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Turkey: Human Rights Concerns in the Lead up to July Parliamentary Elections

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Introduction

On July 22, 2007, Turkish citizens will go to the polls to elect a new parliament. These elections, which were initially scheduled for the late fall, are taking place in a climate of growing political tension and uncertainty in Turkey. The parliamentary elections were moved forward to July after a failed attempt by the governing Justice and Development Party (AKP) to get its candidate for president elected by the parliament. The parliamentary vote was annulled by a controversial Constitutional Court decision—the first such annulment in Turkey’s history—that came only a few days after the Turkish military had intervened in the political debate, raising serious concerns that the military’s intervention may have influenced the court’s decision.

Tensions in Turkey are, however, broader than just the political controversies surrounding the presidential vote. The annulment of the vote was the culmination of growing polarization between the military and elements of the state bureaucracy on the one hand and the AKP government on the other. A series of mass rallies in Ankara, Istanbul, Izmir, and most recently, on May 22, Samsun focused anti-government and Turkish nationalist sentiment. Armed clashes between the Turkish military and the Kurdistan Workers’ Party (PKK) have recently escalated, and a suspected PKK suicide bomb in May targetted civilians in Ankara. There also appears to have been an escalation in violence by nationalist groups over the past year. The reform process that had brought significant human rights improvements in recent years has stagnated.

This briefing paper documents some of the key current human rights concerns in Turkey, including the ongoing influence of the military in the political arena, notorious restrictions on freedom of speech, the harassment and prosecution of Kurdish political parties, and ongoing problems of impunity for state officials. The coverage is not meant to be comprehensive, but to underscore some of the abuses that appear to have been exacerbated by the pre-election climate in Turkey and/or to have had implications for the election period, or those that have long featured as a prominent component of the reform agenda.

Much is at stake in the July elections: the future of democratic and human rights reforms as well as Turkey's prospective membership in the European Union (EU) will depend in large part on the new Turkish government's commitment to reversing these negative trends and implementing long-awaited reforms. In the post-election period it will be crucial for both the Turkish government and the EU to make a commitment to reinvigorate human rights reform in Turkey.

Human Rights Watch urges the new Turkish government that will be formed after the July elections to affirm its commitment to pursue human rights reforms as a matter of priority, and quickly move to set a timetable for implementing key reforms that are necessary to consolidate past progress. Human Rights Watch also calls on the EU and other relevant actors from the international community to take a clear and unequivocal stand in support of consolidating human rights reform in Turkey and to take the necessary policy steps to reinforce this message.

Background

The parliamentary elections were called early in Turkey after a political impasse caused the parliament to be unable to elect a new president in two rounds of voting in late April and early May, as current President Ahmet Necdet Sezer's term was about to expire. Current Foreign Minister Abdullah Gül, of the ruling AKP, was the government's presidential candidate.

The Turkish military, which had in recent years refrained from direct involvement in politics, has grown vocal in claiming that the AKP government poses a fundamental threat to the secularist order in Turkey and that it favors Islamist ideology over Turkish nationalism. The military issued an unsigned statement on April 27, underscoring its concerns and making clear that the military is ready to intervene "when necessary"—without specifying how—as the "defender of secularism."¹ Only a few days later, Turkey's Constitutional Court annulled the first round of the parliamentary elections for a new president, ruling that a quorum of two-thirds (367

¹ "Basın açıklaması BA 08/07" ("press release BA 08/07": unsigned), website of the Office of the General Chief of Staff (Ankara), April 27, 2007, http://www.tsk.mil.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_Basin_Aciklamalari/2007/BA_08.html (accessed on July 17, 2007).

out of 550) of all members of parliament was required. The court's controversial decision—the first time in its history that it had annulled a presidential election—effectively blocked the election of Abdullah Gül, who had received 357 votes (of 361 present) in the first round. Gül was ultimately forced to withdraw his candidacy after the opposition boycotted a second round of voting on May 2, thereby preventing the necessary quorum, and early parliamentary elections were then scheduled for July 22.

In claiming that the secularist order is under threat, the military specifically appears to fear the prospect that a president drawn from the ranks of the AKP would oversee the de-secularization of state institutions: presidents in Turkey play an important role in the appointment of the senior state bureaucracy (with the power to influence boards such as the Higher Education Council, and the judiciary). In its stance toward the AKP government the military has been supported by elements of the state bureaucracy as well as by the opposition Republican People's Party (CHP).

The AKP government rejects the military's characterization and denies that it has any hidden Islamist agenda. Government officials point to the fact that since the AKP came to power in November 2002—the first party in 11 years to be able to form a government alone—it has overseen important reforms, including significant human rights reforms, and brought Turkey closer than ever before to EU membership.

After years of gross abuses committed by state forces and armed opposition groups, Turkey became a candidate for EU membership in 1999 and carried out important human rights reforms between 2002 and 2005. This resulted in significant improvement in the country's human rights record. The reform process was driven partly by Turkey's quest for EU membership, but also by growing domestic pressure for greater protection and empowerment of all citizens in Turkey. In the past two years, however, this reform process has faltered and been accompanied by a worrying deterioration in Turkey's human rights record.

The reform process in Turkey was never expected to be straightforward or rapidly achievable. A number of laws and provisions in the constitution, such as those that continue to restrict freedom of expression and have a particularly harmful impact on Turkey's minorities, remain in place despite repeated calls for their repeal. Such laws

represent an obstacle to further democratization in Turkey. The systemic failings of state institutions pose an even greater obstacle to reform. Turkey's judiciary lacks independence, and elements of the judiciary and other state institutions remain strongly resistant to reform.

There are also troubling indications that the Turkish armed forces and armed opposition groups, notably the Kurdistan Workers' Party (PKK), are deliberately trying to undermine the reform process. In 1999, after the capture of PKK leader Abdullah Öcalan, the PKK declared a ceasefire. The ceasefire ended in 2004, followed by a gradual resumption of armed clashes, although not a return to pre-1999 levels. In 2006 the number of armed clashes rose, but dropped again after the PKK renewed its ceasefire in October. In 2007 the number of armed clashes has risen once again: according to official figures, 64 military personnel were killed in the first six months of 2007, and the PKK reported that 96 of its members were killed in the same period. The number of clashes and ensuing deaths is significantly higher than for the same period in the previous year. The PKK has apparently also renewed violent attacks on civilians. Most recently, on May 22, a suspected PKK suicide bombing killed eight civilians and injured over 100 in a busy shopping district in Ankara. Such violence has inevitably increased political tensions in the pre-election period and risks further undermining the Turkish population's trust in the democratic process and human rights reforms.

During the period 1999 to 2005 Turkey's EU accession process provided an important incentive for reform, resulting in significant legislative changes and a reduction in reports of torture. Today, however, some EU member states appear to be wavering in their commitment to Turkey's EU candidacy or are explicitly intent on reversing the EU Council of Ministers' December 2004 decision to open membership negotiations. German Chancellor Angela Merkel has proposed a "privileged partnership" as an alternative to full membership, while newly elected French President Nicholas Sarkozy has clearly and repeatedly stated—without relating the issue to human rights reform—that Turkey does not belong in the EU.² Recent

² "Frances snubs Turkey on EU talks", BBC News 24 website (London), June 25, 2007, <http://news.bbc.co.uk/1/hi/world/europe/6238526.stm> (accessed July 18, 2007).

equivocal signs from the EU, which some believe is applying a double standard to human rights in Turkey, have undermined the reformists in Turkey and may have strengthened the hand of those opposing reform. What is more, such equivocation may undermine the leverage that the EU might otherwise have to promote human rights progress in Turkey. Human Rights Watch believes that the EU should send a strong message to Turkey that it can and will be accepted for membership as soon as it fulfills the main criteria set by the EU for all candidate countries. Keeping Turkey's candidacy on track remains an important means of securing fundamental and hopefully irreversible progress on human rights.

The Implications for Human Rights of Military Influence in the Political Arena

The most recent efforts by the military to interfere in politics and exert pressure on the democratic process are a matter of concern to all who have supported human rights reform in Turkey in recent years, and are particularly worrying in the polarized political climate of the pre-election period.

The military's growing influence in politics is evident in three statements issued between April and June. At a press conference on April 12, General Chief of Staff Yaşar Büyükanıt emphasized the need for a military incursion into northern Iraq in order to destroy the base of the PKK, and strongly called into question the AKP government's secularist credentials.³ Then, unsigned memoranda were posted on the website of the Office of the General Chief of Staff on the night of April 27, after the first round of voting in parliament for a new president (as noted above), and again on June 8,⁴ emphasizing what it regarded as the deep threats posed by religious fundamentalism and terrorism, asserting the military's secularist and Turkish nationalist stance, and issuing veiled warnings to the AKP government.

³ "Büyükanıt'ın konuşmasının tam metni" ("Full text of Büyükanıt's speech"), *Hurriyet* newspaper website (Istanbul), April 12, 2007, <http://www.hurriyet.com.tr/gundem/6321761.asp?gid=0&srid=0&oid=0&l=1> (accessed July 17, 2007).

⁴ "Basın açıklaması BA-13/07" ("Press release BA-13/07": unsigned), website of Office of General Chief of Staff, June 8, 2007, http://www.tsk.mil.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_Basin_Aciklamalari/2007/BA_13.htm (accessed July 17, 2007).

The timing of the April 27 statement raises particularly serious questions about the military's influence in the political arena. As already noted, after the first round of voting, which was boycotted by the opposition CHP and the Motherland Party (ANAP), 361 votes were cast (of which 357 supported Abdullah Gül). That same day, the CHP applied to the Constitutional Court seeking annulment of the vote for lack of a two-thirds quorum. The military's strongly worded message was made public the same evening that the petition was submitted to the court and came just days before the Constitutional Court was due to rule on the case.

The court's decision upholding the CHP's petition was disputed by most jurists who commented on it in Turkey, who pointed out that no such quorum requirement could be found in the Turkish constitution. The timing of the military's message created a perception of inappropriate influence on the court and, given Turkey's long-standing problems with the independence of the judiciary, lends credence to suggestions that the court's decision was not arrived at in an impartial or independent way.

The third statement by the Office of the Chief of Staff on June 8 was also disturbing because it referred to human rights defenders and others critical of state authorities as synonymous with supporters of terrorist organizations. It stated, "It is now time to start to see the true face of the individuals and organizations in the country and outside that at every opportunity use lofty human values like peace, freedom and democracy to screen the terrorist organization." The statement suggests that human rights defenders are working for the PKK, condemns critics of "the national and unitary structure" of the country, and calls on "the great Turkish nation" to demonstrate its "mass oppositional reflex" to terrorism.⁵ In the tense pre-election climate, against a backdrop of rising political violence, and in a period that has witnessed a number of violent attacks or threats of attacks against minority representatives and others perceived as critical of state policies, such a statement risks being interpreted by some as tacit state encouragement for violence against those perceived as not sufficiently loyal to the Turkish state.

For the population of Turkey such interventions by the military are alarmingly familiar—Turkey has a history of military interference in civilian politics, including

⁵ Ibid.

four coups since its founding as a modern republic. Turkish citizens remember well the serious human rights violations that followed the 1980 coup. More recently, in what has been called the “post-modern coup,” the military issued a memorandum in 1997 that resulted in the collapse of the coalition government then in power and the eventual closure of the conservative-religious Welfare Party. Given this history, the recent statements by the Office of the Chief of Staff are especially troubling to those who support genuine human rights and democratic reform in Turkey, regardless of whether they are supporters or critics of the AKP government.

It is unclear at this point what the longer-term impact of military influence in Turkey might be, whether it will be sustained, and the extent to which it will have wider repercussions for human rights reforms. However, Human Rights Watch is concerned that the military’s overt pressure over the issue of the presidential elections has interfered with the democratic process, and takes the position that in a democracy there is no place for military pressure on an elected government. The role of the military is to serve the people’s choice of elected leaders, not to substitute its judgment on political matters for the will of the people.

Human Rights Watch is also concerned that military influence in this period may have had a chilling effect on free speech and press freedom (see discussion on freedom of expression below). One recent case, in particular, underscores the pressure for self-censorship in the current environment in Turkey, in which the military does not hesitate to make its views and expectations known, and state institutions function to reinforce those views and to defend the interests and reputation of the military.

In late April 2007 the Turkish military prosecutor initiated a wide-ranging police search of the offices of the news and current affairs magazine *Nokta*, which had gained a reputation for pursuing serious investigative journalism and had recently run three investigative stories about the military. During a three-day search of *Nokta’s* offices, on April 13-15, all of the magazine’s documents and computer hard disks were copied.

The military prosecutor issued the search warrant on the basis of an article published by *Nokta* on April 5 examining alleged links between the Office of the Chief of Staff and some civil society organizations.⁶ This article was of great topical interest given that large anti-government rallies were then being organized by some civil society organizations. *Nokta* reproduced, as the main source for the report, a 2004 document alleged to come from the intelligence department of the Office of the Chief of Staff that revealed the military's links with some civil society organizations and universities, and *Nokta* questioned whether in the present situation there were also elements of civil society that were not really "civilian."

Moreover, during a press conference on April 12, one day before the start of the police raid, General Chief of Staff Büyükanıt had referred to reports by *Nokta* (although he did not mention the magazine by name) of alleged plans for two military coups in 2004.⁷ In its March 29 issue, *Nokta* had published parts of a journal allegedly kept by former Naval Commander Özden Örnek describing these plans.⁸ Without refuting such allegations, the chief of staff denied that evidence of such plans could be found in the archives of the Office of the Chief of Staff.

Immediately after the police raids, *Nokta's* editor, Alper Görmüş, and the magazine's journalists stressed that they were committed to continue working despite the pressure they were under and that they were prepared to defend themselves fully in court if prosecuted.⁹ However, on April 21, Alper Görmüş announced that the magazine's owner, Ayhan Durgun, had decided to stop publication and close *Nokta* down.¹⁰ Although he made no formal statement, Ayhan Durgun was widely quoted in

⁶ "Günümüzde sivil eylemler ne kadar sivil?" ("How civilian are the civil [society] demonstrations today?"), *Nokta* magazine, (Istanbul), April 5, 2007.

⁷ "Büyükanıt'ın konuşmasının tam metni" ("Full text of Büyükanıt's speech"), *Hürriyet* newspaper website (Istanbul), April 12, 2007, <http://www.hurriyet.com.tr/gundem/6321761.asp?gid=0&srld=0&oid=0&l=1> (accessed July 17, 2007).

⁸ "Hayret verici ayrıntılarıyla Sarıkız ve Ayıışığı. 2004'te iki darbe atlatmışız!" ("Sarıkız and Ayıışığı in shocking detail. We narrowly escaped two coups in 2004!"), *Nokta* magazine (Istanbul), March 29, 2007.

⁹ "Nokta Dergisi'ne polis baskını; Bütün bilgisayarlar el konuldu" ("Police raid on Nokta magazine; all computers seized"), *Yeni Şafak* newspaper (Istanbul), April 13, 2007.

¹⁰ Alper Görmüş, "Alper Görmüş'ün açıklaması" ("Statement by Alper Görmüş"), webpage of now-closed *Nokta* magazine (Istanbul), April 21, 2007, <http://www.habernokta.com/detay.php?id=4766> (accessed July 17, 2007).

the press as having said that he felt desperate and unable to stand the “slander.”¹¹ No other backer was found for the magazine.

Following the magazine’s closure, Alper Görmüş was charged with insult and libel (under articles 267 and 125 of the Turkish Penal Code, TPC), and faces a possible prison sentence of over six years, for publishing the excerpts of the alleged journal of Naval Commander Örnek in the magazine’s March 29 issue. *Nokta* journalist Ahmet Şık and defense expert journalist Lale Sariibrahimoğlu were also indicted on May 7 under TPC article 301 for “insulting the armed forces” in connection with an interview Şık conducted with Sariibrahimoğlu, published on February 8.¹² At the time of writing, it is not clear whether charges will be brought against *Nokta* staff as a result of documents collected during the April 13 police raid.

Retrograde Human Rights Trends and Stagnation of the Human Rights Reform Process

As noted above, the reform process that resulted in significant human rights improvements between 2002 and 2005 has stagnated in the last two years, and there have been a number of negative trends. In the following section, Human Rights Watch documents some of the key current human rights concerns in Turkey. This section is not meant to be comprehensive, but to underscore those abuses that appear to be directly related to and/or to have had direct implications for the election period, or those that have long featured as a prominent component of the reform agenda.

Restrictions on Freedom of Expression

Turkey has a long record of restricting peaceful expression and prosecuting those who peacefully express critical views of state policies on controversial issues such as secularism and religion, ethnicity, or the role of the army, or who question state-sanctioned interpretations of history. Human rights defenders in Turkey and internationally have repeatedly called on the Turkish government to abolish penal

¹¹ “Nokta dergisi kapanıyor” (“Nokta magazine is closing down”), *Radikal* newspaper (Istanbul), April 21, 2007.

¹² Ahmet Şık and Lale Sariibrahimoğlu, “Asker iç güvenlikten elini çekmeli” (“The military must keep out of domestic security [i.e. policing]”), *Nokta* magazine (Istanbul), February 8, 2007.

code article 301 (“insulting Turkishness and the state institutions”) and similar provisions that are often used to prosecute such speech. Instead of repealing these laws, however, the state continues to prosecute and convict writers, journalists, publishers, and human rights activists for their peaceful speech and expression. Although the Turkish public is increasingly willing to discuss even difficult and previously taboo topics, elements of the judiciary and some politicians continue to attempt to limit such public discourse and prevent greater public scrutiny and criticism of the conduct of Turkish state institutions.

While there are no official statistics on the total number of ongoing prosecutions for freedom of expression and speech-related offenses, the media monitoring desk of the Istanbul-based online news service *Bianet* has calculated that 132 individuals and seven publications had trial hearings for speech-related offenses in May-June 2007. *Bianet* reported that 12 of these cases involved charges brought under article 301; five under article 216 (“inciting hatred and enmity”), and four under articles relating to “making terrorist propaganda.”³³

Numerous prosecutions, as well as some convictions, under article 301 occurred during 2007. The indictment of the *Nokta* journalist and his interviewee, mentioned above, is one such pending case. The following two other cases are typical of the trend:

- İbrahim Güçlü, spokesman for the Diyarbakır Kurdish Association (Kürd-Der), was charged under article 301 for “insulting Turkishness and the Turkish Republic” for a speech he made in 2005 about the killing of 33 Kurdish villagers in Van in August 1943 (the so-called “Muğlalı incident”), on the 62nd anniversary of the killings. On January 24, 2007, the Diyarbakır Court of First Instance No. 5 found Güçlü guilty and sentenced him to 18 months’ imprisonment. He has appealed the verdict.
- On July 11, human rights defender Eren Keskin received a one-year sentence converted to a fine (US\$3,400) under article 301. Çerkezköy Penal Court of First Instance convicted her for a speech made on February 20, 2005, at an

³³ Figures reported in “İhlaller Hükümetten, Paralar Bizden!” (“The government violates, we pay!”), *Bianet* online news service (Istanbul), July 6, 2007, <http://www.bianet.org/2007/07/09/98870.htm> (accessed July 17, 2007).

event organized by the Çerkezköy district headquarters of the Kurdish party DEHAP during which Keskin had referred to “Turkey’s dirty history” and used the word “Kurdistan.”

Though there are few prosecutions under the Law on Crimes Committed against the Memory of Atatürk, one recent example was especially striking:

- On March 13, 2007, Atilla Yayla, a professor of politics and political economy at Gazi University in Ankara and president of the Association for Liberal Thinking, was charged with “insulting Atatürk” for critical comments about Kemalism, as well as for his comments on the difficulty of explaining to foreign visitors the preponderance of images of Atatürk, which he made during a November 18, 2006 panel discussion in Izmir on the Social Impact of EU-Turkey Relations. On November 21, 2006, Yayla had been notified by the university that he would not be allowed to continue teaching pending the results of a disciplinary investigation by the university. He was later reinstated after receiving a reprimand. However, he now faces a possible three-year prison sentence if convicted in the trial begun against him on April 30 in Izmir. That trial is ongoing.

(See also discussion of the charges of speech-related offenses brought against the Kurdish Democratic Society Party, below.)

The pattern of prosecutions demonstrates an intolerance of free discussion and an impulse to defend state institutions perceived as being under threat. Although prosecutions under article 301 have been directed against writers, journalists, academics, and public figures across the political spectrum, most of the prosecutions brought under other articles of the law have been aimed at those who have emphasized questions of (mainly Kurdish) ethnicity in their writings and are often singled out because of their political affiliations and/or activism. Human Rights Watch raised a number of these cases in a letter to the Turkish prime minister in April 2007.¹⁴

¹⁴ Human Rights Watch, “Turkey: Ongoing Restrictions on Freedom of Expression – Human Rights Watch Letter to the Turkish Prime Minister,” April 13, 2007, <http://hrw.org/english/docs/2007/04/13/turkey15692.htm>.

The relentless prosecution of peaceful expression is deeply troubling because it relates to one of the most fundamental of human rights. Human Rights Watch is also concerned that the prosecution of journalists and writers for expressing their views has helped to foster a climate of hostility against those who ask critical questions about the status quo in Turkey. These concerns are particularly acute during an election period.

The murder of Hrant Dink, editor of the bilingual Turkish-Armenian newspaper *Agos* and human rights defender, on January 19, 2007, is a shocking example of the potentially deadly consequences of such prosecutions and the publicity that accompanies them. Prior to his murder, Hrant Dink had been prosecuted three times for speech-related offenses, one of which resulted in his conviction under article 301, and a six-month suspended prison sentence. Dink's murderers apparently identified their victim as an Armenian who had been prosecuted for "insulting Turkishness" under article 301.

Harassment and Prosecution of Kurdish Political Party Officials in an Election Year

Kurdish political party leaders have been a particular target of prosecution for speech-related offenses, as well as of police raids and other harassment, in the lead up to the 2007 election period.

Turkish law requires that all political parties obtain at least 10 percent of the national vote in order to enter the parliament. In previous elections this threshold has resulted in the exclusion of a number of parties, including most notably Kurdish parties. On several occasions Kurdish parties have received a majority of votes in provinces in the mainly Kurdish-populated southeast and east of the country; in the 2002 elections, the Kurdish party DEHAP won the majority of votes in 13 provinces. However, their national vote has not been sufficient to pass the threshold and secure seats in parliament. In an effort to overcome this obstacle, in 2007 for the first time the pro-Kurdish Democratic Society Party (DTP) decided to bypass the 10 percent threshold by running independent candidates—in some areas in cooperation with other parties—in the general election.

During the past year, in the build-up to the general election, DTP officials in cities throughout Turkey, but especially in the southeast, have been repeatedly prosecuted for speech-related crimes such as “making propaganda for an illegal organization” (article 7/1 of the Law to Fight Terrorism and article 220/8 of the Turkish Penal Code) or “publicly praising a crime or criminal” (article 215 of the TPC). Such prosecutions were typically brought for public statements that mentioned the PKK and referred to its imprisoned leader Abdullah Öcalan with the formal and respectful title of “Mr” (*sayın*).

Prosecutions of officials from the DTP, as well as another Kurdish party, the Rights and Freedoms Party (HAK-PAR), were also brought repeatedly under the Law on Political Parties for infringements of the prohibition on using languages other than Turkish in material published by the party, on banners, at political meetings, or to address public gatherings, or for using letters such as “w,” “q,” or “x” to indicate a Kurdish spelling and that do not exist in the Turkish alphabet. The following cases are typical:

- On February 14 the Ankara Court of First Instance No. 3 sentenced four former and current HAK-PAR executives to one year’s imprisonment for sending invitation letters and making speeches in Kurdish during a party congress, in violation of the Law on Political Parties (articles 81/c and 117), and eight others to six-month sentences commuted to fines. Former party chair Abdülmelik Fırat had his one-year prison sentence commuted to a 29,200 Turkish Lira (TL) (US\$22,600) fine for reasons of his advanced age. The case is currently under appeal.
- On February 26 the Ankara Heavy Penal Court No. 9 sentenced Ahmet Türk and Ayşe Tuğluk, respectively president and vice-president of the DTP, to 18-month prison sentences for the offense of using Kurdish in a leaflet prepared by the DTP Women’s Wing on March 8, International Women’s Day. They were also punished for “publicly praising a crime or criminal” for statements in the leaflet relating to Abdullah Öcalan. On March 6 Ahmet Türk was again sentenced to a six-month suspended sentence for “publicly praising a crime or criminal” for referring to “Mr” Abdullah Öcalan. The cases are currently under appeal. Both Türk and Tuğluk also face numerous other ongoing prosecutions for similar offenses.

Police raids on the offices of some local branches of the DTP have only added to the pressure on the party. From late February to early March 2007 several DTP premises in a number of provinces were raided by the security forces. Documents and computers were seized, party members and executives were arbitrarily detained, and some were later charged with speech- and language-related offenses such as those mentioned above.

One entire elected DTP municipal administration, in the Sur district of Diyarbakır, has paid a high price for its efforts begun in October 2006 to provide municipal services in other languages as well as Turkish after having surveyed the languages used by its residents (which included Kurdish and Suryani). In a June 15 decision of the 8th Chamber of the Council of State (Danıştay), after an investigation initiated by the Ministry of Interior, the democratically elected municipal council was dissolved and Mayor Abdullah Demirtaş was removed from office on the grounds that the multi-language provision policy violated the constitution. Demirtaş is appealing that decision to a higher board in the Council of State (Danıştay İdari Dava Daireleri Kurulu). Criminal proceedings against Demirtaş and 20 other defendants were begun on June 2; they face prison sentences of up to three-and-one-half years if found guilty of having violated the constitution and the Law on the Acceptance and Application of Turkish Letters (No. 1353).

Kurdish political activists charged with speech-related offenses have sometimes been detained pending trial. On February 23 Hilmi Aydoğdu, chair of Diyarbakır DTP, was arrested and imprisoned in Diyarbakır D-type prison for 41 days. He had made a statement opposing possible military intervention in northern Iraq by the Turkish Armed Forces and mentioned in particular the symbolic importance of Kirkuk. Released on bail at his first hearing on April 5, he is currently on trial for “inciting hatred and enmity among the population” (article 216/1 of the TPC) and faces a possible prison sentence of between one and three years.

Those charged with “knowingly and willingly aiding and abetting an illegal organization” (article 220/7 of the TPC) face the highest possible sentence for a speech-related offense. If convicted under article 220/7, a person is sentenced pursuant to article 314/2 of the TPC as if he or she were a member of an illegal

organization, so the sentence is between five and 10 years. Fifty-six mayors (54 of them from the DTP) are currently standing trial for a letter they sent to Danish Prime Minister Anders Fogh Rasmussen on December 27, 2005. The mayors urged the Danish authorities not to approve the Turkish government's request to close down the Denmark-based satellite television channel *Roj TV*, arguing that the TV channel is a popular broadcaster of Kurdish language and cultural life. The mayors explicitly avoided commenting on the political line promoted by the television channel and the content of its broadcasts, but rather dwelt on the need for greater freedom of expression in Turkey. The mayors are being prosecuted under TPC articles 220/7, 314/2, and 314/3; they face prison sentences of between seven-and-a-half and 15 years if convicted.

Impunity for Human Rights Violations by State Officials

There continues to be widespread impunity in Turkey for serious human rights violations committed by members of the Turkish security forces and other state officials. Although the need for accountability for such abuses has long been a priority for both domestic and international human rights organizations, little progress has been made in addressing the root causes of this problem.

While prosecutors in Turkey have a duty to conduct effective and independent investigations into all allegations of human rights violations, they routinely decide not to open an investigation despite not having fully examined the allegations or conducted an effective preliminary investigation. This is particularly true in cases involving serious allegations of abuse, such as ill-treatment. Even in cases involving allegations of misconduct and negligence, however, criminal investigations often do not occur; an old law concerning the prosecution of civil servants (who include police and gendarmerie) requires that permission for a criminal investigation has to be given by a Provincial Administrative Board headed by the provincial governor. This law creates a cumbersome process that often serves as an obstacle to accountability.

What is more, even after the important reform processes of the past years, including reform and training of the judiciary itself, the courts in Turkey have failed to demonstrate independence and have repeatedly issued decisions that are inconsistent with international human rights law, including the case law of the

European Court of Human Rights. Courts regularly demonstrate far greater leniency toward defendants who are state officials than toward other defendants, and protracted trials too often result in their acquittal or token sentences. Three ongoing cases clearly demonstrate these concerns.

Widening the scope of the Hrant Dink murder investigation

Human Rights Watch is particularly concerned about the investigation into possible misconduct or complicity by police and gendarmerie in the murder of Armenian-Turkish journalist and human rights defender Hrant Dink, who was gunned down outside his office in Istanbul on January 19, 2007. The main murder trial, which began on July 2, currently involves 12 defendants, mostly originating from Pelitli in Trabzon where the murder was allegedly planned. However, Human Rights Watch is also concerned about the outcome of various Ministry of Interior investigations into the conduct of police and gendarmerie in the case.

Dink had been receiving death threats for some time before his murder and had reported these threats to the local prosecutor in Istanbul. His reports apparently went unheeded. In the 18 months preceding his murder, officials in Istanbul and Trabzon also reportedly failed to act on numerous police intelligence reports revealing a plan to murder Dink. In fact, the indictment alleges that one of the three main defendants had operated as a police informer, and the police had repeatedly been told that another defendant was planning to kill Dink.

Following a report by the Ministry of Interior inspectorate, the Provincial Administrative Board headed by the Trabzon governor was given permission to open a criminal investigation for misconduct against only two gendarmes in Trabzon. The results of that investigation are awaited.

Human Rights Watch is also deeply concerned by the statements and conduct of some Turkish officials that point to possible bias and raise questions about their ability to act impartially in the Dink case. Before any investigation into Dink's murder could be conducted, Celalettin Cerrah, the head of the Istanbul Police, stated publicly that there was no political dimension to the killing, that the suspected gunman had no links to political organizations, and that the gunman was motivated

only by nationalist sentiment.¹⁵ The Ministry of Interior inspectorate recommended that Cerrah receive an official reprimand for this statement. However, the Istanbul prosecutor issued a decision—now being appealed by the Dink family—not to open a criminal investigation against Cerrah for possible negligence in failing to respond to warnings that Dink’s life was under threat, or for the statements made after Dink’s murder. Nevertheless, İlhan Güler, the head of the Intelligence Department of the Istanbul Police, is facing criminal prosecution for negligence in not responding to warnings that Dink’s life was under threat.

Turkish television broadcast footage it had obtained of several police and gendarmerie officers posing for photographs with the murder suspect directly after his apprehension in the Black Sea city of Samsun on January 21. The footage reveals the suspect holding up a Turkish flag and surrounded by officers in the Samsun Security Directorate, who apparently considered this a souvenir.¹⁶ Immediately after the footage was broadcast, four police officers were suspended from duty pending an investigation and four gendarmes were transferred to other posts. Although the Samsun prosecutor was granted permission to undertake a preliminary investigation into the conduct of some involved in the footage, on June 8 he decided not to open a case against the officers, apparently taking his lead from a report by the Ministry of Interior inspectorate that recommended against criminal prosecution. The prosecutor reasoned that the conduct of the 21 police and gendarmes did not amount to the criminal offense of “publicly praising a crime or criminal,” but was instead conduct aimed at getting the suspect to confess to the murder of Hrant Dink. However, the prosecutor did not rule out criminal prosecution of the police officer who failed to place the murder suspect in a cell or the individual who leaked the film footage to the television channel.¹⁷

¹⁵ “Cerrah örtbas ediyor” (“Cerrah is covering up”), *Radikal* newspaper website (Istanbul), January 23, 2007, <http://www.radikal.com.tr/haber.php?haberno=210927> (accessed July 18, 2007).

¹⁶ “Samast’la ‘hatıra fotoğrafı’” (“‘Souvenir photo’ with Samast”), BBC Turkish Service website (London), February 2, 2007, http://www.bbc.co.uk/turkish/europe/story/2007/02/070202_samast_investigation.shtml.

¹⁷ Demet Bilge Ergün and Timur Soykan, “Ne kadar yanlış anlamışız!” (“How wrong we got it!”), *Radikal* newspaper website (Istanbul), July 4, 2007, <http://www.radikal.com.tr/haber.php?haberno=225936>.

Şemdinli bombing trial

On November 9, 2005, a bomb was thrown into the Umut bookshop in the southeastern town of Şemdinli, killing owner Mehmet Zahir Korkmaz. Local people who were present in the vicinity at the time of the bombing chased men seen running from the bookshop, and caught Ali Kaya and Özcan İldeniz, both members of the gendarmerie intelligence service, and informer Veysel Ateş, near the scene of the crime. The car in which the men were travelling was found to contain another bomb identical to that used in the attack, other weaponry, plans of the bookshop and other workplaces, and lists of names of prominent local people. The Şemdinli bookshop bombing became one of the most notorious episodes in recent times, demonstrating the resort to lawlessness in the name of counterterrorism.

The three men were arrested and ultimately each sentenced to 39 years' imprisonment by the Van Heavy Penal Court No. 3. However, on May 16, 2007, the 9th Penal Court of the Court of Cassation quashed the sentences on both procedural and substantive grounds. On substantive grounds, the court ruled that certain charges could not be applied to the men because their crime had been committed in the course of a counterterrorism operation, and that they should be retried in a military court. In defiance of the Court of Cassation's verdict, the Van Heavy Penal Court No. 3 decided not to forward the case to a military court, but to proceed with the retrial of the defendants on June 13.

Ferhat Sarıkaya, the prosecutor responsible for the March 3, 2006 indictment of the three alleged perpetrators, had also recommended that an investigation be carried out to determine whether senior military officers had ordered the attack on the bookshop. On March 20, 2006, the Office of the Chief of General Staff issued a statement that the indictment was "political ... aiming to undermine the Turkish Armed Forces and the fight against terror," and made a complaint against the prosecutor. By April 21 the High Council of Judges and Prosecutors had taken Sarıkaya off the case, removed him from his job, and stripped him of his status as a lawyer for "abuse of his duty and exceeding his authority." The speed with which the council took action against Sarıkaya was unprecedented and raises serious concern that the council was used to block any investigation into responsibility for the bombing.

In late February 2006 Sabri Uzun, director of the Police Security Intelligence Bureau, had also raised concern about possible military involvement in several bombings in Şemdinli when he was questioned by a parliamentary commission. He indicated in coded but quite clear terms that a November 1 explosion had possibly been the work of people within the security forces, and expressed doubt that the gendarmes indicted for the bookshop attack could have been in Şemdinli without the knowledge of higher-ranking officials, as claimed.¹⁸ Within a month Sabri Uzun was removed from his post. This administrative sanction was apparently an attempt to intimidate any other public officials who might have been considering providing information to the parliamentary commission, or offering testimony in the Şemdinli prosecutions.

The military high command's decision to block the investigation into the chain of command in this case has prevented an investigation of whether the Şemdinli bookshop bombing was part of a wider conspiracy or an official policy to carry out such bombings.

At the end of June 2007 the High Council of Judges and Prosecutors issued a decree that resulted in the rotation of 1,499 judges and prosecutors.¹⁹ All the Van judges and prosecutors associated with the Şemdinli bookshop bombing case were transferred to other cities, and an entirely new group of judicial personnel will be charged with handling this most notorious case as it is retried.

The Kızıltepe case

Ahmet Kaymaz and his son Uğur Kaymaz were shot dead on November 21, 2004, outside their home in Kızıltepe, Mardin, in southeast Turkey. Immediate statements by the office of the Mardin governor claimed that two PKK members had been killed in a clash with the security forces, despite the fact that Uğur Kaymaz was only 12 years old. Forensic reports indicate that the father and son were repeatedly shot at

¹⁸ İsmet Demirdöğen, "Hırsız evin içindeyse kilit bir işe yaramaz" ("If there's a thief in the house there's no point in a lock"), *Radikal* newspaper (Istanbul), February 20, 2006, <http://www.radikal.com.tr/haber.php?haberno=179204> (accessed July 18, 2007).

¹⁹ Adnan Keskin, "'Şemdinli' heyeti dağıldı", ("The Şemdinli panel [of judges] is dispersed") *Radikal* newspaper (Istanbul), June 29, 2007.

close range: nine bullets had been fired into Uğur Kaymaz's back and four bullets into his arm and hands, and six bullets into Ahmet Kaymaz's chest and stomach and two more into his hand and leg. There were strong suggestions from the forensic reports, as well as from indications of clear irregularities in the collection and handling of evidence and other aspects of the investigation, that the killing of the two may have amounted to a summary execution.²⁰ On December 27, 2004, four police officers were indicted for exceeding the legitimate use of force and killing. On April 18, 2007, they were acquitted. Although the forensic reports demonstrated that it was not plausible that the father and son had fired at the police, the court ruled that an armed clash had taken place, and concluded that the police had not used excessive force. The case is now under appeal.

Police Ill-treatment

Reports of torture and ill-treatment remain much lower than in the 1990s, when torture was pandemic in police stations throughout Turkey, and especially in Turkey's anti-terror units. As a result of legislative and other reforms that, among other things, shortened detention periods, abolished incommunicado detention, and allow all detainees, including those detained under the Anti-Terror Law, to consult with their lawyer from the first moments of detention, there has been a decrease in reports of torture and other ill-treatment. In fact, the greatest reduction has occurred in the anti-terror departments of police precincts.

Ill-treatment of detainees at the time of arrest and outside official places of detention remains a worrying and widely reported practice, however, especially for those apprehended on suspicion of committing ordinary crimes such as theft.

On June 2, 2007, a new law amending the Law on the Powers and Duties of the Police (Law no. 5681) was rushed through parliament. Among other provisions, the law greatly increases the authority of the police to stop and search individuals whom they suspect of committing crimes. While it is too early to evaluate the effect of the new law, these wide-ranging new stop and search powers raise concern because there is no mechanism for monitoring their application or preventing their abuse.

²⁰ Tolga Korkut, "Uğur Kaymaz ve Babasını Öldürenlere Beraat" ("Acquittal of the killers of Uğur Kaymaz and his father"), Bianet online news service (Istanbul), April 18, 2007, <http://www.bianet.org/2007/04/18/94759.htm> (accessed July 18, 2007).