lived and why we were walking on the street. At police headquarters police searched us.**

**Then they put us in separate places. They pulled me by my hair and then hit my head against the wall. They hit my back and my chest with their fists. The beating lasted about an hour. Nine or ten police took turns hitting me. Then they put me in a cell alone until morning.**

**At about 4:00 or 5:00 in the afternoon they blindfolded me and handcuffed me to someone else. Then they took me to Gayrettepe. Police slapped and hit me with their hands or fists on my face and my back and kicked me. They threatened me with the Palestine Hanger and electric shock. They kept asking me questions, and saying, "You're lying, you distributed these magazines."**

**Then they took me to an isolation cell. I was there for five days. Every day they took me out of the cell and interrogated me; I was blindfolded.**

**The cell was only big enough for one bed. There was a low metal bed with a sponge mattress, foul-smelling, and two blankets. There was no window and no light. A metal door had a small window in it, and some light came in from outside.**

**The guards didn't give us any food. If you wanted food, you had to buy it from the guards. They charged you 10,000 Turkish lira (about \$2.00), bought bread and milk for about 2,000 lira and kept 8,000 for themselves. If you had no money, you didn't get any food.**

**After five days, I signed a statement. I had a blindfold on when I signed it.**

**The police didn't tell my family where I was, but on the second day, September 2, they took me to my house and searched it, so that's when my family found out where I was. They called a lawyer, and the lawyer called Gayrettepe, but police told him I wasn't there.**

**My case is still in court; the next hearing will be on November 26th. They charged me under the Anti-Terror Law with aiding a terrorist organization and making Kurdish propaganda. I could get a one-to-three-year sentence for the first, and three to five years for the second, and also very big fines. If I can't pay the fines, and my family doesn't have that kind of money, I will have to serve another three years in prison.**

**I am very afraid. I can't understand how such a thing could happen. When a car stops outside my house, I think it's the police.**

**Sevinc's uncle told Helsinki Watch that this experience can adversely affect her future:**

**In our society, virginity and purity are very important. If a girl is picked up by the police, there is always the possibility she will have been sexually assaulted--there is always that suspicion. And although her parents feel bad for her, they are also very angry--why was she walking with a young man at 9:00 p.m.?<sup>9</sup> Society cannot accept that. Now the family is stopping her from leaving the house.**

**Orhan and Fatma Ozturk. Orhan Ozturk was born in 1974; his sister Fatma was born in 1978. On March 18, 1990, when she was 12 and he was 16, the children were picked up during a trade union demonstration. They were taken to Gayrettepe, and then to their local police station. Both were slapped, hit with clubs and kicked. Police deliberately kicked an open wound on Orhan's leg. After three days, both children were released without charges. Each now has a police record. Fatma reported to Helsinki Watch:**

**When the police picked us up, they put us on a police bus to take us to Gayrettepe. They started hitting us on the bus; they hit me on my head with a club. I spent an hour and a half at Gayrettepe; police made me kneel and then they kicked me in the back with their feet. Then I was taken to our local police station, and I was there for three days.**

**I was put in a little bare cell, with no beds or anything. My back really hurt, but the police wouldn't let me go to the doctor. I went on a hunger strike with some of the others who had been picked up with us; it lasted for two and a half days.**

**After three days, the police had me sign a statement. It said I was not a member of any organization and that I had no affiliation with any meeting, and that I had been picked up by mistake and that I was under age. Then I was released.**

**The police never told my family where I was, but some demonstrators told my mother I had been taken to Gayrettepe. I never saw a lawyer while the police had me.**

**Orhan reported:**

**I'm a senior in a trade school. On March 18 of last year there was a big demonstration by the labor union, Automobil Is. It was a legal meeting; the governor of Istanbul had approved it. During the demonstration someone wanted to hold up a banner and walk, but the police didn't want him to. The police started hitting the crowd with clubs. A lot of people were hurt badly. I found out later that 55 people were detained by police.**

**Fatma and I were picked up by the police. I was clubbed on the leg, and I had an open, bleeding wound. First police took us to Gayrettepe, to the political section, to see if we had records. In Gayrettepe I was slapped and hit. Police saw the open wound on my right leg below the knee, and deliberately hit me there. They said, "You are such young children, why were you at that demonstration?" At the record office, they made us kneel and face the wall, and then police would walk by and kick us on the back.**

**Then they took us to our local police headquarters. My leg hurt a lot, and I wanted to see a doctor, but they wouldn't let me. Finally, on the third day that I was there, they let me see a doctor. He said my leg should be x-rayed, but the police wouldn't allow it.**

**Then we were taken to the Forensic Medicine Department. I never saw a report from there. Then we were taken back to police headquarters and released. We never saw a prosecutor. They didn't charge us with anything, but we still have records, so the police can pick us up at any time.**

**After we were released, I saw a doctor who gave me a report saying I shouldn't go to school for seven days because of my injuries--the open wound on my leg, and what he said was evidence of beating on my chest, face and legs.**

**The children's lawyer, Kamil Tekin Surek, told Helsinki Watch that right after the children were released he had tried to open a case against the police for abusing them. Unfortunately, they could not pinpoint which police had hit them. But the lawyer claimed that the prosecutor should charge whichever police were on duty at the local police station and at Gayrettepe at the time. On October 24, 1990, the lawyer received a response saying that the people who committed the crime could not be found, and that the case was therefore closed due to lack of evidence.**

**Nilay Kucuk. Nilay Kucuk, born in 1974, was taken from her school classroom on April 20, 1990, when she was 16 years old, for distributing political pamphlets. She spent four days in the local police station, one day and night at Gayrettepe, and two months in Sagmalcilar Prison after she was charged with membership in an illegal organization. On June 25, 1990, she was released and in July 1991 she was acquitted. During her detention, she was slapped hard on the face, shoved and pushed and threatened with torture. When her family found out where she was, they brought her favorite doll, which she kept with her in**

**prison. Nilay related her experiences to Helsinki Watch:**

**On April 20, 1990, police came to my school and took me from my classroom because I had distributed a pamphlet in school that said, "End Repressive Fascist Education." By this I meant that our textbooks are not scientific; students are brainwashed. And in the technical schools students produce things that they're not paid for. If there's a strike by workers, students are used to break the strike. And children are beaten in school—at least once a week teachers or the director hit a student, usually with a long stick. One time the director slapped me.**

**Police took me to police headquarters; I was there for four days. I was beaten and slapped on the face. Police asked me who gave me the pamphlets. I didn't want to say. One of them rolled his sleeves up and threatened to beat me up. He said that if I confessed, I wouldn't have to go to Gayrettepe. When I didn't answer, he slapped me hard on the face several times. It really hurt. I was dumbfounded.**

**Then he asked me to become an informer for the police. I was supposed to inform on my friends. Then he gave me books on Islam.**

**I was put in a room with my friend. It was a rectangular room about 1 1/2 meters by 2 meters, with nothing at all in it—no beds, no chairs, no window. The door had metal bars that we could see through to the corridor.**

**At Gayrettepe six of us were taken together to a room that looked like a garage. We were made to stand facing the wall for about half an hour. One of the boys was 13. Police asked him where his family was from and he said "Tunceli" (an activist Kurdish area). As soon as he said that, police started kicking him in the legs and hitting him on the head with their fists. He was standing right next to me.**

**Then we were blindfolded and taken upstairs. They shoved and pushed me while I was going up the stairs. Then they took me to a room and took the blindfold off. They made us write the basic facts of our lives and copy out letters and sentences and numbers. We heard screams of people being tortured. They threatened us: "You too can be tortured." They wanted us to admit their accusations, and tell them who gave us the pamphlets. We wouldn't do it.**

**Then they took us to cells. Mine was a small foul-smelling room with blood stains on the wall and a metal door with a tiny window. I couldn't see anything. They would only let us go to the bathroom in the morning or at night, never in between. We gave them money and they brought us biscuits and milk. If you had no money, you got no food. They told us we would be there a long time—15 days. "Anyone who comes, stays," they said.**

**I was only at Gayrettepe one day and one night. The next day I was taken to State Security Court and charged with being a member of a secret organization and being politically active on behalf of that organization. Four of my friends were charged with the same things. One is 13, two are 16, and one is 18. Then I was sent to Sagmalcilar Prison, where I stayed for two months in the political section with adults.**

**When my parents came to visit me, they brought me some money and my favorite doll. I kept it with**



**me at the police station and for the two months I was in Sagmalcilar Prison. On June 25, 1990, I was released, after the first hearing in my case. Three months ago I was acquitted.**

## **ORDINARY CRIMINAL CASES**

**Three of the children interviewed by Helsinki Watch in late October were accused of ordinary crimes--not political acts. All three were fifteen-year-old boys.**

**Osman Erdogan. Osman Erdogan, born in 1976, was picked up by police on October 8, 1990, when he was 14 years old, accused of sexual assault on a younger boy. He denies the charge. Osman spent two nights at his local police station and one day at Gayrettepe. He was cursed, beaten, kicked and slapped, and forced to sign a confession. His case is pending. Osman told Helsinki Watch what had happened:**

**The police came to my house in the middle of the night--it was about 1:00 a.m., and I was in bed. I didn't know what was happening. They took me away in just pants and a t-shirt, with bare feet. When we got to police headquarters police hit me with a club and kicked me. They asked me questions and wanted me to sign a paper. I don't read very well, and I asked them to let my father come and read it to me. The policeman at the typewriter got very angry and took out of a drawer a club with wire around it and hit me on the legs and thighs. They made me sign a paper, but didn't read it to me. Then they put me in a dark room, alone--it was very cold.**

**The next morning they took me to Gayrettepe. One man in plain clothes slapped me very hard on the face. Then they took me two floors up. More men in plain clothes were there. They read my folder and then slapped me on the face and kicked me on the backside. They kept cursing me and shouting at me. Several times they took me upstairs or downstairs, and every time I came into a room someone would slap me or kick me.**

**Then I was taken to Bakirkoy (a regional forensic medicine center). I wasn't examined there--the man I saw just yelled at me, "You animal, why did you do this?" He didn't ask me any questions, but just cursed me.**

**Then I was taken back to the local police station for the night. The next day they took me to Children's Court. The prosecutor read my folder and asked me if I had done it. I said no, and he wrote something down. I couldn't read it, so I don't know what he put down. Then they released me. My case is still in court.**

**Osman's father told Helsinki Watch that police would not let him see his son at the local police station. He stayed at the station overnight, and the next morning police made him pay for a taxi to take Osman, himself and police to Gayrettepe--a very large sum of money.**

**Kamil Yilmaz. Kamil Yilmaz, born in 1976, has had two brushes with the law. In June 1988, when he was 12 years old, he was accused of sexual assault on a younger boy. At the police station he was given falaka until he fainted, and was then revived with cold water. Then he was beaten with wire strips covered with rubber, and beaten on his hands, feet and head with a club. Convicted of assault, he received a 15-month sentence, but served only five months in the Children's Section of Sagmalcilar Prison and in Izmir Rehabilitation Center.**

**In September 1991, police picked Kamil up on the street at night. He was fifteen years old. They searched him, found a screwdriver, and accused him of robbery, which he denies. At the local police station he was given falaka and beaten with a club. To stop the beating, he signed a confession. Then he and another boy were made to force truncheons into each other's rectums. He was then taken to Gayrettepe, where he was given electric shock on his calf and beaten with a club. Police tried to get him to confess to other robberies. Kamil spent seven days at police stations, then was taken to court, where he was charged with robbery and sent to the Children's Section at Sagmalcilar Prison, where he stayed for one month. He was released on October 25, 1991, after his first hearing. His case is pending.**

**Kamil told Helsinki Watch what had happened:**

**When the police picked me up the first time, in 1988, when I was 12, a woman accused me of assaulting her son in the toilet of a Mosque. They took me to the police station and made me lie down and put my head and part of my arm inside a tire. Then they tied my legs together and beat the soles of my feet. The second day they beat the soles of my feet until I fainted. Then they poured water on my face. I was hit on the head with a club, too. I vomited for two days before they took me to the state hospital in Kartal. The doctor kept me under observation for five hours and said I might have brain damage. When the police heard that I might get a letter from the doctor saying I had been hurt, they took me back to the police station and hit my head, my hands and feet with a club. Quite a few policemen hit me with a club.**

**After two days I was taken to the prosecutor at Children's Court, who set a date for my hearing. By the time of the hearing, I was 13. I got a sentence of 15 months, but I only served five months, one and a half months in Sagmalcilar and the rest at Izmir Rehabilitation Center.**

**In Sagmalcilar I was in the special children's section. The guards didn't beat us, but sometimes the person in charge of the cell would beat us. The food was okay. You could only eat with a spoon. We had cheese and jam and some meat and watery vegetables. They sold food at the canteen.**

**There were drugs in the prison--people who worked in the prison brought them in. I worked in the furniture workshop. You could get paint thinner there, which the kids sniffed.**

**When I was at the rehabilitation center in Izmir I worked in a furniture workshop too. I didn't go to school regularly--school was only for kids who couldn't read or write. I did have classes in religion and in how to be a good citizen--two days a week. Sometimes the guards beat the kids there.**

**The second time I got in trouble was on September 17, 1991, when I was 15. About 1:30 in the morning I was bored at home, so I went to my aunt's house. Police stopped me on the road and searched me. They found a screwdriver. Two shops had been robbed in the neighborhood, but I didn't have anything to do with it. The police took me to police headquarters. They made me lie down and started giving me falaka. To stop them from beating me, I said I had done the robberies. Then they made me say who did them with me. I told them it was my aunt's son and another kid. My aunt's son was away on the Black Sea coast, so the police couldn't pick him up, but they picked up the other kid. Then they took us to a different police headquarters and beat us.**

**The next day they took us to different places and said, "Did you rob this place?" They took us to 29**

**different places.**

**Then they took us back to the police station again and gave us falaka. Then they made us take all our clothes off and made us put clubs into each other's asses.**

**After six days, we were sent to Gayrettepe. We were there for 24 hours. They hit me on the head with a thick club, like a small tree branch, and on my chest. Then they gave me electric shock on my calf, using a machine that was sort of like a wind-up telephone. They kept that up for about 15 minutes. They were trying to make me confess to more robberies.**

**On September 24, I was taken to Children's Court. The judge sent me to Pasakapisi Prison in Uskudar, to the children's section. I was there for one month, then I was released after the first hearing.**

**Each time we went to prison we were handcuffed and then chained together. One time 13 children were chained together. When you appear in court, they take the handcuffs off, but usually you have to wait a long time and eat any tea or food they give you with the handcuffs on.**

**I'm being tried for four robberies--the trial is still going on, but I was released on October 25.**

**Ali Akdag. Ali Akdag, 15, was accused in August of 1991 of stealing stock certificates. Detained by police for four days, Ali was beaten on the soles of his feet and on his palms and finger-tips; suspended naked upside down and beaten with clubs while blindfolded; handcuffed to the door of his cell and beaten with a thick wooden stick on his head, ankles, knees and elbows; and subjected to the Palestine hanger, in which he was suspended by his arms, naked, and given electric shock to his genitals. Deniz both vomited and urinated blood after this. He then signed a confession which he has since repudiated. Charged with theft, his case is pending. Ali told Helsinki Watch of his experiences:**

**Last summer I went to my friend's house. I saw the police come and take two of my friends away. Half an hour later, the police came back while I was talking to the mother of one of the kids who had been taken away. The police took me to headquarters. I didn't know what it was about--I didn't understand. Later I found that some man had said we had stolen his bonds or stock certificates. The boy that the police took before me had been beaten so badly that he said I had taken the certificates.**

**On the door of the room they took me to, there was a sign saying "archive room." But it was a torture room. The police took clubs and hangers out of the closets. They told me to tell the truth and they wouldn't do anything to me. They took my shoes off and gave me falaka, beating the soles of my feet until they were all swollen. They hit me with clubs on my hands and back. They hit my palms and my finger tips until my hands were swollen. Then they made me sign a paper. I couldn't even hold the pen--they had to prop it up in my swollen hand. My nose was bleeding, so they let me wash my face.**

**Then they put me in a cell with metal bars on the door. Five minutes later they called me and told me I had admitted my guilt. They showed me the paper I had signed. But I never told them I did it. They told me I had to give them the stock certificates. But I didn't have them.**

**Then they took me to a bigger police station. They didn't ask me anything when I got there, but just started torturing me. They took off all my clothes and tied my ankles together with a thick rope and put a stick between my feet and held me upside down. I was blindfolded, but sometimes I could see a little bit from under the blindfold. I saw three people hitting me with either a club or a stick. They hit me for about half an hour on my back and my legs and my hands. My back hurt the most.**

**Afterwards, they threw me into a cell. It was totally dark and I was alone. The cell wasn't tall enough for me to stand up or long enough for me to lie down all the way. My feet hurt too much for me to stand up, anyway. It was like a chicken coop. I just sat on the floor. There was no window and no light, just a little light that came in from an opening high up on the door.**

**At about 2:00 or 3:00 a.m. they took me out of the cell. A different policeman came and handcuffed my right hand to the door of my cell. Then he hit me with a club on my head, both ankles, my knees, my elbows, my neck and my back. It was a wooden club, like a baseball bat. He kept this up for about two hours. He kept asking me where the certificates were, and I kept telling him I didn't do it. Then I half fainted—I couldn't stand it any more.**

**They took the handcuffs off and put me back in the cell. I was there for a day and a half. I don't remember much that happened. Then they lifted me up and put me in a car and took me back to the local police station. I was there for three or four hours, and then they took me to Gayrettepe, the second section.**

**There were four of us together at Gayrettepe, all 15 or 16 years old, all accused of stealing the stock certificates. They took our fingerprints and then put us in a cell. The second day, around noon, they began taking us out one by one. They gave me falaka and beat the palms of my hands. Then the police made me lie on my back; one policeman held one arm down and another the other one. Then they put a wire on my tongue and turned the handle of some kind of machine that gave me electric shocks. I couldn't stand it any more. I started lying. I told the police the certificates were in my neighborhood.**

**So the police took me to my neighborhood, and we kept going from place to place, looking for the certificates. Finally they realized that I was lying and they took me back to Gayrettepe.**

**There they stretched my arms out and tied them to a pole that was about six feet long. They opened up two closet doors and stretched the pole across the tops of the doors. They tied my feet together again and weighed them down with a tire. I was naked. They tied wires to my finger and my penis and turned the handle of the machine again and gave me electric shocks. This went on for about an hour. When they took me down, my armpits were cracked and bleeding. They took me to the toilet and washed my hands and feet. They told me to spit, and I spit blood. When I went to the bathroom I urinated blood.**

**Then they threw me in the cell. I fell down and fainted.**

**On the evening of the second day, they took me back to the local police station, and then to the prosecutor's doctor. The doctor said I couldn't work for seven days. Then I went to Civil Court. I told the judge I hadn't stolen the certificates and that I had been tortured. Then the prosecutor released me. My case is still in court, and I'm trying to sue the police for torturing me.**

**I never saw a lawyer the whole time I was detained. I didn't see my family, either. It affected me psychologically, so that now I'm in therapy at the Center for Rehabilitation of Victims of Torture. I have a primary school diploma, and I work in a pastry shop.**

**Ali's father, a 61-year-old unemployed worker with seven children, told Helsinki Watch his story:**

**When Ali didn't come home, we thought he had gone to his sister's. The next morning I looked for him, and couldn't find him. Then about noon the police brought him home and searched the house. They broke the house up--threw beds aside, broke windows, glasses, furniture, a table, chairs.**

**I kept saying, "What are you doing? What's happening to my child?" They said they were looking for stock certificates. I told them I didn't have them.**

**The next day I went to the police station to find out what was happening. They told me Ali had been taken to another police station. They asked me where we were from. I told them "Kars," and they said, "You must be goddamned Kurds, you son of a bitch." I went to the other police station, but the police wouldn't let me see my son. I took him some bread and gave it to the police, but I found out later they never gave it to him.**

**Later, when Ali was back at the local police station, the police told me I had to rent two taxis and take them all to Gayrettepe. I had to give the police 150,000 Turkish lira (about \$30), which is an awful lot of money.**

**The next day, while I was waiting for Ali at the police station, they took him to my house again. His mother and sisters and brother could see he had been tortured; he was shaking. He had told the police the certificates were hidden in the bathroom. When they didn't find them, they hit him. Then they slapped his mother and kicked his brother.**

**When I heard what had happened, I went to the prosecutor, and gave him a petition for the Minister of Justice and the Minister of the Interior, saying my son's life was in danger, please rescue him. Then I ran to the post office to send letters to officials. I never heard anything. I hope we can sue the police for what they have done to my son.**

## **REPORTS BY LAWYERS OF TORTURE OF CHILDREN**

Many attorneys with whom Helsinki Watch spoke in October 1991 described other cases in which the children they represented said that they had been tortured. Aynur Tuncel reported that all children charged with ordinary crimes are beaten. Some of her clients have been given falaka, boys more often than girls. Girls are frequently threatened with sexual assault, and boys with having a truncheon forced up their rectums.

Tulay Ates reported that she has represented children who have alleged that they were subjected to both electric shock and the Palestine hanger during interrogation. Nuran Yavuz reported that one child client had said he had been beaten on the head with a two-foot piece of wood. All of these incidents took place during the past year.

Tulay Ates told of a recent case in which three of her clients, one of whom was 16 years old, had been charged with theft. All three were taken to Gayrettepe, where the two 18-year-old boys said they were beaten, given electric shock and the Palestine hanger. The 16-year-old said that he was beaten but not suspended or shocked. All three spent five days in detention and one month in Sagmalcilar Prison before being acquitted in February 1991.

Nuran Yavuz represented a 12-year-old boy who was picked up by police on June 19, 1991, on suspicion of throwing stones at the roof of a carwash. A watchman had called police to report the stoning. Police came to the street where the 12-year-old, the son of the janitor, was sitting in front of his house. The police took him to the local police station where they said, "You know the children who stoned the roof and you must tell us who they are." The child told Ms. Yavuz that police put a gun to his neck and threatened to shoot him, and then took him to the window and threatened to throw him out. Ms. Yavuz lives nearby; she heard the child's mother crying and asked what had happened. When she heard the story, she called the police station and told police they could not keep the child there. The police then released him without charges.

Attorney Kemil Tekin Surek, who has represented many clients charged with political offenses at the State Security Court, told Helsinki Watch that between 80 and 90 percent of his clients, including children, have been tortured. He has tried to bring cases against the police for torture, but it is very difficult, as torture victims are usually blindfolded and cannot identify the individual police who tortured them.

Ercan Kanar, a lawyer who is the president of the Istanbul branch of the Human Rights Association (HRA), told Helsinki Watch that since January 1991 the Istanbul HRA had been involved with the cases of 75 children who had been physically abused by police. Three quarters of the cases are political. He does not believe that this is representative, however, as children charged with criminal offenses do not usually know that they can complain of torture, and do not usually apply to the HRA for help.



## **OTHER CASES OF DETENTION AND TORTURE OF CHILDREN**

**During 1990 and 1991, Helsinki Watch received dozens of reports of children who were detained for political reasons and who, in many cases, alleged torture, including the following cases:**

- **Two high school students, both 17 years old, reported that they had been tortured during interrogation at the Security Department. They were held in custody for three months after they were detained and charged with being members of an illegal organization. (*Hurriyet*, 7/11/90)**
- **Yildiz Korkut, a high school student in Adana detained for being a member of an illegal organization, claimed that she had been tortured during five days in detention. She said, "I was suspended by the arms and was given electric shocks. I was forced to sign some papers." (*Gunes*, 11/90)**
- **A 16-year-old boy said that he had been tortured during interrogation after arrest in Antalya for membership in a clandestine organization. (Info-Turk, 11/11/90)**
- **Following a clash between the security forces and members of the PKK in Yenikoy, a village near Mardin, six children were detained and reportedly tortured: Cengiz Koc, 13; Sukru Koc, 13; Bayram Koc, 12; Seyfettin Koc, 15; Nusret Koc, 17; Hasip Adiyaman, 17. (Amnesty International *Urgent Action*, 11/14/90)**
- **Fifteen-year-old Ergazi Yurtoglu claimed he was psychologically tortured and forced to watch others being physically tortured while in detention for eleven days at the Political Police Center after a police raid on Mamak Culture and Research Association in Ankara. (*Gunaydin*, 12/9/90; *Turkey Briefing*, 2/91)**
- **Hatun Ozcelik, a high school student, detained at a May Day rally in Istanbul, said after her release that she had been subjected to electric torture and sexual harassment. (*Info-Turk*, 5/5/91)**
- **Three girls, Husne Kizilkaya (12), Meryem Oral (13) and Munevver Oral (age unreported) from Pinardere village of Savur, Mardin, told the Diyarbakir branch of the Human Rights Association that they were tortured, beaten with sticks and threatened with sexual abuse at Savur Gendarmerie Headquarters. They reportedly said "They threatened us with throwing us to the dogs and impregnating us." They were detained supposedly because they were about to join the PKK. (*Gunes*, 6/2/91)**
- **Four children, one aged 13 and three aged 15, were detained for three days for allegedly "disseminating leaflets on behalf of an illegal organization" in the Gungoren district of Istanbul. The children claimed that they had been beaten in detention. (*Hurriyet-Sahah*, 7/25/91)**
- **After a search of the workplace in Siirt of a member of the Human Rights Association where a PKK leaflet was found, a 10-year-old shop boy was detained at police headquarters and reported that he had been threatened and beaten. (Amnesty International, 8/14/91)**



- Three children, aged 14-16, were detained during a search of a refugee camp in Diyarbakir for selling rosaries in red, green and yellow, the colors of a Kurdish flag associated with the PKK. The children reported that they were tortured in detention. (*Cumhuriyet*, 8/4/91)

- A 16-year-old girl reportedly was tortured during detention in Izmir. She was detained when she refused to tell police the whereabouts of her uncle, Cetin Atci, during a police raid on his home. She reported: "The police held me by the arm, and forced me into a building. They took me in to a room and started to slap me. Although I told them that I did not know where my uncle was, they made me lie down and beat the soles of my feet with a stick. They gave electric shocks to my fingers and toes. They hung me from the ceiling by my hands, and butted out their cigarettes on my back." Eight cigarette burns were found on her back by the Forensic Institute. (Turkish Human Rights Association, 10/4/91)

- Siddik Baz, 14, an office boy at the Diyarbakir branch of the leftwing newspaper *Yeni Ulke*, was reportedly beaten by two plainclothes police officers who stopped him as he was delivering papers, stubbed out their cigarettes on his hand and warned him not to work for *Yeni Ulke*. (Turkish Human Rights Association, 11/4/91)

- Gulsipan Kara, 10, was stopped by police and beaten as she was on her way to Diyarbakir from Bismil, reportedly "because she was wearing a dress of red, yellow and green." Kara said, "When I refused to take my dress off, they tried to take it off by holding my arms. I bit the hand of one of the police officers. Then, they hit my head with the wireless, and cursed me. They beat me, and took my dress by force." (Turkish Human Rights Association, 11/11/91)

Helsinki Watch has also received reports of the torture in detention of children suspected of ordinary crimes:

- Fourteen-year-old Tahsin Capulcu, arrested for theft, was presented to the press at the Grand National Assembly, with traces of torture evident on his body. He reportedly was subjected to *falaka* (beating on the soles of the feet); then interrogators poured hot tea on his head and boiling water on his body. (*Info-Turk*, 5/17/89)

- In Bunyan, Kayseri, four children, ages between 11 and 12, were detained by police for fighting with children of the same age and kept for five hours and reportedly beaten at Bunyan Security Office. Doctors' reports stated that "there were beating marks on their bodies which resulted from being hit by round objects." (*Gunes*, 7/22/90)

- A nine-year-old boy, Omer Teker, was detained for five hours by gendarmes during investigation of a robbery in Kesap, Giresun, and was reportedly tortured. His body was bruised. Gendarmes reportedly gave a bicycle to the boy so that he wouldn't talk. (*Hurriyet-Gunes*, 5/18/91)

In some instances, press reports of detention and torture do not indicate what offenses children have been charged with:

- High school student Duzgun Ali Sanli was tortured while in detention at the Istanbul Political Police Center, and his ribs were broken. Mehmet Ali Eset, who was in detention with Sanli, reported that Sanli became unable to speak and relieve himself. (*Gunes, Gunaydin*, 4/21/91)

- Several students from Galatasaray Lycee in Istanbul said they were beaten by police: Murat Sagman was hit on the head, Devrim Ozgurtas' teeth were broken and his lips were split. The students said: "The police officers started to beat us with wooden sticks. We fled to the school. They entered school with us and continued to beat us." (Turkish Human Rights Association, 7/26/91)

In one case, children stated they had been treated well during detention:

- Two Konya Meram Anadolu Lyce students, both 14, were detained for carrying in their school bags two music cassettes which are sold freely in the market. After their release, they said that they were treated well during their detention. (Turkish Human Rights Association, 10/30/90)

In other cases, newspapers and others have reported political detentions of children without discussing their treatment in detention:

- A high school student was detained in Konya for drawing the emblem of an outlawed Kurdish organization. (*Info-Turk*, 2/90)
- A 14-year-old high school student was detained on March 17, 1990, in Suruc and charged with holding communist propaganda. His teacher reportedly had found a piece of paper on which was written criticism of President Turgut Ozal. (*Info-Turk*, 3/90)
- A 14-year-old girl was detained on May 24, 1990, by police in Izmir for distributing clandestine leaflets. (*Info-Turk*, 5/90)
- A 16-year-old high school student was detained on November 3, 1990, in the town of Akcaabat in the province of Trabzon for participating in an anti-war sit-in and carrying a "No to War" poster. (*Info-Turk*, 11/90)
- Four children, aged 3, 5, 7 and 9, were detained with their father, Edip Oral, when Oral protested war on a street in Iskenderun. They were charged with holding an unauthorized demonstration. The family was later released. (*Dateline*, 11/30/90)
- Selahattin Cengiz, 13 and disabled, was detained when Turkish officials accused him of supplying guerillas with shoes found in his house in the village of Erkent near Pervari. The shoes were leftovers from the grocery store run by Cengiz's father until it was closed down by authorities. (Amnesty International *Urgent Action*, 6/23/91)
- Six high school students, detained on July 16 after reportedly being kidnapped by an "illegal organization," were released by order of the Gaziantep Prosecutor. The students are: Gul Okur, Sevil Karabacak, Ulas Gocmen, Mustafa Kemal Celik, Kazim Ayik and Cihan Dalkaya. (*Milliyet*, 7/25/91)

Some children have been tried and sentenced for political actions:

- A secondary school student, Y.O., was sentenced by the State Security Court of Kayseri to one month and ten days of imprisonment for communist propaganda. The Court of Appeal had

overruled an earlier sentence of one year and six months, passed three years earlier. (*Info-Turk*, 5/20/90)

- The Public Prosecutor sentenced three Kurdish children, aged 11, 12 and 14, to death on July 18, 1990. (*Info-Turk*, 7/90)
- Three youths under the age of 18 were sentenced to 10 months each for participation in demonstrations on May 1, 1989. (*Tercuman*, 10/15/90)
- The death sentence of a 14 year old being held in Diyarbakir was commuted to two years and six months in prison for being member a member of the PKK. His sentence was reduced because of his avowal and minority. (*Gunes*, 12/21/90)
- Orhan Aydin, a minor, was sentenced to death for activities in connection with the PKK. Because of his age, Aydin's sentence was commuted to 16 years and 8 months. (*Info-Turk*, 6/5/91)

In one case, a sentence was reversed:

- The Appeal Court Punitive Office No. 9 reversed the verdict of the Istanbul State Security Court that condemned a 16-year-old student to four years and six months in prison for "being a member of an illegal organization and participating in unauthorized demonstrations." The decision stated that "there was not enough convincing evidence to condemn the suspect" and that "even if an unauthorized demonstration is staged by an illegal organization, participation in such a demonstration does not by itself prove membership in that organization." (*Gunes*, 4/22/91)

In other cases, children continue on trial for political offenses:

- The trial began of 155 people detained during popular demonstrations in Cizre, one of whom was 14 years old. (*Info-Turk*, 5/22/90)
- Six high school students were brought to trial in Istanbul for violating Article 141/5, for "being members of an illegal organization" and "distributing leaflets". The students had been in custody for seven months, and 14-year sentences were requested for each. (*Cumhuriyet*, 6/24/90)
- Seven high school students, aged between 15 and 18, were indicted by the State Security Court for affiliation to an underground organization and disseminating its material. They faced prison terms of up to 14 years each. After two months in detention, they were released on bail. (*Info-Turk*, 6/27/90)
- Two high school students, both 15 years old, were brought before the State Security Court of Istanbul on charges that they were carrying Molotov cocktails during the May Day incidents in 1990. (*Info-Turk*, 8/14/90)
- Two 17-year-old students at the Technical Vocational School in Akhisar who tried to open a mosque in the school and who read banned religious publications, went on trial in Izmir. According to the accusation, the students "propagandized in favour of the *sheria* (islamic law) order." They faced jail sentences of up to five years. (*Gunes*, 10/31/90)

- The trial began of a 16-year-old girl accused of hanging an anti-war poster in a market place in Esenler, Istanbul. She claimed that she did not hang the poster. (*Milliyet*, 12/23/90)
- The prosecution demanded the death penalty for a 16-year-old girl accused of "undertaking activities on behalf of the PKK in and around Izmir." (*Cumhuriyet*, 1/30/91)
- Two 15-year-old high school students, arrested two months earlier for "distributing leaflets on behalf of the illegal Dev Sol (Revolutionary Left) organization in Canakkale," were prosecuted in the Istanbul State Security Court. Up to 25 years in prison were sought for the students. (*Gunaydin*, 8/11/91)
- The trial began of a 16-year-old high school student who "wrote political slogans on the wall of Uskudar High School." The student says he did not write the slogans. He was prosecuted without being detained. The hearing was adjourned to a later date. (Turkish Human Rights Association, 9/17/91)



# **TURKISH LAW CONCERNING OFFENSES BY CHILDREN**

## **CRIMINAL OFFENSES**

**Turkish law governing ordinary criminal offenses by children is found in the Penal Code and in Law 2253, enacted in 1979 and effective as of 1982, which established the children's courts.**

**Article 53 of the Penal Code provides that children under the age of 12 are not prosecuted for misdemeanors. But if a felony (a crime requiring a sentence of one year or more) has been committed, a chief justice can order a child sent to an institution until he or she is 18, or can leave the child in the custody of parents or guardians who are warned that they will be fined if found responsible for the child's committing another felony.**

**Article 54 provides that children between the ages of 11 and 15 (some overlap with Article 53) are not punished if they did not understand the nature of their acts. If the child knew s/he was committing a crime, s/he will receive half of the sentence an adult would receive for that crime. In addition, the death penalty would be reduced to a minimum of 15 years, and a life sentence to between 10 and 15 years. Sentences are to be served in a reformatory.**

**Article 55 provides for reductions in sentences for children between the ages of 16 and 18. A death sentence is to be reduced to 20 years; life imprisonment to 15 to 20 years. Other sentences are to be reduced by not more than one-third. The children are to be incarcerated in reformatories or in special children's sections of adult prisons. At 18, a child is to be transferred to an adult prison or section.**

**Law 2253, the Law for the Establishment of Children's Courts which went into force in 1982, set up such courts for the first time in Turkey. It provides for the treatment of children between the ages of 11 and 15, but has a few provisions relating to children under 11 and between 16 and 18.**

**The law requires that each city or town with a population of 100,000 or more set up children's courts within five years; a 1988 amendment postponed the date until 1992. Until the establishment of such courts, children are to be tried in adult criminal courts as they have always been.**

**The law provides that crimes committed by children between the ages of 11 and 15 may be investigated and punished. A crime committed by a child under 11 may be investigated, but the child cannot be interrogated or punished. A court can, however, order placement of such a child. Before any child is sentenced, a social investigation must be carried out by experts.**

**While a crime is under investigation, a child can be placed with an institution, with a family, an organization, or a hospital. After conviction, a child must be incarcerated in a children's penal institution, or, if that is not possible, in the children's section of an adult prison.**

**On the face of it, the law contains a number of serious problems:**

- **no warrant is necessary,**
- **police are not required to notify parents or allow access to an attorney,**
- **there are no procedural safeguards to guarantee a child due process of law,**

- there is no time limit within which a child must be sent to children's court,
- no consideration is given to diverting a child from the criminal justice system,
- the length and manner of detaining a child can be the same as for an adult, and
- there is no provision for alternative sentencing outside of an institution.

Helsinki Watch met with a number of lawyers who represent children in children's and regular courts and who are advocating and, in some cases, working for changes in the law.

Aynur Tuncel, who is the president of the Children's Commission of the Turkish Human Rights Association, told Helsinki Watch that although children's courts were to be set up by 1987, at present there are only five in all of Turkey: two in Istanbul, one in Ankara, one in Trabzon and one in Izmir. The second court in Istanbul was set up in 1991 and has no social workers or similar personnel. The first has only one teacher, one social worker and one psychologist. She believes these auxiliary services are totally inadequate.

The law itself, she believes, has serious drawbacks. First, it covers children only through the age of 15; children who are 16 and 17 must go to adult courts. She believes the law should extend to age 18, as required by the United Nations Convention on the Rights of the Child, which was signed by Turkey on September 14, 1990, but has not been ratified by the parliament (the Turkish Grand National Assembly).

She believes that the law contains a major deficiency in that the only punishment that can be prescribed after conviction is a prison sentence, albeit shorter than an adult's would be. There is no provision in the law for alternative sentences like time in a halfway house, or at home or on a job with special supervision or rehabilitative measures. She believes that children who serve time in children's reformatories or in children's sections in prisons commit worse crimes on release than they did before being sentenced. She and other attorneys told Helsinki Watch that several private, nongovernmental groups have been trying to set up rehabilitative services for children, but that the Ministry of Justice won't grant them permission.

Ms. Tuncel also believes the law should require that children be represented by lawyers. Article 25 provides that the children's court shall be closed; a lawyer is permitted in the court to represent the child only if a judge allows it. Permission is usually granted, but a judge has discretion to refuse entry to a lawyer.

Ms. Tuncel stated that a child who appears in children's court has a permanent record which is not expunged, even if the child is acquitted; she believes that the law should require expungement.

Her commission, the Children's Commission of the Human Rights Association, recommends that the present system whereby a child is tried before a three-judge panel, as in the adult criminal court, be changed to require that at least one of the decision-makers be a psychiatrist, social worker or psychologist, as is presently done in France, Italy and Germany.

In addition, she recommends special training for judges, police, prosecutors and others who deal with children in trouble with the law. At present, such training does not exist. And there should be added social personnel. In her view, rehabilitative and treatment facilities are either inadequate or non-existent, depending on the region in which the child is detained.

**Ms. Tuncel reports that Articles 14 and 21 of the law are never applied. Article 14 provides that before a child is taken to court, preventive measures can be taken, but she says that this is never done. Article 21 provides that where a prosecutor finds during investigation that a child has no family or guardian, s/he may go to a judge and seek protection for the child instead of bringing a court case. This too never happens in practice. There is, of course, a serious problem of cost—to set up the services, group homes and institutions necessary would require considerable sums of money.**

**Lawyer Betul Onursal, who works with the Women's Bar Association and the Istanbul Bar Association on issues concerning children in trouble with the law, reported that there are thousands of children in Istanbul without homes or families. She believes that some of them become criminals because there is nowhere for them to go and no protection for them. She believes that the children's court cannot stand alone—it needs the help of social services. There is a Social Services Law that sets out protections for children, but she reported that the law is not carried out in practice.**

**Attorney Nuran Yavuz points out that lawyers need special education and help in dealing with children's legal problems. According to Article 176 of the Lawyers' Law, lawyers must take on certain poor defendants. The Istanbul Bar Association asks lawyers to represent poor children, but not all lawyers do. Municipalities are supposed to pay for this representation, but it never happens; lawyers are not even reimbursed for their expenses. She believes that in Istanbul all children are represented by lawyers, but that in other parts of the country they are not. There is no government or non-profit group that provides legal representation for children.**

**Judge Kenan Aysan, the presiding judge in the first children's court in Istanbul, told Helsinki Watch that the Istanbul courts handle well over 1,000 cases a year. At the beginning of 1991, there were 1,477 cases in the courts. By October 25 of this year, 542 cases had been opened. Eight hundred twenty-three cases have been decided so far this year. "We can't pay as much attention to each case as we should," he said. "The average time spent on a case is 10 or 15 minutes; of course serious cases, like murder, could take an hour and a half." He believes that additional courts should be opened, in Istanbul as well as throughout Turkey.**

**Judge Aysan echoed the lawyers' call for special institutions for children. He said that the basic infrastructure is lacking; some preventive institutions exist, but they are not of good quality, and there are not enough of them.**

**He also believes there should be specially-trained police for children's cases. And he believes alternative forms of sentencing should be possible: "The law doesn't allow me to place a child somewhere other than in a reformatory or a children's section in an adult prison." He believes that another court should be created—a "Youth Court" that would handle cases of children between 15 and 18 who are accused of criminal acts. He believes that they should be tried under special conditions as well, and not tried as adults are.**

**Asked about the incidence of children alleging in court that they had been physically abused by police, Judge Aysan said that children will sometimes say that they were frightened by police, but that it is uncommon to hear complaints of torture. Children have told him that they were slapped, or threatened with a beating, but he said he has heard no complaints of falaka, the Palestine hanger or electric shock. He said that as a matter of policy, he never condemns a child with only the testimony s/he gave at police headquarters; he always requires supporting evidence in order to convict a child. "If the case is doubtful, I**



**resolve the doubts in favor of the child and acquit." He emphasized that police abuse is illegal; a policeman can be fired for torturing someone. Law 657, the Civil Servants' Law, proscribes torture or physical abuse.**

**Asked about how often children appearing in his court are handcuffed, Judge Aysan said he does not allow handcuffs or harsh behavior toward children in his courtroom.**

**I am opposed to chaining and handcuffing children; unfortunately, I know they put handcuffs and chains on children when they bring them to court. The gendarmes tell us the children would run away, but that argument doesn't impress me. The gendarmes are under the authority of the Minister of the Interior. Some other children's court judges and I wrote to the Istanbul State Prosecutor a year and a half ago, asking him to forward the letter to the Minister of the Interior. We said that children 15 and under are special cases, and should not be treated as adults with handcuffs and chains. We never heard anything. Of course, as civil servants, we cannot take political positions.**

## **POLITICAL OFFENSES**

**Children charged with political offenses are not taken to children's court, but to State Security Court, which has jurisdiction in political cases. There is no separate children's section, and children are not treated differently from adults. They can be charged with offenses for which adults are prosecuted--including such offenses as insulting the president or the military; distributing communist, separatist or Kurdish propaganda; taking part in an unauthorized demonstration; or disseminating leaflets for or being members of an illegal organization.**

**Children and adults are prosecuted under various sections of the Penal Code, as well as the Anti-Terror Law passed in April 1991. The definition of terrorism in the Anti-Terror Law is so broad that anyone can be charged with terrorism. Article 1 states:**

**Terrorism is any kind of action conducted by one or several persons belonging to an organization (two or more people) with the aim of changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation, endangering the existence of the Turkish State and Republic, weakening or destroying or seizing the authority of the State, eliminating fundamental rights and freedoms, or damaging the internal and external security of the State, public order or general health by any one method of pressure, force and violence, terror, intimidation, oppression or threat.**

**Article 8 of the Anti-Terror Law is the mechanism most often used; it states:**

**Written or spoken propaganda, assemblies, demonstrations and marches with the aim of damaging the indivisible unity of the state with whatever means, aim or philosophy, are prohibited. Those carrying out such activities will be punished by a sentence of between two and five years and a fine of between 50 and 100 million Turkish lira [between about \$10,000 and \$20,000].**

**In theory, both children and adults are entitled to see an attorney as soon as they are detained. President, then-Prime Minister, Turgut Ozal issued a decree in September 1989 granting detainees immediate access to attorneys. But defense attorneys tell Helsinki Watch that this decree is almost never**

**carried out. Attorney Kamil Tekin Surek, who has represented many children at State Security Court, told Helsinki Watch that in the 15 cases that he has handled since President Ozal's directive, he has been given immediate access to only one child.**

**Mr. Surek said:**

**Lawyers need the prosecutor's permission to see clients in detention; this can take a long time. Generally, the prosecutor eventually grants permission to see the client--for only 10 minutes--but then the police give lawyers a very hard time when they try to see the detainee. And when the lawyer finally sees the client, usually after waiting an hour or so, police are present during the interview. Police tell the lawyer, "If you say anything that would hurt our investigation, we will stop the interview." So it means we can't ask the client anything more than, "How are you? How is your health? Do you need anything?" We can't even ask what the client has been charged with. And of course we can't ask clients anything about whether they have been tortured.**

**Also, sometimes the police say that the client doesn't want to be interviewed. Or they'll say that the interrogating team, which is usually present during the interview with the client, isn't there, or had a rough night and is too tired to bring the client down. All of this varies somewhat with the political climate of the country--during the recent operations against Dev Sol we couldn't talk to clients at all.**

**The Istanbul Bar Association has tried to change this, and has sent about 60 different petitions to the Prime Minister, the Minister of Justice and the Istanbul State Prosecutor. I went with a group of lawyers to the Istanbul Chief Prosecutor, who wouldn't see us. But we saw an aide, who told us that the Chief Prosecutor had no authority over the State Security Court Prosecutor. Four lawyers then went to the Chief Prosecutor of the State Security Court, Birol Kiziltan. He said the regulations were printed on a form, and there was no way he could change them. The lawyers told him that was simply a directive, and not the law, and that he did have the authority to change the directive. But nothing has happened.**



## **REQUIREMENTS OF INTERNATIONAL LAW**

**International law unequivocally forbids torture. Article 7 of the International Covenant on Civil and Political Rights, which Turkey has not yet ratified, states: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 3 of the European Convention on Human Rights, which Turkey has ratified, has almost identical language. Both the ICCPR and the ECHR contain provisions forbidding a country from derogating from the anti-torture provisions even in a time of public emergency that threatens the life of the nation.**

**Turkey has signed and ratified both the United Nations and the European conventions against torture. Article 1 of the UN Convention defines torture as:**

**any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity....**

**Under Article 2 of the U.N. convention, "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for torture."**

**The United Nations Code of Conduct for Law Enforcement Officials states in Article 5 that "No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment..."**

**In addition to these international agreements and codes forbidding torture, the United Nations has issued special declarations and standards for the treatment of children.**

**The United Nations Declaration of the Rights of the Child (1959) states in Principle 2 that "the child shall enjoy special protection." The United Nations Convention on the Rights of the Child (UNCRC) (1989; in force since September 2, 1990) defines a child as a person below the age of eighteen.**

**Article 2 of the UNCRC declares that**

**States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's... political or other opinion...**

**Article 3 (3) declares:**

**States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as**

**competent supervision.**

**The Convention also declares that children have the right to freedom of expression (Article 13), freedom of thought, conscience and religion (Article 14), freedom of association and peaceful assembly (Article 15), and protection from sexual abuse (Article 34).**

**Article 37 declares that:**

**(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment ....**

**(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;**

**(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;**

**(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.**

**In accordance with Article 40, every child accused or convicted of infringing the penal law must be treated in a manner consistent with the promotion of the child's sense of dignity and worth. Article 40 goes on to guarantee due process rights to children, including the presumption of innocence; the rights to be informed promptly of the charges and to have appropriate legal assistance; to have a hearing without delay by an impartial judicial body; not to be compelled to give testimony or confess guilt; to examine witnesses; to obtain judicial review by an impartial body; and to have his or her privacy fully respected at all stages of the proceedings.**

**Article 40 goes on to state that**

**A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.**

**Turkey has signed but not ratified the UN Convention on the Rights of the Child.**

**In 1986, the United Nations issued Standard Minimum Rules for the Administration of Juvenile Justice. These rules lay out a comprehensive and detailed outline for the treatment of children in trouble with the law. The guiding principles set forth include:**

- **Proportionality; the reaction to juvenile offenders shall always be in proportion to the circumstances of both the offender and the offense (5.1).**
- **Minimal restrictions on the personal liberty of the child (17.1(b)).**
- **Institutionalization as a last resort and for the minimum necessary period. No incarceration unless the child has been convicted of a serious act involving violence against another person or persistence in committing other serious offenses (17.1(c), 19.1).**
- **No capital or corporal punishment for children (17.2-3).**
- **Expeditious handling of cases without unnecessary delay (20.1).**

**Specifically, the rules call for:**

- **Specially qualified and trained personnel who can use discretion in dealing with children and be held accountable for their acts (6.1-3).**
- **Procedural safeguards guaranteeing due process rights (7.1).**
- **Protection of the child's privacy (8.1).**
- **Immediate notification of the child's family (10.1).**
- **Judicial consideration of release without delay (10.2).**
- **Avoidance of harm to the child (10.3).**
- **Consideration to diverting the child from the criminal justice system (11.1-3).**
- **Special training for police who deal with children (12.1).**
- **Use of detention pending trial only as a last resort and for the shortest possible time; the use of alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home (13.1-2).**
- **Guarantee to children of all rights set forth in the UN Standard Minimum Rules for the Treatment of Prisoners (13.3).**
- **Detention of children apart from adults (13.4).**
- **Provision of care, protection and assistance to children in custody (13.5).**

- **Representation by an attorney (15.1).**
- **Participation by the child's parents in the proceedings (15.2).**
- **Social investigation before sentencing (16.1).**
- **Provision of a large variety of disposition measures to avoid institutionalization, including care, guidance and supervision orders; probation; community service orders; financial penalties, compensation and restitution; treatment orders; group counselling orders; foster care or other educational settings. No removal from parental supervision unless absolutely necessary. (18.1-2)**
- **Records to be kept strictly confidential and not used in adult proceedings in subsequent cases involving the same offender (21.1-2).**
- **Professional education, in-service training and other instruction for personnel dealing with children's cases (22.1).**
- **Children in institutions to be kept separate from adults (26.3).**
- **Right of access to an institution by parents or guardians (26.6).**
- **Adequate academic or vocational training for children in an institution (26.6).**
- **Use of conditional release from an institution to the greatest possible extent with proper supervision and assistance in the community (28.1-2).**
- **Provision of half-way homes, educational homes and day-time training centers to assist a child to reintegrate into society (29.1).**

## **TURKEY'S FAILURE TO COMPLY WITH INTERNATIONAL AGREEMENTS AND STANDARDS**

**Turkey has clearly failed to meet international agreements and standards in its treatment of children. Children are routinely tortured. No outsider is present during the interrogation of children at police stations.**

**Torture and mistreatment are carried out without witnesses, but the internal consistency of the dozens of stories of torture that children with no connections to each other have told, combined with the reports of lawyers and human rights activists, is convincing testimony that torture of children does, indeed, exist. And some of the torture is of a particularly horrifying kind: Palestine hanger, electric shock, falaka, insertion of a truncheon into a child's rectum. Children are thus not only deprived of the protection by the state to which they are entitled, but officials of the state deliberately inflict pain on them. Helsinki Watch has received no indication that the Turkish government has acknowledged the repetitive frequency of this treatment or made any real effort to stop it.**

**Children of 16 and 17 who are accused of ordinary crimes are tried in adult courts; children of 11 and over who are accused of political offenses are tried in adult courts.**

**In addition, children are detained with adults in police stations and, in the case of political suspects, with adults in adult prisons. And some of these detentions are for long periods of time--three months, for example.**

**The conditions in which children are detained in police stations are appalling -- cells that are bare or contain only a filthy mattress, little light, no food unless the child has money to buy it, infrequent access to a toilet.**

**Parents are not notified by police when a child has been detained, and have difficulty seeing the child once they do find out where he or she is being held.**

**Children rarely have access to lawyers while in pre-trial detention.**

**Many children are detained, tried and sometimes convicted for crimes of thought--hanging up posters or distributing leaflets expressing a point of view--or for taking part in meetings or demonstrations.**

**Courts lack adequate support services like psychologists, psychiatrists, and social workers.**

**No alternative sentencing is available for children; conviction requires an institutional sentence.**

**Police records of children's detentions are kept, even if a child has been acquitted or, in fact, was never charged.**





## **RECOMMENDATIONS**

**Helsinki Watch recommends that the government of Turkey:**

- **End all torture of children immediately.**
- **Investigate all allegations of torture of children.**
- **Take appropriate disciplinary steps, including dismissal and criminal charges against all personnel responsible for torture, including supervisory personnel.**
- **Order police to notify families immediately of a child's detention.**
- **Order immediate access to attorneys for detained children.**
- **Raise the upper age limit of the children's court law to 17.**
- **Ensure speedy trials for children.**
- **End detention of children in adult facilities.**
- **Establish separate and adequate detention facilities for children suspected of ordinary crimes.**
- **Provide adequate support services to courts.**
- **Sentence children to institutions only as a last resort and for the minimum time possible.**
- **Stop incarcerating convicted children with adults.**
- **Provide special training for judges, lawyers, court personnel, police, social workers and others in the juvenile justice system.**
- **Expunge the records of children who have been acquitted or not charged; do not allow the records of convicted children to be used in adult proceedings against them.**
- **Comply with the principles and requirements of international law and standards regarding the treatment of children.**

**In addition, Helsinki Watch urges the government of Turkey to stop detaining and charging children for crimes of thought, association and assembly.**

**Helsinki Watch recommends that the government of the United States strongly condemn the torture of children in Turkey and use its best efforts to persuade the government of Turkey to follow the recommendations listed above. Helsinki Watch also strongly urges the administration, as required by**

**Section 502B of the Foreign Assistance Act, to state clearly what, if any, extraordinary circumstances warrant provision of military and economic assistance to Turkey in light of its consistent pattern of gross violations of human rights.**

## **APPENDIX A**

### **United Nations Declaration of the Rights of the Child**



## **APPENDIX B**

### **United Nations Convention on the Rights of the Child**

## **APPENDIX C**

### **United Nations Standard Minimum Rules for the Administration of Juvenile Justice**