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Most of us are living thirteen or more in each room. In our family there are twelve living in one room: men, women, and children. A hundred of us use a communal toilet outside and share a single tap in the courtyard. If there were a return to the village we would definitely return. We want to get out of this life—we live in a place built for animals.

— Testimony to Human Rights Watch

The people who migrated now want to return but the village guards have seized their lands and houses. And they cannot return to the village because they have been threatened by the village guards. The village guards do not let them into the village. They applied to the local governor and he said, “What is to stop you going?” and took no action.

— Testimony to Human Rights Watch

DISPLACED AND DISREGARDED Turkey's Failing Village Return Program

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TURKEY

DISPLACED AND DISREGARDED Turkey's Failing Village Return Program

SUMMARY	3
RECOMMENDATIONS	6
Recommendations to the Turkish Government.....	6
Recommendations to Intergovernmental Organizations with an Interest in Displacement, including the United Nations High Commissioner for Refugees (UNHCR), the United Nations Development Program (UNDP), and the Organization for Security and Co-operation in Europe (OSCE).....	7
Recommendations to the Committee of Ministers of the Council of Europe	7
Recommendations to the World Bank	8
Recommendations to the European Union.....	8
Recommendations to E.U. Member Governments and the U.S. Government.....	9
DISPLACED AND DISREGARDED.....	10
BURNED OUT.....	12
FORCIBLE DISPLACEMENT UNDER TURKISH AND INTERNATIONAL LAW AND STANDARDS.....	15
OVERCROWDING AND POVERTY IN THE CITIES	19
Overcrowded and unsanitary housing.....	20
Poverty and unemployment	21
Health and social problems.....	21
Municipal efforts to relieve hardship	23
INCONSISTENT RETURN STATISTICS.....	25
THE VILLAGE RETURN AND REHABILITATION PROJECT.....	26
FEASIBILITY STUDY LEAVES QUESTIONS UNANSWERED.....	28
RESETTLEMENT PROJECTS.....	31
Central villages	31
Village-Townships.....	32
IMPEDIMENTS TO RETURN	35
Governors block return	35
Gendarmes block return.....	39
Village guards block return.....	42
The risk from landmines	46
NO DOMESTIC REMEDY.....	47

VILLAGERS FROM KELEKÇİ WIN INTERNATIONAL JUSTICE	50
CIVIL SOCIETY BARRED FROM THE PROCESS.....	54
INTERNATIONAL NONGOVERNMENTAL AND INTERGOVERNMENTAL ORGANIZATIONS AT ARM'S LENGTH.....	56
CONCLUSION: THE POTENTIAL REWARDS OF PARTNERSHIP.....	60
APPENDIX.....	64
ACKNOWLEDGEMENTS	77

SUMMARY

A decade ago, when southeast Turkey was in the grip of a vicious internal armed conflict and Turkish soldiers were forcibly clearing villages, Kurdish villagers sent pleas for intervention to the outside world:

On orders from the major ... the soldiers started to burn our goods. The women of the village tried to intervene. The soldiers threw them to one side. Our property that was burned included more than five thousand poplar trees, more than four tons of wheat, all the forests and pasture around the village, more than twenty buildings... As we were being driven from the village, the soldiers were machine-gunning our livestock.... They gave us two choices: Either we were to become village guards and die. Or we were to leave and be hungry.... Where and how can we shelter? How can we feed our children?
—Petition by Mehmet M, February 12, 1991, distributed to the Siirt Governorate, Emergency Region Governorate, Human Rights Commission of the Turkish Parliament, Office of the Prime Minister, Office of the President of the Republic, press, Human Rights Association, Human Rights Watch, Amnesty International, heads of Turkish political parties.

Because we have been driven from our village, we are in difficulties. We are hungry, unclothed, homeless and destitute.... Because the villages are being emptied and the cities filling up, it will be impossible for us to find work. All the steps we have made to protect our property in the villages and to continue our former lives have been in vain. We have repeatedly applied to the authorities.... At the gendarmerie station, the soldiers told us, "You cannot return to your village. Bring a document to say that you can return. If you do not bring a document, we have received orders to kill you. It is of no interest to us where you go."

—Undated petition by Abdulkadir A, distributed to the Public Prosecutor, local parliamentary deputies, embassies, Office of the Prime Minister, Office of the President of the Republic, domestic and foreign press, Human Rights Association, Human Rights Watch, Amnesty International, heads of Turkish political parties.

In June 2001, Human Rights Watch sought out the two farmers who had written the above appeals. We found that the two men and their families were still unable to return to their homes, in spite of the effective end to the fighting. Instead, they continued to live in overcrowded and difficult circumstances in nearby cities. Their way home remained barred by soldiers and by village guards who had occupied their lands.

According to official figures, 380,000 people were displaced from southeast Turkey during the fifteen-year conflict between government forces and the illegal armed Kurdish Workers' Party (PKK). Nongovernmental organizations estimate the number of displaced, mainly Kurdish villagers, at least a million and a half. Most displaced persons were driven from their homes by government gendarmes and by "village guards"—that is, their own neighbors, whom the government armed and paid to fight the PKK but did little to train or control. This was not an orderly and lawful resettlement program but an arbitrary and violent campaign marked by hundreds of "disappearances" and summary executions. Villagers' homes were torched, their crops destroyed and their livestock destroyed before their eyes.

There has been little fighting since the capture of PKK leader Abdullah Öcalan and the PKK's declaration of a unilateral ceasefire in 1999. The government, faced with the expectation that it should do something for the internally displaced, has announced a series of programs for return and resettlement that sound generous and convincing. But only a trickle of villagers are making their way back. Most remain in the big cities of western Turkey or in towns around the southeast, despite the difficult circumstances of their

lives there. Local governors and gendarmerie have forbidden some to return on the grounds that their villages are within restricted military zones. Other villagers are reluctant to make a move because they believe that once they return, the cycle of detention and harassment by government security forces may start again. Some villagers who made tentative expeditions home met soldiers who threatened them and turned them back. Others found that neighboring village guards, in their absence, had taken over their lands, and sometimes their houses too. Displaced villagers are keen to resume their former productive life, but after a decade separated from their livelihoods, they do not have even the small amount of capital they need to buy the necessary equipment, seed, and livestock to start again. New forced displacements occurred as recently as 2001, so villagers dare not run the personal and financial risks of return while it remains possible that the gendarmerie will come and turn them off their lands once again.

The Turkish government has never acknowledged the human rights violations the security forces inflicted on hundreds of thousands of its citizens. The Turkish parliament's Commission on Migration documented the scale of the displacement and placed the main responsibility at the feet of the gendarmerie, but the government ignored most of the recommendations contained in the commission's 1995 report. The European Court of Human Rights put the policy of forced displacement on the international record in a series of judgments finding Turkey guilty of violations of property rights. The plaintiffs in these cases received compensation, but they represent only a tiny minority of victims and even they are still unable to go home. The Council of Europe's Committee of Ministers, in its role as enforcer of court judgments, is responsible for ensuring that the plaintiffs can return to their property, but it has had no more success in this than it has in persuading the Turkish government to implement an effective general return.

Successive Turkish governments have devised various return schemes, but failed to plan or finance them properly. They have also consistently cut the villagers themselves out of the planning process. Consequently, the initiatives have been largely unsuccessful. In June 2001 Human Rights Watch conducted a mission to investigate the latest return scheme: the Village Return and Rehabilitation Project. It proved a frustrating task. The only information available in the public arena is a succession of public statements by politicians and local governors that express a degree of urgency, enthusiasm, and readiness to help that makes a striking contrast with the situation on the ground. Officials are broadcasting statistics, of doubtful provenance, that suggest villagers heading back to their homes in large numbers. The government has advertised this as a state-run rural development and reconstruction project designed to meet the needs of hundreds of thousands of people, but no officials could show Human Rights Watch anything on paper to describe the aims or methods of the return project. With no special agency to manage it, and no clear budget, the achievements of the Village Return and Rehabilitation Project after more than three years are limited to a feasibility study, as yet unpublished.

In spite of all the obstacles, a few villagers are testing the water. Some commute from the cities to cultivate their crops, and others are replanting and rebuilding while camping under canvas or sleeping in the village mosque. There are also government-financed resettlement projects in villages such as Konalga near Van and Islamköy near Diyarbakır. But these "central villages" seem mainly intended for village guards displaced as a consequence of attacks and killings by the PKK in the late 1980s and early 1990s. Displaced village guards deserve all the support they can get from the government in returning to normal life. But the same is equally true for the much larger group of communities whom the military drove out because they refused to join the village guard corps.

Governors are refusing to give villagers permission to return unless they sign a form in which they relinquish all rights to compensation. The form also contains a declaration that exculpates the state from its criminal responsibility for the displacement. Governors and gendarmerie commanders have not only withheld permission to return from villagers who decline to sign the forms but also insulted and threatened them.

Most displaced villagers are reluctant to seek judicial remedies, since they believe that there is no chance of a result in their favor. They find it extremely difficult to find a foothold for legal action, since the whole process of displacement has been kept off the record. Few villagers have received any documentary evidence to show that they are unable to return to their property. It is a curious paradox that for years the displaced farmers, most of whom are only semi-literate, have been diligently petitioning government and judicial authorities in writing, while the state bureaucracy has preferred to do business by word of mouth. Local governors generally give or withhold permission to return verbally, and thereby avoid committing administrative acts that might subsequently be challenged in court.

Moreover, villagers fear that legal action may simply aggravate the security forces' disfavor and further distance their main goal of reoccupying their homes. The persecution and violence experienced by the few who sought a remedy through the law justifies such trepidation. Armed hostilities are over in the southeast, but those who were internally displaced are still infected with profound fear. Most informants would only speak to Human Rights Watch on condition that their identity would be withheld.

In summary, the Village Return and Rehabilitation Project falls far short of the international standards on the treatment of internally displaced persons embodied in the United Nations Guiding Principles on Internal Displacement. There is much pessimistic conjecture as to the motives behind the Village Return and Rehabilitation Project. Many villagers believe that the authorities have decided that they should never return. In 2000 the National Security Council approved a military master plan for the southeast, but the contents of that plan remain secret. Villagers suspect that the Village Return and Rehabilitation Project, if it is ever implemented, will put in place a strategic network of centralized village guard settlements overlooked by large gendarmeries, while the rest of the countryside remains more or less vacant. For the government, such a solution would not only enable easier policing, but would also strike a blow at a section of the Kurdish minority it views as persistently awkward by stranding them in the metropolitan centers where they risk losing their distinct language and culture as they enter their second decade of internal exile.

Human Rights Watch is calling on the Turkish government to give much greater urgency to facilitating the return and resettlement of the hundreds of thousands of Turkish citizens who were forced from their homes during the PKK conflict, the majority of them by government troops. In particular, the Turkish government should develop and implement its return projects in accordance with the United Nations Guiding Principles on Internal Displacement, which emphasize the importance of consultation with the internally displaced and access by relevant humanitarian organizations.

The Turkish government has avoided involving expert intergovernmental organizations in the implementation of the current return program. Indeed, the program is so ill-conceived that several major organizations have specifically refused to participate in it. But a sound program would stand a good chance of receiving international funding and expertise. In similar post-conflict situations around the world, and in the nearby Balkans in particular, displaced populations have received considerable material assistance in reconstruction from the European Commission, the World Bank, the European Bank for Reconstruction and Development, the European Investment Bank and many other donors. The Turkish government's intransigence seems to be the main obstacle between the displaced villagers of the southeast and the international assistance they deserve.

The Turkish government could show its readiness to take a new direction by hosting a forum on return involving representatives of the internally displaced themselves, as well as concerned nongovernmental organizations and international organizations with a specific interest and expertise in displacement, including the United Nations High Commissioner for Refugees (UNHCR), the United Nations

Development Program (UNDP), the International Committee of the Red Cross (ICRC), and the Organization for Security and Co-operation in Europe (OSCE).

RECOMMENDATIONS

Recommendations to the Turkish Government

During the period 1984-99, Kurdish Workers' Party (PKK) attacks displaced a substantial number of villagers in the southeast. However, a large body of documentary evidence and judgments at the European Court of Human Rights indicate that Turkish state security forces were responsible for the majority of the population movements, and that these were carried out with numerous violations of human rights, including extra-judicial executions, "disappearances," and torture.

The Turkish government should now:

- Publish comprehensive information about the progress of returns, including a verifiable list of communities that have returned and those that have not.
- Publish detailed information about programs for return, including the names of villages open for return or temporarily closed to return, project aims and objectives, government departments responsible for the returns, budgets, and progress updates.
- Establish a specialist agency dedicated to implementing the return of internally displaced persons.
- Set up a planning forum with representatives of governmental, nongovernmental and intergovernmental organizations with relevant expertise, as well as representatives of displaced villagers. The forum should develop a return program that will ensure that internally displaced communities can return to their homes in safety and dignity and can resume their livelihoods. All return programs should be consistent with the U.N. Guiding Principles on Internal Displacement and respect the rights of internally displaced communities. Such an agency should inquire into allegations of appropriation of land by village guards, and take steps to end this practise, including informing the local prosecution service to initiate legal action as necessary.
- Take measures at all levels of government to stop the harassment of internally displaced persons, the recently returned, and those who assist them.
- Abolish the village guard system.
- Permit villagers to return to their own homes unless there are legitimate security reasons to prevent this, such as continued armed conflict or the presence of landmines that would endanger civilian lives.
- Clear landmines from villages and surrounding farmland, and give villagers documentary evidence that their village has been cleared of mines and munitions before they return.
- Ensure that infrastructure for villages and hamlets is restored at least to the standard prior to their destruction and evacuation, at state cost.
- Where villages are inaccessible for security reasons or because they have been mined, pay appropriate levels of compensation, including maintenance for the internally displaced, and

ensure their access to health, education, and employment or other basis for an adequate standard of living.

- Ensure unfettered access for nongovernmental organizations throughout the southeast, especially for national and international human rights and humanitarian nongovernmental organizations.
- Publish the secret “Action Plan for the East and Southeast” adopted by the National Security Council in May 2000.
- Establish an interim program for practical and financial support of villagers before, during, and after return, without prejudice to subsequent litigation they may open in the courts.

Recommendations to Intergovernmental Organizations with an Interest in Displacement, including the United Nations High Commissioner for Refugees (UNHCR), the United Nations Development Program (UNDP), and the Organization for Security and Co-operation in Europe (OSCE)

- Urge the Turkish government to set up a planning forum involving interested local and international nongovernmental and intergovernmental organizations and representatives of displaced villagers. The forum should put in place a return program that will ensure that internally displaced persons can return to their homes in safety and dignity and can resume their livelihoods. All return programs should be consistent with the U.N. Guiding Principles on Internal Displacement and respect the rights of internally displaced persons.
- Assure the Turkish government of their willingness to contribute their expertise and experience to assist with the design and implementation of a fair, safe, and sustainable program of return.
- Assist the Turkish government in obtaining funding for appropriately designed and implemented programs that are consistent with the U.N. Guiding Principles on Internal Displacement.

Recommendations to the Committee of Ministers of the Council of Europe

Following a succession of judgments that found Turkish security forces responsible for destroying the property of villagers in the southeast, the European Court of Human Rights placed the responsibility for ensuring the return of those villagers and the restoration of their property on the shoulders of the Committee of Ministers. Since, as the Court has indicated, this pattern of village destruction was widespread, the Committee of Ministers has a further responsibility to the community of displaced villagers as a whole.

The Committee of Ministers should therefore:

- Pass a resolution to make the continued displacement of hundreds of thousands of villagers from the southeast, the largest and most intractable problem remaining from the conflict of 1984-1999, a regular agenda item and press the Turkish government to implement a thorough return program, in line with the recommendations made by the Parliamentary Assembly of the Council of Europe’s Committee on Migration, Refugees and Demography.
- Urge the Turkish government to set up a planning forum involving interested local and international nongovernmental and intergovernmental organizations and representatives of displaced villagers. The forum should put in place a return program that will ensure that internally displaced communities can return to their homes in safety and dignity and can resume their livelihoods. All return programs should be consistent with the U.N. Guiding Principles on Internal Displacement and respect the rights of internally displaced communities.

- Make supervision of the return program a regular agenda item of the Committee's meetings.
- Assist the Turkish government in obtaining Council of Europe funding for appropriately designed and implemented programs that are consistent with the U.N. Guiding Principles on Internal Displacement and respect the rights of internally displaced communities.

Recommendations to the World Bank

The World Bank has refused to fund Turkey's Village Return and Rehabilitation Project, but is considering support for the Turkish government's Village-Townships (köykent), another rural development scheme that extends to the southeast. The World Bank has stated that it will not support Village-Townships in areas where displacement has occurred.

The World Bank should:

- Maintain its current policy of withholding support for any Village-Township projects in southeast Turkey that are not consistent with the U.N. Guiding Principles on Internal Displacement, or that may indirectly facilitate other projects that are contrary to the Guiding Principles.
- Use its influence to encourage the Turkish government to redesign its return program in accordance with the U.N. Guiding Principles on Internal Displacement, and to develop projects that the World Bank and other international bodies could feel confident in supporting.
- To this end, urge the Turkish government to set up a planning forum involving interested local and international nongovernmental and intergovernmental organizations and representatives of displaced villagers. The forum should put in place a return program that will ensure that internally displaced communities can return to their homes in safety and dignity and can resume their livelihoods. All return programs should be consistent with the U.N. Guiding Principles on Internal Displacement and respect the rights of internally displaced communities.
- Assist the Turkish government with funding for appropriately designed and implemented return programs that are consistent with the U.N. Guiding Principles on Internal Displacement and respect the rights of internally displaced communities.

Recommendations to the European Union

The E.U.'s requirements from Turkey for accession include the short-term development of "a comprehensive approach to reduce regional disparities, and in particular to improve the situation in the South-East, with a view to enhancing economic, social and cultural opportunities for all citizens" and over the longer term, implementation of reforms in conformity with the European Convention for the Protection of Human Rights and Fundamental Freedoms. Meeting these requirements would necessitate Turkey's ensuring the safe return of the internally displaced, as is reflected in the annual Regular Reports on Turkey's Progress towards Accession, which mention the internally displaced and quote government figures on returns.

The E.U. should:

- Not rely on unsubstantiated and unverifiable Turkish government statements concerning the return process, but use its high level of access to carry out field research in the region that would contribute to the sum of information about returns through the annual Regular Report.

- Closely monitor the situation of the internally displaced in the cities and in the countryside after return, and pool information with other intergovernmental bodies and interested nongovernmental organizations.
- Urge the Turkish government to set up a planning forum involving interested local and international nongovernmental and intergovernmental organizations and representatives of displaced villagers. The forum should put in place a return program that will ensure that internally displaced communities can return to their homes in safety and dignity and can resume their livelihoods. All return programs should be consistent with the U.N. Guiding Principles on Internal Displacement and respect the rights of internally displaced communities.
- Not finance return or resettlement projects in southeast Turkey if they are not consistent with the U.N. Guiding Principles on Internal Displacement, or if they indirectly facilitate other projects that are contrary to the Guiding Principles.
- Assist the Turkish government with funding for appropriately designed and implemented return programs that are consistent with the U.N. Guiding Principles on Internal Displacement and respect the rights of internally displaced communities.

Recommendations to E.U. Member Governments and the U.S. Government

Governments that have strong bilateral relations with Turkey and are likely to be the source of foreign investment in development and reconstruction in the southeast, should:

- Urge the Turkish government to set up a planning forum involving interested local and international nongovernmental and intergovernmental organizations and representatives of displaced villagers. The forum should put in place a return program that will ensure that internally displaced communities can return to their homes in safety and dignity and can resume their livelihoods. All return programs should be consistent with the U.N. Guiding Principles on Internal Displacement and respect the rights of internally displaced communities.
- Not finance return or resettlement projects in southeast Turkey if they violate the U.N. Guiding Principles on Internal Displacement, or if they indirectly facilitate other projects that violate the principles.
- Assist the Turkish government with funding for appropriately designed and implemented return programs that are consistent with the U.N. Guiding Principles on Internal Displacement and respect the rights of internally displaced communities.
- The U.S. government, in its annual State Department report on human rights practices, should not rely on unsubstantiated and unverifiable government statements concerning the return process, and should use its high level of access to carry out field research in the region that would contribute to the sum of information about returns.

DISPLACED AND DISREGARDED

We are the people of village G, near Pervari, Siirt province. The PKK and soldiers clashed near our village. After this, on orders from the major from village K near Pervari the soldiers started to burn our goods. The women of the village tried to intervene. The soldiers threw them to one side. Our property that was burned included more than five thousand poplar trees, more than four tons of wheat, all the forests and pasture around the village, more than twenty buildings. Now the village is evacuated and we know as well as we know our names that our houses will be burned.... As we were being driven from the village, the soldiers were machine-gunning our livestock. In the neighboring village M, they burned the village and all the houses including the goods inside them. Even the beehives were burned. They gave us two choices: Either we were to become village guards and be killed. Or we were to leave and be hungry. There were forty-seven houses in the village and a population of more than five hundred. Where and how can we shelter? How can we feed our children? We respectfully submit our situation in the hope that it will be considered and the necessary assistance given.

—Petition of Mehmet M, February 12, 1991, distributed to the Siirt Governorate, Emergency Region Governorate, Human Rights Commission of the Turkish Parliament, Office of the Prime Minister, Office of the President of the Republic, press, Human Rights Association, Human Rights Watch, Amnesty International, heads of Turkish political parties.

We are the people of village L, near Eruh, Siirt province. Our village consists of twenty-two families with good income.... But because we have been driven from our village, we are in difficulties. We are hungry, unclothed, homeless and destitute. We do not know who could be made happy by our being in this situation. Our only skills are in agriculture, so what work can we find in towns we do not know and have never seen? We are faced with poverty and laboring work. Because the villages are being emptied and the cities filling up, it will be impossible for us to find work.

All the steps we have made to protect our property in the villages and to continue our former lives have been in vain. We have repeatedly applied to the authorities. In the reply we received from the Public Relations Office of the Prime Ministry, we were told that the issue had been passed to the Siirt governor. They said the governor would give us information, but until today, we have received nothing.

If we do not return to our villages, others will take possession of our property. Permission should be given for us to return to our property, or we should be compensated for our material loss.

At the gendarmerie station at village H, the soldiers told us “You cannot return to your village. Bring a document to say that you can return. If you do not bring a document, we have received orders to kill you. It is of no interest to us where you go.”

—Undated petition of Abdulkadir A, distributed to the Public Prosecutor, local parliamentary deputies, embassies, Office of the Prime Minister, Office of the President of the Republic, domestic and foreign press, Human Rights Association, Human Rights Watch, Amnesty International, heads of Turkish political parties.

In 1990, a lawyer in Siirt bought a fax machine and began to send scores of petitions from communities who had been burned out of their homes to Turkish prosecutors, government authorities, and the outside world, including Helsinki Watch (now Human Rights Watch). The petitions touched on many details that

are still distinctive elements of the displacement picture: the villagers' economic difficulties in the cities, the authorities' impassive refusal to respond to their complaints, the theft of villagers' lands, and the frustrated longing to return home. In July 2001, a decade later, still banished from their homes and living in poverty, the authors of the two petitions cited above met a representative of Human Rights Watch in the office of the nongovernmental Siirt Human Rights Association. They asked for their names and the names of their villages not to be revealed in any publications for fear of reprisals at the hands of the authorities. The police were watching the premises and during the course of interviews, entered and questioned the association's staff.

When Abdulkadir A¹ from village L sent out his original petition to return to his village he was summoned to the police station and reprimanded. "I was afraid, but continued applying to the authorities for a year. I went to the provincial governor (vali) and the soldiers repeatedly. They told me that I could not return unless I brought twenty men ready to take up arms as village guards." He returned to the village and tried to resettle three times, but was moved out each time. "The village guards from the neighboring village had their eyes on our land, made constant complaints about us, saying that PKK² militants were visiting us."³ Finally, in 1995 the soldiers told him that he should leave within seven days because the village was to be burned. He left for Siirt and the village was destroyed.

He now lives with his eight children, one of whom is disabled, in two rooms in Siirt. He survives with the help of a disability payment and handouts of fuel and food from the city council, currently run by the People's Democracy Party (HADEP), which has a largely Kurdish membership. He told Human Rights Watch: "I have fields in the village but they are being used by the village guards. I have legal title to my land, but I am afraid to open a case in the courts." He was detained and tortured in 1990 because of complaints made by neighboring village guards, and he is not keen to repeat the experience. "The village guards have suggested that if I do not open a case, they will give me access to a bit of my land."

He had never received any news from the authorities about the Village Return and Rehabilitation Project, the government return program that is supposedly the solution to his problems. Two members of his village went to inquire about possible return but the local governor (kaymakam) told them that they could not return "until the order comes." The local governor would not promise him anything in writing.

Mehmet M,⁴ displaced from village G, has also tried to use official and legal channels of redress, with a similar lack of success. In 1990, he and his wife put the youngest of his eight children into sacks on donkeys and walked from the scene of the burning village to Şırnak, a day's march. He took the registration number of the vehicles of the soldiers who burned his village, and made a complaint to the local prosecutor, but heard nothing more: "Perhaps the prosecutor gave a decision not to prosecute. We do not know."⁵ His wife recently died, and he and the remaining family now live in Van in a house he built on waste ground. They live a meager existence supported largely by their eldest son, who works on construction sites in Istanbul. He told Human Rights Watch, "We cannot eat well or go to the doctor."⁶ He is keen to receive the official go-ahead to return to their village and has repeatedly submitted petitions. He showed Human Rights Watch a copy of an application he submitted to the Interior Ministry in April 2000, to which he has received no reply.

¹ Interviewee's real name withheld to protect his safety.

² Kurdish Workers' Party, an illegal armed organization.

³ Human Rights Watch interview, Siirt, June 27, 2001.

⁴ Interviewee's real name withheld to protect his safety.

⁵ Human Rights Watch interview, Siirt, June 27, 2001.

⁶ Human Rights Watch interview, Siirt, June 27, 2001.

BURNED OUT

There is a big difference between the displacement you saw in Bosnia and what happened here. Nobody saw our forced migration, and there was nobody to monitor it efficiently. The press and television were not allowed in, so no public pressure was developed.
—Necdet Ipekyüz, Diyarbakır Medical Association, June 25, 2001.

Security forces forcibly displaced peasants in the 1980s and 1990s as a tactic to combat PKK insurgency. Founded by its leader Abdullah Öcalan in Diyarbakır province in 1978, the PKK drew its membership and logistical support from the local Kurdish peasantry. In its early years, the PKK mainly fought rival leftist and Kurdish organizations, but in August 1984 it attacked a gendarmerie post in Erüh, Siirt province, part of the mainly Kurdish southeast that had been a closed military zone since the 1920s. As the PKK stepped up its actions, the gendarmerie (soldiers carrying out police duties under the authority of the Interior Ministry) responded with widespread village raids and mass detentions. Detention almost invariably meant torture by beating, electric shocks, and sexual assault, as well as deprivation of food and water. Most of the nearly five hundred detainees who died in Turkey between 1980 and 2000 were villagers under interrogation in police stations and gendarmeries in the southeast. The security forces' repressive methods merely provoked ever larger numbers of disaffected youth to join the PKK, and within a few years the organization had grown to a substantial force, recruiting more than 30,000 between 1984 and 1999.

Turkish security forces failed to distinguish the armed militants they were pursuing from the civilian population they were supposed to be protecting, but whom they knew included people who were supplying and hiding the militants, willingly or unwillingly. The government resorted to a solution used by other states faced with similar adversaries in other parts of the world: they required the local populace to show their loyalty by bearing arms against the insurgents. After 1987, rural communities were expected to put up a sufficient number of men to form a platoon of "provisional village guards," armed, paid, and supervised by the local gendarmerie post. Communities could refuse to join the village guard system, but from then on the security forces would view them as PKK sympathizers. Villages that did opt to join the system were angry when neighboring settlements refused, because this left their flank exposed to PKK attacks. The village guard corps was well armed, but they had no formal chain of command and usually wore no uniforms or means of identification. Where tribal bonds were strong, clan leaders used village guards as a private army to reinforce their local supremacy.

In response, the PKK declared Kurds who joined the village guard system to be traitors. When they caught them, they often executed them. The PKK also carried out massacres of village guards' non-combatant families, including women and children. When the PKK melted away into the mountains after such attacks, the state military's counter-operations routinely started by rounding up the inhabitants of any nearby non-village guard communities and torturing them in order to extract information about PKK movements, and government forces sometimes committed massacres in reprisal for PKK attacks and abuses.

Villagers were faced with a frightening dilemma. They could become village guards and risk PKK attack, or refuse and risk state persecution. Many communities just packed their goods and left for the cities. Those who remained in the countryside found that life became more precarious with every passing month. The gendarmerie enforced food embargos, so families could bring only small quantities of goods from the towns. These supplies dwindled with confiscations as they were brought through a multitude of checkpoints along the road. "Grazing bans" were applied in order to prevent livestock herders from supplying the PKK with intelligence and goods as they moved their cattle and sheep from place to place. Gendarmes brutally interrogated herders they found in distant high pastures and sometimes summarily executed them.

In 1991, the newly elected True Path government of Prime Minister Süleyman Demirel made some gestures toward a constructive resolution of the violence in the southeast and announced that it would “recognize the Kurdish reality.” Two massacres of demonstrating civilians at Lice and Kulp late that year, and a series of equally bloody attacks by the PKK, confounded tentative moves toward a more enlightened policy. In 1993 Tansu Çiller succeeded Demirel to become Turkey’s first woman prime minister. With no experience of political management and preoccupied with holding together her party and government, she appeared to give the army and police a free hand to deal with the PKK. Security forces decided to summarily execute PKK activists or collaborators without troubling to collect evidence and prosecute them before the courts. The police were implicated in a wave of bombings and political murders in the urban southeast. From 1991 to 1994, street killers targeted Kurdish political leaders, human rights activists, and journalists, killing more than a thousand people.

The resort to outright lawlessness was reflected in the methods of the gendarmes in rural areas. Armed PKK members had been using the guerrilla tactic of swimming “like fishes in the sea of the people,” as Mao Zedong had described, and the security forces used the counter-guerrilla tactic of “draining the sea.” Rather than simply harass and threaten villagers who refused to join the village guard system, they methodically destroyed recalcitrant settlements.

Helicopters, armored vehicles, troops, and village guards surrounded village after village. They burned stored produce, agricultural equipment, crops, orchards, forests, and livestock. They set fire to houses, often giving the inhabitants no opportunity to retrieve their possessions. During the course of such operations, security forces frequently abused and humiliated villagers, stole their property and cash, and ill-treated or tortured them before herding them onto the roads and away from their former homes. There were many “disappearances” and extrajudicial executions. By 1994, more than 3,000 villages had been virtually wiped from the map and more than a quarter of a million peasants had been made homeless. Most of the displacements were from the ten southeastern provinces then under a state of emergency.⁷

The Turkish government denied that evacuations and expulsions were happening at all and lied to cover up security forces’ abuses. One or two politicians spoke out against village destruction, at the cost of damaging their own political careers, but parliament failed to halt the conflagration. Internally displaced people tried in vain to move the political and judicial wheels by tireless petitioning and lobbying. On October 26, 1994, Prime Minister Çiller met a delegation of headmen from ten villages in the Ovacık area of Tunceli. They told her that soldiers had burned their villages and that helicopters had supported the operations. But wilful blindness was now official policy. The prime minister told them: “Even if I saw with my own eyes that the state had burned a village, I would not believe it. Do not think that every helicopter you see is ours. It could be a PKK helicopter. It could also be a Russian, Afghan, or Armenian helicopter.”⁸ Another headman, Mehmet Gürkan, of Akçayurt in Diyarbakır province, forcibly evacuated on July 7, 1994, held a press conference and reported that gendarmes had tortured him to tell television journalists that the PKK had destroyed his village. In fact, he said, security forces had burned Akçayurt.

⁷ In 1978 martial law was declared in thirteen southeastern provinces. This was extended to nineteen provinces the following year, and throughout the entire sixty-seven provinces of Turkey after the military coup of September 12, 1980. This was progressively lifted in various provinces until in July 1987 martial law was finally lifted in the southeast, but replaced by state of emergency legislation. In 1990, ten southeastern provinces were under state of emergency. As the conflict waned during the late 1990s, the state of emergency was progressively lifted. Now two provinces (Şırnak and Diyarbakır) are still under emergency legislation, but this is not expected to be renewed when it expires in November 2002. The state of emergency governor has extensive powers to limit freedom of expression, to move civil servants and populations, and to requisition property. The permissible period of police detention is extended in regions under state of emergency, and forces under the control of the state of emergency governor enjoy considerable immunity from prosecution.

⁸ *Cumhuriyet* (Republic), October 28, 1994.

When he returned to the village a month later an eyewitness saw soldiers detain him and take him away in a helicopter. He was never seen again.⁹

Security forces were destroying villages in remote areas where communications were poor, so many abuses probably went unreported. Local community leaders had little experience of appealing to national or international organizations but one or two lawyers kept the United Nations (U.N.), the European Union (E.U.) and the Council of Europe informed by taking down the complaints of displaced peasants and farmers, many of whom were illiterate and who marked their submissions with a thumbprint, and faxing them abroad. Turkish and foreign nongovernmental organizations were aware of what was going on, but were simultaneously trying to cope with the dramatic rise in extrajudicial executions, “disappearances,” and deaths in custody. Amnesty International and Human Rights Watch reported the destruction and lobbied Turkey’s colleague governments,¹⁰ but international criticism was muted—partly because the violations were taking place against the background of the PKK’s insurgency and the abuses committed by PKK members.

Turkish prosecutors and judges played their part in suppressing the story not only by failing to take up villagers’ complaints but by unleashing a hail of prosecutions against any newspapers and others that reported the village burning campaign. In April 1994, the Turkish Human Rights Association (HRA) produced a comprehensive survey of the displacement entitled, *A Cross-Section of the Burned Villages*, but the book was confiscated, and HRA president Akın Birdal was tried under the Anti-Terror Law for “separatist propaganda” at Ankara State Security Court.

The Turkish parliament was slow to respond to the petitions flooding in from displaced villagers. One factor that strongly inhibited parliamentary deputies from taking up the issue was that the press and hawkish politicians were always ready to brand any questioning of the security forces’ record as PKK propaganda, tantamount to treason. In April 1995, a Parliamentary Commission on Unsolved Political Killings, which described the village guard system as “an investment in social discord,” confirmed that village guards were involved in lawless activities including killing and extortion, but its findings were ignored and the village guard system continued virtually unchanged. Parliament did not directly address the question of internal displacement until the creation of the Commission on Internal Migration on June 3, 1997. The Commission was initially established to deal with the effects of migration to the cities, and it was only with some difficulty that it managed to have its terms of reference extended to cover the abuses in the southeast. On January 14, 1998, the Commission submitted a 170-page report to parliament. The report was diplomatically phrased and carefully balanced in order not to offend official sensibilities, but put the nightmare squarely on the official record. Perhaps most importantly, it extracted from the Emergency Region governor an official figure for the village destruction campaign: 378,335 villagers displaced from 820 villages and 2,345 smaller settlements.¹¹ The report’s recommendations have been largely ignored.

⁹ See Amnesty International, *Policy of Denial*, February 1995, AI Index: EUR 44/24/95, p. 3.

¹⁰ See for example: *Forced displacement of ethnic Kurds from Southeastern Turkey*, Human Rights Watch, October 1994.

¹¹ Report on “Remedies To Be Undertaken On The Basis Of Research Into The Problems Of Citizens Who Have Migrated As A Result Of Evacuation Of Settlements In East And Southeast Anatolia,” submitted to the Grand National Assembly of Turkey, January 14, 1998.

FORCIBLE DISPLACEMENT UNDER TURKISH AND INTERNATIONAL LAW AND STANDARDS

The Turkish government's policy of forcible displacement of civilians and village destruction was illegal under domestic law and in breach of international human rights and humanitarian law. The government continues to fail in its duty of care toward the internally displaced under international standards, and in its legal responsibility to provide restitution to them.

Most of the displacements occurred in provinces that were under a state of emergency. Turkish law permits state authorities to move populations under a state of emergency, but simultaneously imposes clear responsibilities on those authorities to provide alternative housing and financial support. The Decree concerning the Establishment of the Emergency Region Governorate¹² states,

Where the Emergency Region Governor considers appropriate, villages and mezra [hamlets] may be temporarily or otherwise evacuated, unified or resettled in another place for security reasons. Compulsory purchase procedures may be carried out for such purposes on [the governor's] own initiative. Persons evacuated from their villages for security reasons may be rehoused if they so wish, and financial support must be provided.... These powers belong exclusively to the Emergency Region Governor.¹³

In practice, security forces almost invariably by-passed these formal powers and the responsibilities attached to them, choosing instead to displace villagers and destroy their property in an arbitrary and unlawful manner. Under the Turkish Criminal Code (TCC) it is a criminal offense to coerce a person by force or threats (article 188), to issue threats (article 191), unlawfully to search a person's home (articles 193 and 194), to commit arson or aggravated arson putting human life at risk (articles 369, 370, 371, 372 and 382), to kill livestock (article 521), or deliberately to damage another's property (article 516). Articles 245, 246, 248 and 250 of the TCC provide for imprisonment of state officials guilty of ill-treating citizens, infringing citizens' property rights, occupying their land, or stealing their money or food.

International humanitarian and human rights law strictly limits governments' right to move populations, imposes strong conditions on the methods used, and places a responsibility of care on the authorities carrying out the movement. There are also clear legal precedents for governments' duty of restitution and compensation towards persons whom they have displaced.

The conflict in southeastern Turkey during 1984-99 was intense enough to qualify as a non-international (internal) armed conflict under international humanitarian law, also called the laws of war. Provisions for the protection of civilians and civilian property in internal armed conflicts is found in Common Article 3 to the four Geneva Conventions of 1949¹⁴ and the 1977 Second Additional Protocol to the Geneva Conventions (Protocol II).¹⁵ Turkey is a state party to the 1949 Geneva Conventions, but not to Protocol II. However, much of Protocol II is considered to reflect customary international law and is thus binding on all states and opposition armed groups. Protocol II states that the "displacement of the civilian population shall not be

¹² Decree 285, Article 4, paragraph H, 1987 (unofficial translation).

¹³ Housing Law 2510.

¹⁴ Although Common Article 3 to the 1949 Geneva Conventions is silent on the issue of population transfers during internal armed conflicts, it nonetheless prohibits "inhumane and degrading treatment."

¹⁵ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1125 U.N.T.S. 609, adopted June 8, 1977. Protocol II applies when opposing forces in an internal armed conflict are under a responsible command, exercise enough control over territory to mount sustained and coordinated military operations and have the capacity to implement Protocol II.

ordered” unless the security of the civilians involved or imperative military reasons so demand.¹⁶ The ICRC Commentary on the Additional Protocols notes that “imperative military reasons cannot be justified by political motives. For example, it would be prohibited to move a population in order to exercise more effective control over a dissident ethnic group.”¹⁷ In the event of a lawful population transfer, Protocol II requires that the authorities must “take all possible measures” to ensure that the internally displaced are provided with shelter, hygiene, health, safety, and nutrition.¹⁸

Article 12 of the International Covenant on Civil and Political Rights (ICCPR), which Turkey signed in 2000, establishes that everyone shall have “the right to liberty of movement and freedom to choose his residence.”¹⁹ The freedom to choose one’s residence incorporates the right not to be moved.²⁰ Restrictions on movement and choice of residence are permitted only when provided by law and for reasons of “national security, public order (*ordre public*), public health or morals, or the rights and freedoms of others;” such restrictions must be consistent with other rights recognized by the ICCPR.

Various U.N. bodies have further defined this right. In a 1997 resolution, the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the U.N. Commission on Human Rights affirmed “the right of persons to remain in their own homes, on their own lands, and in their own countries.” It also urged governments and other actors to do everything possible “to cease at once all practices of forced displacement [and] population transfer ... in violation of international legal standards.”²¹

In another resolution in 1997, the Sub-Commission reaffirmed the right “not to be evicted arbitrarily ... from one’s home, land or community.” It noted that “coerced and involuntary removal” of persons from their homes and lands could result in “greater homelessness and inadequate housing and living conditions.”²² It also noted that for an eviction to be considered justifiable would require that it not be carried out arbitrarily but through legal procedures that ensure appropriate due process protections. Arbitrariness may be presumed from widespread displacement where cases have not been examined on an individual basis.

The United Nations Guiding Principles on Internal Displacement (U.N. Guiding Principles), though not binding on governments, reflect and are consistent with international human rights law and international humanitarian law, and are intended to provide guidance to states confronting internal displacement.²³ Specific provisions of the guidelines are quoted elsewhere in this report, but in summary, they state that:

¹⁶ Protocol II, art. 17(1).

¹⁷ ICRC Commentary on the Additional Protocols, p. 1473.

¹⁸ Protocol II, art. 17(1).

¹⁹ International Covenant on Civil and Political Rights, art. 12.

²⁰ See, e.g., Patrick McFadden, “The Right to Stay,” *Vanderbilt Journal of Transnational Law*, vol. 29, p. 36 (1966).

²¹ United Nations, Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, “Freedom of Movement and Population Transfer,” E/CN.4/SUB.2/RES/1997/29. See also United Nations, Economic and Social Council, Commission on Human Rights, “Further Promotion and Encouragement of Human Rights and Fundamental Freedoms Including the Question of the Programme and Methods of Work of the Commission, Questions of Human Rights, Mass Exoduses and Displaced Persons, Report of the Representative of the Secretary General, Dr. Francis Deng, Addendum, Compilation and Analysis of Legal Norms, Part II: Legal Aspects Relating to the Protection Against Arbitrary Displacement,” E/CN.4/1998/53/Add.1, Section II, A, paragraph 4. Hereafter cited as “Report of Dr. Francis Deng ... Part II.”

²² United Nations, Economic and Social Council, Sub-Commission on Prevention of Discrimination and Protection of Minorities, Forced Evictions, E/CN.4/SUB.2/RES/1997/6.

²³ Although non-binding, the U.N. Guiding Principles are based upon and reflect international humanitarian and human rights law, which are binding. Resolutions of the United Nations Commission on Human Rights and the Human Rights Watch

- the decision to move a population should be taken by a state authority empowered to take such measures;
- internally displaced communities should be given full information on the reasons and procedures for their displacement as well as on compensation and relocation;
- those to be displaced should be consulted about the move and included in decision making as far as is practicable;
- internally displaced people should have the right to an effective remedy against such measures, including judicial review;²⁴
- states have a special obligation to protect minorities, peasants, and pastoralists from displacement,²⁵ and must under no circumstances carry out displacements as a form of collective punishment,²⁶ or discriminate against internally displaced persons by forcing them into armed forces and military groups;²⁷
- the right of the population to life, dignity, liberty, and security must be respected during displacement;²⁸
- while a population is internally displaced, its members should have the right to an adequate standard of living, safe access to food and drinking water, basic housing and shelter, medical facilities, and sanitation;²⁹
- displaced people should not be deprived of their possessions and their property should not be destroyed or appropriated as a form of collective punishment;
- states must protect property left behind by internally displaced persons against destruction and arbitrary and illegal appropriation, occupation, or use;³⁰
- states are primarily responsible for ensuring the welfare of the displaced, but they must ensure free passage for humanitarian assistance from nongovernmental or intergovernmental organizations;³¹
- displacement must last no longer than required by the circumstances;³²
- the state authorities are primarily responsible for providing the conditions, as well as the means, to allow internally displaced persons to return voluntarily in safety to their homes or places of

General Assembly have described the Guiding Principles as a comprehensive framework for the protection of internally displaced persons and have welcomed their use and encouraged U.N. agencies, regional organizations, and nongovernmental organizations to disseminate and apply them. U.N. agencies and nongovernmental umbrella groups in the Inter-Agency Standing Committee have endorsed the Guiding Principles. Regional bodies in the Americas, Africa, and Europe have endorsed or acknowledged the Guiding Principles with appreciation. In particular, the OSCE and its Office for Democratic Institutions and Human Rights (ODIHR) have widely endorsed and promoted the Guiding Principles throughout their work. The Council of Europe has also endorsed the Guiding Principles through its Parliamentary Assembly Committee on Migration, Refugees and Demography, which recommends respect for the Guiding Principles in the course of fact-finding missions to displacement-affected countries. Individual governments have begun to incorporate them in national policies and laws, and some national courts have begun to refer to them as a relevant restatement of existing international law. For more information, see United Nations Commission on Human Rights, Report of the Representative of the Secretary General on internally displaced persons, Dr. Francis Deng, *Specific Groups and Individuals: Mass Exodus and Displaced Persons*, January 16, 2002 E/CN.4/2002/95, published in The Brookings-CUNY Project on Internal Displacement: *Recent Commentaries about the Nature and Application of the Guiding Principles on Internal Displacement*, April 2002.

²⁴ This and the foregoing points are covered in Principle 7.

²⁵ Principle 9.

²⁶ Principles 6 (e) and 21.

²⁷ Principle 13.

²⁸ Principle 8.

²⁹ Principle 18.

³⁰ Principle 21.

³¹ Principle 25.

³² Principle 6.

habitual residence, or to resettle voluntarily in other parts of the country, and should seek to ensure the participation of the displaced in the planning and management of their return,³³ and

- the authorities must assist the displaced in the recovery of their property and provide appropriate compensation or another form of just reparation when this is not possible.³⁴

Principle 28 of the Guiding Principles deserves particular attention. While not going so far as to guarantee the right of internally displaced people to return to their homes, Principle 28 draws on existing international human rights and humanitarian law, as well as various U.N. Resolutions, to assert that governments and international organizations should establish the conditions and provide the means for internally displaced persons “to return voluntarily, in safety and with dignity, to their homes or places of habitual residence.” Influential in the formulation of the Guiding Principles on return was the Dayton Peace Agreement for Bosnia and Herzegovina, of December 14, 1995. Annex 7 of the Dayton Agreement explicitly provided for the right of more than two million refugees and internally displaced persons to “freely return to their homes of origin.” The Agreement continues, “They shall have the right to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them.”³⁵

Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention), to which Turkey is a party, safeguards the right to respect for private and family life,³⁶ and Article 1 of Protocol 1 to the convention protects the right to enjoyment of possessions.³⁷ The European Court of Human Rights (ECHR) has found the security forces’ destruction of property in southeast Turkey to be a violation of both articles (see below).

The question of restitution is not directly addressed in applicable international instruments. The U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities recommended that governments provide “immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land” to those who had been forcibly evicted from their homes.³⁸ In its judgment in *Akdivar and others v Turkey* (Article 50), the ECHR states that where a state has been found in breach of the European Convention, that state has “a legal obligation to put an end to such breach and make reparation for its consequences in such a way as to restore as far as possible the situation existing before the breach (restitution integrum).”³⁹

³³ Principle 28.

³⁴ Principle 29.

³⁵ *Guiding Principles on Internal Displacement: Annotations*, by Walter Kalin, jointly published by the Brookings Project and the American Society of International Law (ASIL), *Studies in Transnational Legal Policy*, No 32, June 2000, p. 70.

³⁶ Article 8 states: “Everyone has the right to respect for his private and family life, his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

³⁷ Protocol 1, Article 1 states: “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.”

³⁸ United Nations, Economic and Social Council, Sub-Commission on Prevention of Discrimination and Protection of Minorities, *Forced Evictions*, E/CN.4/SUB.2/RES/1997/6.

³⁹ *Akdivar and others v Turkey* (Article 50), April 1, 1998, paragraph 47 (dealing with the destruction of houses by gendarme in the village of Kelekci in Diyarbakir province).

Guiding Principle 29 (2) stipulates that internally displaced persons should be provided with compensation or other just reparation for property lost during the course of displacement. Annotations to the Guiding Principles document the strong precedents for providing compensation to displaced persons for the loss of property during displacement.⁴⁰ For example, the procedural rules of the International Criminal Tribunal for the former Yugoslavia (ICTY) allow the Tribunal to award restitution of property or its proceeds to victims.⁴¹ Also, in the Miskito case, the Inter-American Commission on Human Rights recommended payment of just compensation to returning internally displaced persons for the loss of their property, including homes, crops, livestock, and other belongings.⁴² The World Bank also provides for compensation for losses at full replacement cost for persons displaced involuntarily as a result of development projects that have a severe social, economic, and environmental impact.⁴³ The Dayton Peace Agreement established a Commission for Real Property Claims of Displaced Persons and Refugees in Annex 7 and has dealt with many claims, as has the Human Rights Chamber for Bosnia and Herzegovina.⁴⁴

OVERCROWDING AND POVERTY IN THE CITIES

We never received any assistance from the government for the hardship of the past ten years. We just wait.

—Displaced villager interviewed by Human Rights Watch in Siirt, June 27, 2001.

The majority of the displaced rural population of Kurdish origin live in urban centres in dramatic conditions and extreme poverty.... Overcrowded places have usually inadequate heating, no sanitation and inadequate infrastructure. Malnutrition, insufficient and dirty drinking water, improper disposal of sewage and garbage are common problems.

—Report of the rapporteur of the Parliamentary Assembly of the Council of Europe's Committee on Migration, Refugees and Demography, March 22, 2002.

The U.N. Guiding Principles state that all internally displaced persons have the right to an adequate standard of living, and that at a minimum, competent authorities shall provide them with essential food and potable water; basic shelter and housing; appropriate clothing; and essential medical services and sanitation. The principles also require that special attention should be paid to the needs of vulnerable groups, including women, children, and disabled persons (Principles 4, 18 and 19). Human Rights Watch interviewed scores of displaced Kurdish villagers waiting in the cities in the summer of 2001. They

⁴⁰ *Guiding Principles on Internal Displacement: Annotations*, by Walter Kalin, jointly published by the Brookings Project and the American Society of International Law (ASIL), *Studies in Transnational Legal Policy*, No 32, June 2000, p. 72.

⁴¹ Article 105 of the Rules of Procedure and Evidence, adopted February 11, 1994 by the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of Humanitarian Law committed in the Territory of the Former Yugoslavia since 1991, U.N.Doc.IT/32, March 14, 1994.

⁴² Report on the situation of human rights of a segment of the Nicaraguan population of Miskito origin, OEA/Ser.L/V/II.62, doc. 10, rev. 3, November 29, 1983.

⁴³ The World Bank, *Involuntary Resettlement*, Operational Directive 4.30 (1990); see also The World Bank, *Involuntary Resettlement*, Draft Operation Policy 4.12 (1999), available at <http://www.worldbank.org/html/extdr/projects.html>.

⁴⁴ *Medan et al. v. the State and the Federation of BH*, Decision of November 7, 1997, CH/96/3; *Kalinčević v. the State and the Federation of BH*, Decision of March 11, 1998, CH/96/23; *Kevešević v. Federation of BH*, Decision of September 10, 1998, CH/97/46; *Eraković v. Federation of BH*, Decision of January 15, 1999, CH/97/42; *Gogić v. Republika Srpska*, Decision of June 11, 1999, CH/98/800; *Pletilic et. al ("20 Gradiska Cases") v Republika Srpska*, Decision of July 8, 1999.

described overcrowding, poverty, and unemployment almost completely unrelieved by any efforts on the part of the state.

Overcrowded and unsanitary housing

When gendarmes destroyed their homes and drove them from their lands, villagers sold off whatever livestock they had managed to save from the fires and shooting and went in search of shelter. Some camped by highways near enough to their villages to tend their crops. Others went to the nearest town or city and put up makeshift dwellings of tarpaulins and packing cases on vacant ground. Villagers crowded in with relatives or into rented accommodation, agricultural buildings, or construction sites with neighbors from the same village.

In 1993 gendarmes came to the house of Hayriye H⁴⁵ in Kayayolu village near Bismil. She said that they tortured members of her family so badly that three were admitted to hospital. They then burned the house. Now, twelve family members are living in three rooms in Diyarbakır with an outside lavatory shared with neighbors.⁴⁶ Gendarmes drove Veli V⁴⁷ off his land at village D, near Mardin in 1993, and dismantled his three-room house. The family of eight now live in a single room in Diyarbakır.⁴⁸ A group of families ordered to leave their homes in Hakkari in 1995 were experiencing even worse conditions of overcrowding, living in stables in Van:

Most of us are living thirteen or more in each room. In our family there are twelve living in one room: men, women, and children. A hundred of us use a communal toilet outside and share a single tap in the courtyard. If there were a return to the village we would definitely return. We want to get out of this life—we live in a place built for animals. This place is pretty smelly in the summer, and since our financial situation is not good, we do not go to the doctor very much.⁴⁹

If displaced villagers had remained clearly visible in tent settlements, the authorities might have felt under more pressure to remedy their plight. But the displaced are resourceful and have turned to extended family and community structures to pool resources and find work and housing. According to a 2002 survey carried out by the Migrants' Association for Social Cooperation and Culture (Göç-Der), a Turkish nongovernmental organization, more than half of the displaced villagers had found accommodation in *gecekondu*, or shantytown dwellings but, ten years after the worst of the displacements, some 5.7 percent of respondents were still living in tents or sheds.⁵⁰

Language problems exacerbated the difficulty of finding accommodation and integrating in the cities of the west. Göç-Der's study among the displaced found that 17.6 percent of the sample reported that their poor command of Turkish had created problems in finding housing.⁵¹ Only 11.4 percent of adult males spoke Turkish as their mother tongue, and 60.9 percent of displaced women spoke no Turkish at all.

⁴⁵ Interviewee's real name withheld to protect her safety.

⁴⁶ Human Rights Watch interview, Diyarbakır, June 22, 2001.

⁴⁷ Interviewee's real name withheld to protect his safety.

⁴⁸ Human Rights Watch interview, Diyarbakır, June 22, 2001.

⁴⁹ Human Rights Watch interview, Van, July 3, 2001.

⁵⁰ Göç Edenler Sosyal Yardımlaşma ve Kültür Derneği, "Sociological Analysis Of The Migration Concept, Migration Movements In Turkey And Their Consequences," April 2002, prepared by Mehmet Barut, Mersin University, based on a survey of 2,139 households comprising 17,845 persons, Section V.9. In October 2002 the prosecutor of Istanbul State Security Court opened a trial against Mehmet Barut and the president of Göç-Der, Şefika Gürbüz, in connection with their report. They are charged with incitement to racial hatred under article 312 of the Turkish criminal code.

⁵¹ *Ibid.*, Section VI.5.

Poverty and unemployment

Almost all the villagers interviewed by Human Rights Watch voiced the classic complaint of the dispossessed peasant: that in their former existence they were poor but lived reasonably well and were proud of their status as producers, whereas in the city they led a meager and unproductive life, and were obliged to buy every mouthful of food with scarce cash.

Giyasettin G⁵² and his children watched gendarmes burn their four-room house and livestock at village K, near Lice, in 1993. Formerly a farmer with fifty head of cattle and sheep as well as fifty acres under wheat and lentils, he now lives in rented accommodation in Diyarbakır: “Here I work as a hamal (street porter). I get about 100 or 150 million [U.S.\$90-130] per month if there is work. I pay 60 million a month for three rooms that I rent from a relative, so it is comparatively cheap. I have to buy every grain of food. I buy four bags of flour a month at 13 million each. I have not bought a kilo of meat this year.”⁵³ Another villager, the sole provider for a family of eight, described similar economies: “I work as a janitor at an office in Diyarbakır where I earn 120 million a month. I get flour and beans and with difficulty, fruit. I cannot buy meat—the money just does not go that far. I have never received any assistance from the municipality or foundations. I can only send two of my children to school.”⁵⁴ Some spoke of real hunger. Ayşe A’s⁵⁵ village near Lice in Diyarbakır province was burned in 1992. During the operation her husband was detained; she says that when he was released a month later, he had been so badly tortured that his mental stability was permanently affected. She also has a twenty-year-old son who is disabled after having meningitis as a young child. They and their children now share a basement room with another family:

We are in such a difficult financial state that we cannot buy sugar and flour in the same month. One son works in a restaurant and my husband works on construction when he can find work. We pay electricity and water and there is not much for anything else. Several times I have had no flour in the house for three days at a time, but then the neighbors noticed and helped.⁵⁶

A villager from the Çınar district of Diyarbakır said:

If I had life security I would dance my way back to the village. I have difficulty getting by now on a wage that is below the minimum wage. With my former income, I could have fed five families. I could have fed earthquake victims in my previous circumstance. Now I cannot properly feed my own children. I had six children at school, but I have had to take three of them out of school. Food and clothing is very difficult. I have a family of twelve. If it were not for me they would be in disastrous circumstances. What will happen if I get sick?⁵⁷

Health and social problems

Fear of health problems haunts displaced villagers. Living on a sparse diet and densely packed into housing with poor sanitation, they are frequently sick, but lack resources to pay for treatment. Mustafa M of village S near Muş said that he was formerly “quite rich by the standards of the village.”⁵⁸ Gendarmes

⁵² Interviewee’s real name withheld to protect his safety.

⁵³ Human Rights Watch interview, Diyarbakır, June 22, 2001.

⁵⁴ Human Rights Watch interview, Diyarbakır, June 22, 2001.

⁵⁵ Interviewee’s real name withheld to protect her safety.

⁵⁶ Human Rights Watch interview, Diyarbakır, June 24, 2001.

⁵⁷ Human Rights Watch interview, Diyarbakır, June 23, 2001.

⁵⁸ Human Rights Watch interview, Istanbul, July 11, 2001.

destroyed his home in 1994, and he moved to another property that he owned near Malazgirt. Village guards destroyed this house in 1996, and he fled to Istanbul. He told Human Rights Watch:

I have no property here in Istanbul. I live in a house in a district of Istanbul that I built with my own hands on some vacant ground. I have six children. A year after we arrived in Istanbul, I was unable to buy enough food. The house was cold. I had no money for fuel. One of my daughters, aged just over a year, became sick. Her mother could not feed her properly and the child died there in the house.⁵⁹

Some villagers who were unable to pay for hospital treatment were forced to discontinue needed treatment. A villager forced to leave her home in a village in Diyarbakır province in 1992 said: “My five-year-old brother was being treated for bronchitis. We had to run from the hospital. My sister was in hospital with typhoid fever and the family had to take her home, steal her case file and run.”⁶⁰

The very poor can apply for a “green card” that enables them to get free consultation and hospital accommodation, although it does not cover the cost of medication. According to the Emergency Region governor, 26 percent of the population in the region qualifies for a green card.⁶¹ However, displaced people have difficulty in getting their green cards. Since only indigent people can receive a green card, villagers who own substantial property may not qualify in spite of the fact that they are denied access to that property, which could otherwise provide them with income to finance their own health care. If they do qualify, the security forces can still obstruct their application, because a series of officials, including the local security force chief, must sign the application. This necessitates an anxious journey back to their village in order to obtain a signature from the nearest gendarmerie commander. A villager told Human Rights Watch that a gendarmerie commander had written on his green card application form: “PKK member but not on the wanted list.”⁶² Another was unable to obtain a green card after soldiers tore up his application file and ejected him from the gendarmerie station.⁶³

Older villagers spoke of deep depression, a sense of alienation due to their changed circumstances, and listlessness arising from long periods of unemployment. The violence of their original uprooting frequently aggravated these symptoms. A 1998 medical study carried out on a group of internally displaced found that 66 percent were suffering from post-traumatic stress disorder, with 29.3 percent showing profound depression.⁶⁴ Children are frequently not sent to school because the family cannot afford the fairly minimal cost of books and school clothing or the loss of income that children bring in to the family by working on the streets or as “apprentices” in workshops and textile sweatshops.

The Migration and Humanitarian Assistance Foundation (GİYAV), a nongovernmental organization, offers support to internally displaced people in the large coastal city of Mersin. It runs a mother and child group, evening activities for young people, and meets the educational costs of thirty children. Board member Mehmet Barut told Human Rights Watch:

These people have no education and no profession apart from livestock keeping, so they don't fit in with city life. They did not want to move here in the first place. The middle-

⁵⁹ Ibid.

⁶⁰ Human Rights Watch interview, Diyarbakır, June 22, 2001.

⁶¹ “OHAL bölgesinde her 100 kişiden 26’sının yeşil karttan yararlandığı bildirildi” (26 out of every 100 people in the State of Emergency Region have a green card), Turknet news agency, February 11, 2002.

⁶² Human Rights Watch interview, Diyarbakır, June 23, 2001.

⁶³ Human Rights Watch interview, Diyarbakır, June 22, 2001.

⁶⁴ Dr. Aytakin Sır, Dr. Yener Bayram and Dr. Mustafa Özkan, “A preliminary study on PTSD after forced migration,” *Turkish Journal of Psychiatry*, 1998, pp. 173-180.

aged and elderly get depressed. Most of the women are illiterate and do not speak Turkish. Women in particular are locked away in a way that they weren't in the village. The displaced peasants have really no means of production—they are now reduced to the status of consumer and regarded as parasites by settled society. The forced migration was damaging because it broke people's link with society.⁶⁵

Municipal efforts to relieve hardship

Cabbar Leygara, mayor of the Bağlar district of Diyarbakır, the destination for whole communities fleeing in the early to mid-1990s, took up the same theme:

This is not a normal migration process—people left in a real hurry. The classic rural to urban move was done in a sort of organized way. The turbulent nature of this move deprived some villagers not only of their economic potential, but also the status they had earned in their village. People who were wealthy and respected in their village, I see selling eggs on the street. The children are affected because they lose their education but also because they fail to integrate satisfactorily. Most children go to school without the overall that serves as a school uniform. This really affects the kids' psychology. There is now the beginnings of a street children culture: glue-sniffing, pickpocketing. I noticed that children were lurking in some ruins in the neighborhood. I had the ruins knocked down. I know it is not a solution but it is all we can do with our resources.

During the earthquake [in 1999 in western Turkey] people lost their property and goods but they did not lose their social environment. These people lost absolutely everything. Because they came unexpectedly, they don't seem to have been able to adapt.

These people are neither rural nor urban, but left in the middle. Women have really terrible problems. The feudal customs of the village continue here, but at the same time there is the urban pressure for women to be more independent—they are in a dilemma. The women cannot go out wandering after their cows as they did in the village, but at the same time they cannot go out in the city for a picnic or shopping because of the customs of honor. A mother of about eighteen years of age told me that I should build a health center close to her home because if she has a gynecological problem, she fears to tell her husband. She has to get two return tickets by dolmuş⁶⁶ with another person to chaperone her and come back: it's big money, and therefore she just doesn't tell people that she's ill. There is quite a high rate of perinatal death. Such deaths are now not made much of because there are so many, and this is very painful for the mother.⁶⁷

Leygara described how the influx of displaced people has put enormous strain on some urban municipalities where, during the course of less than a decade, the population of the district has quadrupled from 75,000 to more than 300,000: “This affects education. Normally there should be 40 children in a class, but we quite often have classes of 120. It also has implications for health care. We have three health centers for 300,000 but normally we would expect a health center for each 10,000 people.”

In the 1999 elections, HADEP, which is supported mainly by members of the Kurdish minority, won the mayorships of thirty-nine municipalities. All have significant populations of displaced people. Unfortunately, Turkey's central government is not well disposed toward HADEP administrations like that in Bağlar. The Ministry of the Interior, according to HADEP officials, is extremely uncooperative.

⁶⁵ Human Rights Watch interview, July 7, 2001.

⁶⁶ A system of shared taxis.

⁶⁷ Human Rights Watch interview, Diyarbakır, June 26, 2001.

Worst of all, it refuses relief from interest payments customarily granted to municipalities with much less pressing social problems, and this results in a chronic shortage of cash for social and infrastructure projects that could benefit the displaced.⁶⁸

In some cities, the authorities provided some housing for displaced villagers, but these initiatives are mainly intended for former village guards. In Van, for example, provision was made for a group of eight hundred villagers, mainly former village guards and their families, who were told to leave by the authorities because their settlements, near the Iraq border, could not be protected from PKK attacks. The 285-unit Yalın Erez Lodgings outside Van were a major central government investment and generally appreciated by residents. As a rather ad hoc and temporary arrangement, however, it suffered a number of shortcomings. Funding ran out before the sewage disposal system was completed and news reports, confirmed by the residents interviewed by Human Rights Watch, said that at least four children had drowned in cesspools flooded during the winter months.⁶⁹ Most of the inhabitants of the Yalın Erez Lodgings are livestock keepers by profession, unskilled in other trades, and therefore find difficulty in supporting themselves in an overcrowded city with a high rate of unemployment.

Provision of this kind is rare, and even in Van, Human Rights Watch met other former village guards from the same area who had left under the same circumstances but had been unable to find accommodation in the Yalın Erez Lodgings or elsewhere, and were living in agricultural buildings with no sanitation and served by a single tap. Villagers interviewed at the Yalın Erez Lodgings said that they would prefer to return to their original homes. They were angry at the loss of friends and relatives killed in PKK attacks, but also resentful at the lack of care and concern for them shown by the state. One man told Human Rights Watch, “We were village guards but like all villagers we were stuck between the two sides. We lost thirty-two villagers, killed in clashes. In one night alone we lost twelve people. But the day we came to Van in 1995 they stopped our village guard pay.”⁷⁰

An economic crisis in February 2001 exacerbated the problems of municipalities and the displaced alike. Prime Minister Bülent Ecevit triggered a public row when he walked out of a National Security Council meeting after President Ahmet Necdet Sezer questioned his handling of corruption allegations against members of parliament. Over the next twenty-four hours, the stock market fell by 14 percent, and the central bank lost nearly a fifth of its foreign reserves, as investors exchanged Turkish lira for dollars and euros. The fragile economy was profoundly shaken and prices soared. Layoffs struck particularly hard at sectors such as catering and construction where displaced people were working as uninsured casual labor. In the face of such financial crisis displaced villagers are even more desperate to return to their lands where they could at least feed and house themselves. A pronounced decline in armed activity in the countryside should have made this a realistic option.

The number of PKK attacks had already diminished considerably when, in 1998, the Syrian government expelled the PKK's leader and founder Abdullah Öcalan. After unsuccessful efforts to find refuge in Europe, Öcalan was captured in Kenya by Turkish special forces and brought back for trial in Turkey. A special court on the island of Imroz near Istanbul sentenced him to death and he remains a prisoner there.⁷¹ In order to avoid provoking the authorities to carry out the execution, the PKK further stepped down its military activities, and in 1999 it declared a unilateral ceasefire in Turkey. In April 2002, the

⁶⁸ Human Rights Watch interview with Cabbar Leygara, mayor of Bağlar district of Diyarbakır, Diyarbakır, June 26, 2001.

⁶⁹ Adil Harmancı, “Onlara her gün deprem” (For them, every day an earthquake), *Özgür Politika* (Free Policy), November 7, 1999.

⁷⁰ Human Rights Watch interview, Van, July 3, 2001.

⁷¹ Turkey abolished the death penalty in peacetime on August 2, 2002. Abdullah Öcalan's sentence was commuted to life imprisonment.

PKK dissolved itself as a party, became the Congress for Freedom and Democracy in Kurdistan (KADEK), and declared that it would pursue non-violent methods. However, the organization maintains a substantial armed force, estimated at 5,000, in northern Iraq.⁷²

Renegade groups that do not accept the new direction and members fleeing across the border to Iraq occasionally clash with Turkish security forces, but the overall extent of political violence in the countryside is negligible when compared with the previous decade. Whereas news sources reported 3,300 clashes between PKK and security forces in 1994, there were fewer than fifty reported clashes in 2001. Deputy Prime Minister Mesut Yilmaz confirmed that the situation has changed dramatically: "In the past we were unable to take certain steps because of terrorism. Today there is a zero level of terrorism. The time has come for us to take steps that we had planned and targeted."⁷³

If peace of a kind has returned to southeast Turkey, there should be no legitimate obstacle to villagers returning to their homes.

INCONSISTENT RETURN STATISTICS

A cursory reading of government officials' figures on return suggests that villagers are heading home in large numbers, but as more and more upbeat statistics have emerged, the figures have begun to contradict one another. An undated letter sent by the Southeast Anatolia Project (GAP) to the Göç-Der received in May 2001 reported that 220 settlements were being resettled by 26,433 returnees. But Emergency Region Governor Gökhan Aydın, speaking at a ceremony at Şaklat village, Diyarbakır province, on August 7, 2001, said that only 18,600 villagers had returned.⁷⁴ The Interior Ministry stated in November 2001⁷⁵ that 30,224 villagers had returned in the previous seventeen months. Government sources informed the U.S. State Department that 26,481 people had returned by the end of 1999,⁷⁶ and 35,513 between June 2000 and December 2001, a total of at least 61,994.⁷⁷

On April 3, 2002, Emergency Region Governor Aydın said that villagers had returned to 406 villages and 164 mezra between June 2000 and December 2001.⁷⁸ On March 12, 2002, the Interior Ministry said that inhabitants had returned to 294 villages and 159 mezra in that period.⁷⁹

The statistics are useless for the purpose of assessing the progress of return, not only because they are inconsistent, but also because they never list the settlements to which villagers have been able to return. Detailed lists would enable observers to compare government claims with the reality on the ground, and would reveal whether villagers are correct in claiming that most of the returns have been to communities that enrolled in the village guard system. A clear example of how partial information can be confusing or misleading is a letter written by the governor of Bingöl to Göç-Der headquarters, dated May 27, 2001, stating that U.S. \$570,000 had been spent on return in that province alone. The expenditure seems to have been mainly on reconstruction of roads, and few villagers have returned in Bingöl province.⁸⁰ In a

⁷² Reuters, February 6, 2002.

⁷³ Institut Kurde, Information and Liaison bulletin, 184-185, July/August 2000.

⁷⁴ *Cumhuriyet* (Republic), August 15, 2001.

⁷⁵ *Hürriyet* (Liberation), November 24, 2001.

⁷⁶ U.S. State Department, *Report on Human Rights Developments*, 2000.

⁷⁷ U.S. State Department, *Report on Human Rights Developments*, 2001.

⁷⁸ Emergency Region Governorate press statement, April 3, 2002 (<http://www.ohal.gov.tr/bb.htm>).

⁷⁹ "Interior Minister: 475-500 'Armed Terrorists' exist in Southeast," Anatolia news agency, March 12, 2002.

⁸⁰ Human Rights Watch, telephone interview with Rıdvan Kızgın, president of Bingöl HRA branch, September 12, 2002.

letter of October 25, 2001, Human Rights Watch asked the Turkish government for a detailed breakdown of statistics on return (see Appendix), but did not receive a reply.

Efforts to develop independent statistics have been confounded. The central government blocked an attempt by Diyarbakır municipality to collect reliable data about the number, conditions, and aspirations of the displaced.⁸¹ The State Statistical Institute approved the methods used by the municipality in its five-page questionnaire designed for distribution to displaced persons, but the Interior Ministry banned the study because it included questions concerning the reasons for migration and included “pressure by security forces” as one of the optional responses.⁸²

In the absence of reliable statistics that are open to analysis, it is impossible to make an accurate estimate of the number of genuine returns. Even if the government’s most optimistic figures are correct, only 10 to 20 percent of the displaced population has returned. Nongovernmental organizations in close contact with displaced persons such as Göç-Der and the Human Rights Association (HRA) believe that all the government’s conflicting figures are exaggerated and that in fact relatively few villagers have been able to return permanently.

THE VILLAGE RETURN AND REHABILITATION PROJECT

The Turkish government has produced various return initiatives since 1995, all badly flawed by lack of funding and insufficient political drive.⁸³ Their main purpose was apparently to give an impression of government action to deflect questions from petitioning villagers, parliamentary deputies from the southeast, and foreign diplomats, as well as pressure from metropolitan populations and municipalities concerned about the influx of peasants who squat on vacant land and put up gecekonu, or shanty dwellings.

Tansu Çiller’s government announced a “Central Villages Project” in November 1994, but this was indefinitely postponed when it failed to receive Council of Europe funding. When the “Village Return Project” was announced in 1995, State Minister for Human Rights Algan Hacaloğlu urged his colleagues working on the scheme to ensure that this time there should be a genuine effort to solve the problems of the displaced: “We should stop making fake, artificial attempts just to convince the European Parliament,”⁸⁴ he declared, but nearly a year later, the governor of Diyarbakır province conceded that “no matter how regrettable, from that day [of the announcement of the project] to today nothing has been done and the project remains on paper only.”⁸⁵

The latest government program for the displaced is the Village Return and Rehabilitation Project, announced in March 1999. The prime minister’s press introduction for the Village Return and Rehabilitation Project closely resembled that of the ill-fated “Village Return Project,” stating: “Within the framework of the project, those families who wish to return to their villages will be determined;

⁸¹ *Milliyet* (Nationhood), February 26, 2001.

⁸² In the Göç-Der April 2002 study “Sociological Analysis Of The Migration Concept, Migration Movements In Turkey And Their Consequences” (see above), 83.7 percent of the sample reported that the state of emergency rule and the activities of the security forces were the principal cause of displacement.

⁸³ For a survey of such initiatives up to 1996, see Human Rights Watch report: *Turkey’s failed policy to aid the forcibly displaced in the southeast*, June 1996.

⁸⁴ Ayşe Sayın, “Köylere güvenli dönüş arayışı” (Search for a Secure Return to Villages), *Cumhuriyet* (Istanbul), July 7, 1995, p. 4.

⁸⁵ Oya Ayman Biber, “Köye Dönüş projesi Fiyasko” (Village Return Scheme a Fiasco), *Yeni Yüzyıl*, April 16, 1996, p. 5.

infrastructure facilities of the villages will be completed; housing developments will be increased with the labor of families; and social facilities especially in health and education will be completed to increase the standard of living of the local people. Moreover, activities such as beekeeping, farming, animal husbandry, handicrafts and carpet weaving will be supported so that these families can earn a living.”⁸⁶

To Human Rights Watch’s knowledge this is the only publicly available official, written information about the Village Return and Rehabilitation Project, although it was initiated more than three years ago. In the absence of any details on paper setting out the aims, methods, resources, or schedule of what is supposed to be a major construction and rural development project to serve hundreds of thousands of citizens, it must be questioned whether the government is truly committed to the project. Public officials responsible for implementing the Village Return and Rehabilitation Project, when contacted by Human Rights Watch, were unable to supply a policy paper or project summary. Neither the leading nongovernmental organizations in the field of internal displacement in Turkey (GIYAV, Göç-Der, HRA), nor those municipalities hardest hit by migration from the countryside, have received comprehensive information about the scope and work of the Village Return and Rehabilitation Project. The lack of written information reinforces Human Rights Watch’s impression that the Village Return and Rehabilitation Project is not a major coordinated interdepartmental enterprise, but rather an ad hoc scheme that officials can quote in response to questions put by parliamentary deputies, journalists, and intergovernmental organizations.

Some displaced villagers suspect that the Village Return and Rehabilitation Project is a disguised form of forced resettlement, devised to keep them permanently away from their former villages. These suspicions were increased when Prime Minister Ecevit submitted a draft housing law to parliament in July 1999, four months after introducing the Village Return and Rehabilitation Project. The draft law would provide for the resettlement of former nomads, Turkic immigrants from abroad, and people internally displaced by security forces, but it ensures that anyone who refuses to go where they are told loses immediately all rights to rehousing. Article 13 of the draft law states that the Council of Ministers will decide who is to be counted as having been moved “for reasons of national security” in accordance with recommendations by the National Security Council. Article 14 states that “if [the displaced] do not accept to live in the places directed by the Office of the Prime Minister, their rights [to resettlement] will be cancelled by the local housing commission. Families in this situation may not make a second housing application.”⁸⁷

In June 2001 Human Rights Watch asked for a meeting with the Office of the Prime Minister to discuss the Village Return and Rehabilitation Project, but was told to submit its questions in writing. In October 2001 Human Rights Watch wrote to the Office of the Prime Minister asking a series of questions about the Village Return and Rehabilitation Project, but received no reply. (See Appendix A)

In Turkish politics it has always been imperative for politicians to be seen to be doing something on behalf of the poor exploited villager, so when questioned about the displaced, ministers and government officials have repeatedly referred to the Village Return and Rehabilitation Project and given statistics suggesting that there is a substantial flow of returns with government support. In fact, three years since its introduction the project remains, like its predecessor “on paper only,” no more than a feasibility survey.

⁸⁶ See Press Release issued by the Office of the Prime Minister, www.byegm.gov.tr/YAYINLARIMIZ/newspot/1999/mar/News3-4.htm, March 1999 (accessed November 2000).

⁸⁷ Draft housing law, submitted to the Turkish parliament by the Office of the Prime Minister, dated July 5, 1999, numbered B.02.0.KKG/196-342/2895.

FEASIBILITY STUDY LEAVES QUESTIONS UNANSWERED

The Office of the Prime Minister delegated management of the Village Return and Rehabilitation Project to the giant South East Anatolia Project (Güneydoğu Anadolu Projesi—GAP).⁸⁸ GAP could not supply Human Rights Watch with any written overview of the Village Return and Rehabilitation Project, but GAP officials were very willing to talk with Human Rights Watch about their contribution to the project. At an interview on July 9, 2001, at the Şanlıurfa headquarters of GAP in southeast Turkey, Mehmet Açıkgöz, agriculture and social projects group director, and Handan Giray, agricultural economist, told Human Rights Watch that the Village Return and Rehabilitation Project had first been conceived in 1997 when provincial governors began to establish return projects on their own initiative and the government resolved that a more consistent and coordinated approach was required.⁸⁹

Once tasked with the project of designing a return program, GAP decided that it was necessary to collect further information about the scope of the problem, and to this end put the task of preparing a feasibility study out to competitive tender. The tender was awarded to the Turkish Social Sciences Association (TSBD),⁹⁰ a nongovernmental organization that finances and implements a wide variety of social research. In October 2002, most of the project data and feasibility plan had been delivered to GAP, with some cartographic work still outstanding.⁹¹

The TSBD director, Professor Oğuz Oyan, described the feasibility study as developing “a standard approach without going to a lot of expense. An attempt at something practical.”⁹² His staff was engaged in a one-year project to collect data and make proposals for a model for future village reconstruction. They had talked to displaced people in provincial centers and had selected one hundred empty villages from a list of three hundred for more detailed study. Professor Oyan emphasized that one hundred was the number of villages chosen for deeper study and not the number of villages considered appropriate for repopulation. From the initial one hundred, they selected one village per province in the affected region, and for each of these the association was developing a reconstruction plan on the basis of large scale maps. According to Professor Oyan, the plans were mainly focused on the physical aspects of reconstruction—the layout of the houses and infrastructure including electricity and water supply, roads and sewage disposal—and did not go much into details of implementation.

⁸⁸ GAP is a corporation under the authority of the Office of the Prime Minister that is primarily responsible for coordinating the program of large-scale hydro-electric and irrigation projects in southeast Turkey. “The aim of this programme is to spur regional-development planning, management and project implementation to consolidate local capacities and to engage them in development processes. The programme seeks to do this through a matrix of projects concerned with economic and social growth, implemented at the local level in the provinces of the South Eastern Anatolia (SEA) region. The challenges of regional development persist and especially with regard to basing regional-development planning and investment on sound participatory mechanisms. Strengthening the catalytic role of U.N.D.P will result in more sustainable and participatory local-development schemes. With U.N.D.P support, programme partners will target vulnerable groups better in their project designs. This makes it possible to incorporate the goals of the World Summit for Social Development (WSSD) in programme interventions and to build necessary linkages among the many activities and subprojects supported under the programme. This in turn will lead to a more measurable impact.” (Executive Board of the United Nations Development Programme and of the United Nations Population Fund [U.N.D.P/U.N.P.F], December 13, 2000, First country cooperation framework for Turkey (2001-2005), DP/CCF/TUR/1, para. 29).

⁸⁹ Human Rights Watch interview, Ankara, July 9, 2001.

⁹⁰ Türk Sosyal Bilimler Derneği.

⁹¹ Human Rights Watch, telephone interview with Professor Oyan, October 15, 2002.

⁹² Human Rights Watch interview, Ankara, July 10, 2001.

The collection of concrete data as the basis for feasible proposals is praiseworthy, welcome and long overdue. By contrast with previous schemes the TSBD has taken the trouble to talk in depth with at least some of the displaced persons in order to discover their needs.⁹³

But it is not clear that the feasibility study will serve the interests of the majority of the displaced. According to Professor Oyan, the Prime Minister's Office and GAP did not give TSBD detailed terms of reference for the feasibility study, but there is a risk that the research is being skewed by a number of built-in assumptions and omissions.

First of all, the project leaves the most basic questions unanswered: how many people were displaced, how were they displaced and who are they? The Parliamentary Commission on Migration shed some doubt on the official figure of 378,335, calling it "problematic" and suggesting that it may be an underestimate. Göç-Der estimates the number of displaced to be four-and-a-half times higher, at 1.7 million. The TSBD did not know whether the government had kept any complete register of displaced persons. In the absence of such information about the true number of people displaced, it is difficult to see how the government can set an effective budget for reconstruction. Without contact details for the displaced, government agencies will not be able to communicate with them in order to collect information, nor keep them informed of policies and potential benefits for which they qualify.

If the government ignores the original circumstances of the displacement, it ignores its responsibility to provide full restitution. As indicated above, the U.N. Guiding Principles state that the government has a duty to restore property and possessions, and that where this is not possible, it should provide or assist people to obtain appropriate compensation or another form of just reparation.⁹⁴ In his meeting with Human Rights Watch, Professor Oyan was skeptical about the possibility of such reparation given Turkey's financial situation. He cautioned that the feasibility study had not been prepared in the light of the U.N. Guiding Principles, and that the TSBD's allocated task was "not concerned with human rights—though we are sensitive to human rights."⁹⁵

It seems likely that the research sample may be at least unrepresentative and perhaps badly lopsided. The TSBD's plan will be based on interviews with displaced persons, and if this group is not representative of the overall population of displaced persons then it will produce misleading results. The TSBD identified the villagers for interview and the settlements for consideration as models from lists and petitions supplied by local governors. Local governors clearly have better relations with former village guard villages displaced by PKK activities than with non-village guard communities displaced by the security forces, and they usually do not accept petitions from villagers who declare that they were displaced by security forces. Asked if villages that were less favored by the authorities had been included in the pilot study, Professor Oyan admitted that "there would be no point in us developing a plan for a village that the local governor does not consider appropriate for resettlement."⁹⁶

Villages in southeast Turkey often consist of a large settlement surrounded by many smaller mezra (hamlets). Those state officials that agreed to speak to Human Rights Watch left no doubt that an unwritten priority of the Village Return and Rehabilitation Project is to engineer out these smaller units.

⁹³ In a letter to Human Rights Watch, dated December 24, 2001, Professor Oyan emphasized that TSBD's study for the Village Return and Rehabilitation Project is "primarily a research and planning project whose findings might provide guidelines for a more comprehensive implementation." He stated further that participation was of the utmost importance for the TSBD, and that they had interviewed 1,097 heads or representatives of households.

⁹⁴ Principles 7 and 29.

⁹⁵ Human Rights Watch interview, Ankara, July 10, 2001.

⁹⁶ Human Rights Watch interview, Ankara, July 10, 2001.

The deputy governor of Van province was quite blunt: “We do not regard the mezra warmly.”⁹⁷ He stated that repopulating far-flung mezra did not look like a good investment in view of the expense of supplying them with medical support, postal services, utilities, and education. He and others also mentioned the difficulty of protecting these settlements. It is clearly easier to provide military supervision of a large village close to lines of communication. The authorities’ security concerns may be justified (or not, given the relative peace of the last four years). But this policy seems to have been agreed over the heads of the displaced villagers. The government is smuggling an extra state imperative—closing down remote rural settlements for reasons of security and economy—into a project publicized as one of “return.”

When asked if villagers determined to return to their homes in mezra would be prohibited from return, the TSBD, like the Van deputy governor, emphasized that nobody would be prevented by force from returning to their homes wherever they might be, but that remote settlements were unlikely to win any government assistance. At the moment many inhabitants of mezra are not being permitted to return. In the future they may be presented with the choice of becoming a tenant of government housing in a central village with the expectation that they commute to their fields and pastures (not a practical proposition for those whose property is at a distance of several kilometers), returning to the destroyed mezra with no assistance at all, or abandoning all hope of return and continuing their precarious urban existence.

In view of the description of the feasibility study as a “practical” scheme, it is curious that the government had not given the TSBD a budget for the project, and had not asked the TSBD to prepare one. (Professor Oyan said that in spite of this the TSBD was anyway considering preparing a budget.)⁹⁸ The lack of budgetary information is not consistent with the stated objective of avoiding expense (unless the aim is to avoid expense altogether) and puts a question mark over the government’s commitment to implementation.

Finally, the Village Return and Rehabilitation Project is moving so slowly that there must be some doubt whether it will ever bring practical benefit to the displaced. The TSBD planned to finish its initial field study in March 2002 (five years after the Return Project’s original conception). It would then provide an assessment of one hundred villages and proposals as to how the return process might be carried out in twelve model villages—no more than 12 percent of the emergency region governor’s estimate of evacuated villages (820), or 3 percent of the figure for all evacuated settlements including mezra (2,345). The relevant ministries would then presumably begin deliberation about implementation of the program as a whole, and bargaining for resources. As this report went to press, in October 2002, it is unclear whether this process was in train. Until a comprehensive and fully-funded plan is up and running, villagers will remain cut off from their homes and livelihoods. The Parliamentary Human Rights Commission reported that the Interior Ministry’s Village Return and Rehabilitation Project goal for 1999 was to secure the return of 1,017 families.⁹⁹ At this rate, the 10,539 families who have petitioned Göç-Der might expect to wait up to a decade before they could return to their homes, unless, as is widely feared, the Village Return and Rehabilitation Project will be limited to only a small number of selected settlements.

The Village Return and Rehabilitation Project has taken five years to get twelve model villages onto the drawing board. Those villages, for the reasons given above, are likely to be villages favored by the state because of a history of village guard membership. It would not be surprising if the other villagers, who do not have a special relationship with local governors and security forces, never benefit from the Village Return and Rehabilitation Project, and never return.

⁹⁷ Human Rights Watch interview, Van, June 29, 2001.

⁹⁸ Human Rights Watch interview, Ankara, July 10, 2001.

⁹⁹ Letter from the Parliamentary Human Rights Commission to Göç-Der dated December 5, 2000, numbered 00737.

RESETTLEMENT PROJECTS

If, as it appears, the Village Return and Rehabilitation Project will attempt to resettle inhabitants of mezra in larger centralized settlements, it will be disquieting for many villagers. All those interviewed by Human Rights Watch said that they would prefer to move back to their own homes. Naturally, their links with their own soil are strong, but in addition, they did not relish the prospect of being forced into the company of strangers, and particularly into settlements dominated by rival tribes. Travelling substantial distances to their own fields and grazing may be impractical, and allocations of land at the place of resettlement may be unsatisfactory. They were also concerned that they may not have full freehold rights over property in their place of resettlement.

Nevertheless, the government is going ahead with a confusing variety of projects involving resettlement rather than return: “central villages,” “attraction centers,” and “village-townships.” Some measures seem to exist only in official press statements. On July 23, 2000 Anatolia News Agency reported that Deputy Prime Minister Mesut Yılmaz had referred to an Immediate Implementation Project providing for 2,850 families in Diyarbakır, Bingöl, Şırnak, Batman, Hakkari, Tunceli, Bitlis, Van, Muş, Siirt, and Kars. In July 2001 Human Rights Watch interviewed more than fifty villagers living in, or displaced from, seven of these provinces; none of them reported being included in the Immediate Implementation Project or knowing of any neighbors or relatives who had been included in it. Due to the near-complete lack of transparency surrounding these initiatives, it is unclear how these projects relate to one another, who qualifies for them, or what their aims, objectives and budgets are to be. Government representatives interviewed by Human Rights Watch were not able to give clear definitions of these various projects and had no documentation about their legal basis. As already noted, Human Rights Watch wrote to the Office of the Prime Minister in October 2001 asking for clarification about these schemes, but received no reply.

Central villages

Several “central villages” have been founded or are planned: at İslamköy and Çüngüş in Diyarbakır province, Karlıova in Bingöl province, Karayazı in Erzurum province, Başağaç in Şırnak province, and Konalga in the district of Çatak, Van province.¹⁰⁰

Shortly after it opened, Konalga village was criticized by Van’s parliamentary deputy, Hüseyin Çelik, as being inappropriate to local needs.¹⁰¹ He stated that villagers were not happy to live so far from their lands and were insufficiently provided with agricultural buildings. He added that the villagers had been induced to accept this form of resettlement by their tribal chief who was also leader of a troop of village guards and brother of the headman. In July 2001 a Human Rights Watch delegate visited Konalga, a smart development of 383 houses with a population of about 2,300. The houses had piped water, a sewage system, and employment creation schemes including a carpet production workshop and thousands of newly planted walnut trees.

Çelik’s assertion that at least some villagers were being coerced to live at Konalga was supported by an interview with a villager (who requested that his identity not be revealed for fear of reprisals). The villager stated that his family had accepted a house in Konalga and the gift of sheep that was made to all new residents. In order to obtain these benefits, they were required to sign bills for large sums that would be held by the local governor. However, the family chose to move closer to their fields, in their old home at the site of the former evacuated village of Konalga. The village guard chief demanded that they reside in the new settlement, and when they refused, he cut off the electricity supply to the old home and soldiers demolished the house. Rather than move back into Konalga, the family moved back to Van.

¹⁰⁰ “Merkez köyler” (Central villages), *Akşam* (Evening), January 1, 2002.

¹⁰¹ *Turkish Daily News*, September 4, 2000.

They were shocked to receive a court sequestration order obtained by the governor to confiscate goods to the value of nearly U.S.\$8,000 in respect of the sheep and the unoccupied house.

The headman of Konalga, in response to Human Rights Watch's inquiry as to whether villagers could leave Konalga without penalty, replied that villagers could take up residence or quit as they liked "provided that they act in good faith." He said that villagers' lands were up to seven kilometers distant. This to some extent bears out Hüseyin Çelik's suggestion that the arrangement of a concentrated settlement may not best suit an agricultural community. But Konalga actually runs a mixed economy. The income from its 163 village guards almost certainly outweighs any earnings from walnuts and beekeeping. The housing project is partly administered by the Provincial Special Administration, which coordinates security affairs. With its huge gendarmerie station, there seems little doubt that the siting and shape of Konalga was largely determined by security considerations. The same is true for another village return development that Human Rights Watch visited at Beşbudak in the Gürpınar district of Van province. This is also a community with a substantial village guard membership that was displaced as a consequence of PKK violence. Here the original village was being rebuilt by the returning villagers with materials supplied by the governor's office, but the plan is to build many new homes similar to those at Konalga in order to house villagers displaced from outlying mezra. There was a substantial military presence in the village, which was decorated with banners reading, for example, "The army and villager hand in hand."

At Konalga and Beşbudak relations between the villagers and the military seemed good, and at Konalga, the local governor of Çatak, Ahmet Altıntaş, was clearly very concerned with the well-being and development of the community. These were communities that had suffered badly from the predations of the PKK rather than state forces, and to this extent represent a minority of the displaced. According to the organization Göç-Der, the central villages of Islamköy and Başağaç are similarly dominated by families with strong ties to the village guard system. Prior to its destruction by security forces in 1992, Islamköy was home to 350 families. There are now fifty-one lodgings and thirty-two of these are occupied by village guards, who are reportedly obstructing the return of any villager who is not prepared to carry out "voluntary" (ie unpaid) village guard service.¹⁰² Başağaç village, evacuated in 1988, is in the process of being rebuilt with 179 lodgings, and the first houses were opened in June 2001. According to information obtained by Göç-Der from local sources, the population of this village now consists exclusively of village guards.¹⁰³

Village-Townships

Turkey's application for World Bank funding for its earlier Village Return Project in the mid-1990s was turned down for reasons that the Bank has not disclosed.¹⁰⁴ Now Turkey is making a new application for international finance—for the Village-Township project.

When Prime Minister Ecevit attended the initiation of the the first village-township project at Mesüdiye, near Bolu, on the Black Sea coast in September 2000 (far from the southeast), he introduced the scheme as one that would combat, and even reverse, migration from the country to the city. The government had identified lack of rural infrastructure as one of the chief causes of migration. This scheme funded the provision of health, education, and cooperative agriculture and industry facilities. Ten villages that would not have warranted such investment on an individual basis are to share these health centers, schools, and agricultural storage facilities.

¹⁰² "Information concerning Village-Townships," received from Şefika Gürbüz, president of Göç-Der, February 11, 2002.

¹⁰³ Ibid.

¹⁰⁴ In its letter to the World Bank of February 20, 2002, Human Rights Watch asked to be informed of the grounds for this refusal, but the World Bank did not include this information in its reply of March 5, 2002.

The World Bank's representative in Turkey, Ajay Chhibber, attended the opening ceremony of the Mesüdiye project in November 2001 and, according to the Turkish newspaper *Akşam* (Evening) of November 22, 2001, spoke optimistically about providing U.S.\$300 million finance for village-townships elsewhere in Turkey. By January 2002, the World Bank had a team in the country collecting information for a proposal.

There is little information available about the aims, methods, and budget for village-townships. However, in his opening speech, the Prime Minister made it clear that some village-townships were planned for the southeast, and that they were to be part of the government's plan for the return of the internally displaced.

Human Rights Watch wrote to the World Bank in February 2002 expressing concern about its possible funding of a project that was an integral part of the Turkish government's flawed "return" arrangements, noting that the government had failed to fully inform the public about its plans and was not consulting displaced villagers, nongovernmental organizations working on their behalf, or professional bodies in the region.¹⁰⁵

The World Bank replied to Human Rights Watch¹⁰⁶ stating that the Turkish government had emphasized that the village-township approach was distinct from the Village Return and Rehabilitation Project and central village projects and that since there would be no overlap between the village-townships and the other projects, there should be no grounds for concern. The World Bank's letter to Human Rights Watch stated that the problems of the internally displaced were the concern of other U.N. agencies that "lead the effort in collaboration with the Turkish government." Unfortunately, as will be seen below, the other U.N. agencies in Turkey have little involvement in the return process.

Prime Minister Ecevit's own words in introducing the Mesüdiye scheme suggest that actually there is an overlap between the two projects. He explicitly described the village-townships and central villages as different solutions for the same problem:

What are central villages? In Southeast and East Anatolia, as a consequence of terrorist actions in recent years, many of our villagers have had to leave their homes. If they return now, they may encounter the curse of terrorism once again. Their economy will not easily be re-established. For that reason, in border areas, necessarily, we are going down the route of central villages, that is to say, compact villages. However, in regions distant from the border in Southeast and East Anatolia we are going down the route of Village-Townships. In Village-Townships the citizen is not put in a single village, but in the central village they necessarily are gathered into a single village. In the weeks ahead, I will go to Southeast and East Anatolia. I will make inspections on the ground to see how the village-township and central village arrangements are going forward.¹⁰⁷

It may be significant that the same official at the Office of the Prime Minister, Assistant Undersecretary Selçuk Polat, is apparently responsible for coordinating central village projects, the Village Return and Rehabilitation Project, and the village-townships. The local governor of Çatak, who was involved in the establishment of the central village Konalga, described it as "part of the Village Return and Rehabilitation Project and also as part of the Village-Township project, but the funding came from the Village-Township

¹⁰⁵ Letter from Human Rights Watch to Johannes Linn, vice-president, Europe and Central Asia, World Bank, February 20, 2002.

¹⁰⁶ Letter from Ajay Chhibber, World Bank, to Human Rights Watch, March 5, 2002.

¹⁰⁷ Speech by Bülent Ecevit at formal initiation of the Village-Township project at Mesüdiye, Ordu province, September 2, 2000.

project.”¹⁰⁸ During Human Rights Watch’s visit to Beşbudak in Van province described above, some houses were hung with banners announcing: “Privation, hunger and poverty are not my ordeal; the central village-township is my pride, my honor.” “The cave-dwelling age is over. Long live Beşbudak central village-township.”

Human Rights Watch fears that the Village-Township Project may be used to channel funds into unsatisfactory return schemes: that international money received for Village-Townships could be used, for example, to pay for infrastructure such as educational and health resources for clusters of central villages.

In May 2002, the government announced that it intended to found village-townships in three of the twelve south-eastern provinces in which most displacement occurred: Muş, Siirt, and Van.¹⁰⁹ In August 2002, World Bank officials working on Turkey’s Village-Township application informed Human Rights Watch that the bank was scrupulously avoiding involvement with village-township schemes in areas that had suffered internal displacement and on this basis had decided not to fund the Muş and Siirt projects. It did intend to fund the project in _zalp, Van province, however, since there had been no displacement in this area.¹¹⁰

In distancing itself from the government’s problematic return plans, the World Bank’s principled approach has left it in the awkward position of deliberately withholding funding from what most observers agree is the most pressing problem in the southeast. Hundreds of thousands of villagers are either living in poverty in the towns and cities or are rebuilding their homes and livelihood with little or no help from the government that (in most cases) burned them out in the first place, and no financial assistance or expertise from the major international organizations. It is to be hoped that the World Bank will now put pressure on the Turkish government to redesign its return program, and bring it into a form that the World Bank and others would feel confident in supporting.

The World Bank has long been closely engaged with Turkey’s development efforts. Turkey joined the World Bank in March 1947 and has historically been a significant Bank client. Bank lending to the country averaged approximately U.S.\$150 million a year between 1990 and 1997. In 1998, the bank decentralized its office from Washington to Ankara, Turkey to support expansion of its programs. Lending and projected lending increased considerably in 2000 when the bank financed approximately U.S.\$1.8 billion in projects and said that lending could grow to U.S.\$5 billion by 2003. In keeping with the Bank’s operational policy on Development Cooperation and Conflict, the World Bank is in a position to engage directly with the Turkish government to encourage sound projects for return that are in keeping with the U.N. Guiding Principles. Positive World Bank involvement in the Village Return and Rehabilitation Project could serve as a catalyst for ensuring that the government’s return efforts comply with such standards.

¹⁰⁸ Human Rights Watch interview, Konalga, Van province, July 2, 2001.

¹⁰⁹ Türknet News Agency, “Köykent toplantısı” (Village-Township Meeting), May 1, 2002.

¹¹⁰ Human Rights Watch telephone interview with Nicholas van Praag, World Bank Regional Communications Manager, Europe and Central Asia, August 13, 2002.

IMPEDIMENTS TO RETURN

Governors block return

Whether villagers participate in government return programs or seek to return spontaneously, they cannot return to their homes without permission from provincial governors, and this is often withheld. There is no publicly available list of villages that are open for return. Human Rights Watch received parts of a list of villages in Diyarbakır province entitled “villages and mezra considered appropriate for return.” The village headman who provided this incomplete list suggested that it was prepared by the Diyarbakır Provincial Governorate or the Emergency Region Governorate. Human Rights Watch’s requests to speak to both these authorities were declined. Human Rights Watch requested the full list of villages open for return in its letter to the Office of the Prime Minister of October 25, 2001, to which it received no reply.

Nearly all of the villagers who spoke to Human Rights Watch had submitted many petitions for return to governors, prosecutors, and gendarmerie commanders. The authorities have responded to mass petitions organized by Göç-Der or HADEP by stating that they will only accept individual petitions from heads of families, yet individual petitions rarely elicit any response.

Now governors are insisting that villagers apply using a special printed form. This requires the applicant to tick a box indicating the reason for their original migration and gives alternatives ranging from “employment” and “health” to PKK-instigated “terror.” Most of the displaced were moved by gendarmerie against their will, but there is no option to reflect this on the form. Worse still, recent copies of the form require the respondent to sign a declaration that: “I left my village as a consequence of the pressure of terror. I am going to return. Since there is no pressure of terror in my village, I want to return to my village without making any material demand upon the State.” In February 2002, the former inhabitants of Düzcealan applied to the governor of Tatvan, Bitlis province, to return. They reported that the governor told them that they would only be permitted to return if they signed statements that the PKK had forced them to leave the village. The villagers state that it was actually the state forces that wanted them to leave, and that they resisted this pressure until a locally-based armored division of Turkish troops launched an artillery and rocket attack in December 1993, in which one villager, Kasım Çaçar, was killed.¹¹¹

Villagers are reluctant to collude in the official cover-up of the illegal forced displacement by signing such declarations. They also know that by signing, they will probably lose any chance of making a claim against the state for compensation for the abuses they have suffered. At the same time, the temptation to sign is strong. If they do sign it may open the way to their early return; if they do not, they know that they may be struck off any central register of the displaced, forfeit the chance to get even the most meager state assistance to return, and perhaps never be permitted to go home.

Giyasettin G of village K, burned by security forces in 1993 said, “This year we wanted to go back. Some villagers have gone back. The authorities said to them you are going to have to sign a form. They had to fill in the form saying that the village was burned by the PKK. The local governor said to us, ‘If you say the government did it, we will not let you go back.’ We said ‘If that is the condition, we will not fill in the form. Why should we lie? It wasn't the PKK.’”

Government officials have used the reputation of the World Bank in order to persuade villagers to sign documents that excuse the state from responsibility for destroying villages. A villager told Human Rights Watch:

¹¹¹ Human Rights Foundation of Turkey, *Human Rights Report of Turkey, January-March 2002*.

Last year the [Muş] governor's office called the headmen and elders from [named destroyed villages]. The governor was not there, but there were many civil servants. They said that they would make houses in the middle of the village. Two floors, with a stable section for animals, toilet etc. They said they would rebuild our mosque and health center and school. They said that the World Bank would give money to GAP, and that was how it would be built. They were going to build them and give them to us for nothing. They had us sign ready printed petitions that said that we had fled because of the terrorists.¹¹²

The promised rebuilding never happened, but presumably the petitions are still on file.

Veli V, of village D, near Mardin, described other strong inducements to sign:

I petitioned the Interior Ministry, and the Anti-Terror Branch of the Diyarbakır Police Headquarters summoned me. They did not hit us, but gave us tea and a statement to sign that said the PKK was still influencing the village and therefore it was impossible for me to return. I said I did not want to sign. They said that I had to sign it. I was afraid that I might later be killed or “disappeared” if I did not, so I signed it. They did not give me a copy of this statement. I went to the office of the Emergency Region Governor and they had a copy, but again did not give me a copy. This happened this year. I wrote a telegraph to the president but have not yet received a reply. I said that if I cannot go for security reasons they should give me somewhere else to go. I am still living here at Diyarbakır. I went to the Mardin provincial governor's office, and there I was supposed to sign a form saying that I had left the village because of PKK terror. Of course, it was the state that made most of the terror, and I would say this in a court if necessary because it is the truth. I refused to sign because this would mean that I lost my rights in any later litigation. Thirty people in the village did sign the forms. They are currently sheltering in the mosque and cultivating their fields. They cannot bring their families because there are no houses. I went once to the village and the gendarmerie said, “Do not come to the village again because you did not sign the petition in the way we wanted.” I said, “Of course I will seek my rights. The others do not want to get their rights, but you tell me who emptied the village, commander.” He said, “Go back to Diyarbakır. If you come back I will give you a beating.”¹¹³

The headman of a village in Diyarbakır province described another confrontation with the authorities over the forms:

This year two months ago we had a meeting with the local governor. All the village headmen went—seventy-nine of us. In the meeting the governor handed out copies of forms and told us that if we made out the forms to indicate that the PKK had burned the villages, we would be able to return. I said that I had to tell the truth. He insulted me and called the police to throw me out, saying, “Filthy headman, you stink.”¹¹⁴

Tahsin T¹¹⁵ of village F, near Kulp in Diyarbakır province, was indignant:

I have been homeless for eight years, but if I had to wait eighty years to return to my village I would not sign that form. It was soldiers from Bolu who burned our village on

¹¹² Human Rights Watch interview, name withheld, Muş, June 28, 2001.

¹¹³ Human Rights Watch interview, real name withheld, Diyarbakır, June 22, 2001.

¹¹⁴ Human Rights Watch interview, Diyarbakır, June 23, 2001.

¹¹⁵ Interviewee's real name withheld to protect his safety.

the orders of the state. I want the authorities to accept my own petition, not the one they prepared, because they will use their prepared petition in order to pretend to Europe that they did not burn our villages.¹¹⁶

On June 25, 2002 Vedat Haran made a formal complaint to the Diyarbakır branch of the Human Rights Association, stating that while traveling from Lice to Diyarbakır he had been taken out of a bus at a checkpoint by gendarmes who required him to sign a document stating that the PKK had burned his home village, Arıklı. He reported that when he refused, gendarmes obliged him to sign using a combination of threats and force.¹¹⁷

In July 2002, the displaced inhabitants of Bağarası, near Derik in Mardin province, who had repeatedly applied to return home, reported that the Derik local governor had told them that they would be permitted to return if they signed documents stating that the PKK had burned their village.¹¹⁸ The villagers, who refused to sign, were driven from Bağarası in 1993 by village guards and soldiers.

In August 2002, inhabitants of Senarlı village in Mardin province told the lawyer Serdar Talay, president of the Diyarbakır branch of Göç-Der, that they had submitted petitions to return to the local governor, who refused to give permission unless they signed prepared petitions. They refused and were not permitted to return.¹¹⁹

Hasan H¹²⁰ of village T, near Muş, described in detail how gendarmes burned his home in 1993 and took five villagers into the fields and executed them. In spite of this, he was prepared to put his name to the state's false account in order to get back home:

Our village headman wrote a formal complaint in about 1997 and was arrested. He was in prison for five months. I do not know what the pretext for the detention was, but the complaint was the reason he was imprisoned. He told us that the Kızılağaç gendarme commander said, "How dare you insult the state this way." I did fill in the petition—I even wrote that we were burned out by terrorists, but still I have heard nothing.¹²¹

Seventy-three families from Ulusu and İnceler villages, near Pervari in Siirt province, evacuated in 1990, reported that they had submitted eight petitions to return to the Siirt provincial governor, to which they had received no reply. Their most recent petition, on March 20, 2002, received the response that "Investigations as to whether the said villages are suitable for settlement are continuing."¹²² In 1994, 151 villages and 800 mezra were forcibly evacuated in Tunceli province. In 2001 the local governor gave permission for thirty villages to return. In 2002, he gave permission for a further twenty villages. In June 2002, the local bar association sought permission for 166 families to return to a further thirty-one villages, but only four of these were opened for return.¹²³

¹¹⁶ Human Rights Watch interview, Diyarbakır, July 6, 2001.

¹¹⁷ "İnsan Hakları İhlalleri Haziran 2002 Bilançosu" (Human Rights Violations, June 2002 Summary), published by Diyarbakır branch of the Human Rights Association, p. 6.

¹¹⁸ Ahmet Birgül, "Köyümüzü PKK yaktı' dersiniz!" (Say 'The PKK burned our village'!) *Özgür Politika* (Free Policy), July 19, 2002.

¹¹⁹ Human Rights Watch telephone interview with Serdar Talay, September 3, 2002.

¹²⁰ Interviewee's real name withheld to protect his safety.

¹²¹ Human Rights Watch interview, Muş, June 28, 2001.

¹²² "Geri dönüşü engelleme projesi" (Village return obstruction project), *Özgür Politika* (Free Policy), April 14, 2002.

¹²³ *Cumhuriyet* (Republic), June 18, 2002.

On the positive side, some provincial governors have established provisional programs for return, and some include systems for supplying building materials to returning villagers to assist in reconstruction. Unfortunately, their implementation is patchy and uneven, and includes dubious practices. An example is the “Village return project specification” (Köye dönüş projesine ait şartname) that the Muş provincial governor’s office distributed to villagers applying to return. Villagers appreciated the offer of assistance but found the conditions in the “specification” unreasonable and gave a copy of it to Human Rights Watch. The specification requires villagers to build their new houses up to the damp-proof course level before a “Village Return and Rehabilitation Commission” would decide whether or not to supply reinforcing steel, cement, and bricks. The specification does not describe the criteria that the commission would use in making its decision. For extremely poor villagers, this would mean a considerable gamble since they would have to make a substantial investment in excavating and laying the foundations of their houses (and presumably laying water, electric, and sewage services), on land to which they did not have title, with no guarantee that they would receive assistance with materials for the rest of the building. In addition, the specification left substantial expenditure to the prospective householders, since it contained no provision to supply doors, windows, stairs, bathroom and plumbing materials, or roofing materials.

Villagers’ confidence in this speculative venture was further undermined by the Muş governor’s uncertain past record on fulfilling promises. The specification assumed that the villagers would supply free labor. This reflects a rough and ready division of cost that is reflected in much official thinking around the return projects. The TSBD director indicated that when designing its pilot scheme for the Village Return and Rehabilitation Project, the TSBD had also assumed that villagers would provide unpaid labor. This would be a convenient economy for the government, but it is hardly reasonable to expect villagers to invest their time and effort (without accident and sickness insurance) in remedying the consequences of illegal acts committed by state officials. Some officials justified the practice of supplying materials on the grounds that the state just could not afford the whole cost, but it was also presented as a precaution against “abuse” of the grants by villagers who might reconstruct their rural dwellings while continuing to live in the urban centers.

This suspicion of potential “fraud” was clearly the motivation for an extraordinary provision included in the Muş specification that reserved the governor’s right to confiscate the property. Article 8 of the specification states that the houses must be built and inhabited by the owners. If the property is put to any other use (presumably, put out to rent or used as a temporary residence), the provincial governor’s office was empowered to seize the house until the villager repaid, with interest, the cost of materials supplied.

Villagers in other provinces reported that governors were providing some communities with bricks and cement, or in other cases, windows and doors. Again, they expected villagers to provide free labor. Human Rights Watch was told that in some villages, such as Şaklat, Diyarbakır province, only villagers particularly favored by the authorities received building materials. Some villagers were required to sign blank pieces of paper on receipt of materials, or were promised materials that never arrived.

In carrying out the original displacement, state officials avoided using the formal powers to move populations that exist under Turkish law. The state of emergency region governor had legal authority under Decree 285 (see above, section on domestic and international law), but none of the villagers interviewed by Human Rights Watch had documents to show that they had been moved using these powers, which would at least have provided them with some legal or administrative status, as well as financial support and housing.¹²⁴ The state chose not to use those powers, preferring to carry out the

¹²⁴ Some initiatives have been taken to provide housing in cities for displaced villagers, but again these were mainly for those forced to leave because they had participated in the village guard system and were targeted for attacks by the PKK. See for example, the Yalim Erez Lodgings outside Van described in section on Municipal Efforts to Relieve Hardship, above.

displacement in an entirely arbitrary and extralegal manner. Governors are now managing the return process in much the same way, apparently in order to avoid committing an administrative act that could form the basis of litigation. If villagers are permitted to return, they are only informed orally.

This creates problems when the villagers leave the civilian world of the cities and arrive in the militarized countryside ruled by the gendarmerie. Abdulvahap Ertan, a lawyer and board member of the Van branch of the HRA told Human Rights Watch,

You will find nobody here who has received a written refusal of access to their village. Here they may allow people back to villages but not to mezra. The governors may want the villagers to return but the soldiers do not want them to return. There are examples of this in Tatvan area where the governor gave permission but the soldiers refused. The people just cannot go back to their villages—that is the blank fact. They are too poor to invest time and effort when they cannot be sure of the result, and the soldiers will not let them back at the moment.¹²⁵

Gendarmes block return

This year we went to see the provincial governor in about March, and he told us that all villages would be open to resettlement. We talked to the chief of police. He too said that he wanted the villagers to return—the large number of villagers in the city is a problem for them, for health and other reasons. But theirs is a mere formal wish because the countryside is under the authority of the gendarmes. We may be able to influence the governor, but we have no way of stopping gendarmes from doing anything against the villagers.

—Şemsettin Takva, president of the Van branch of Göç-Der, July 1, 2001.

The armed forces present a more threatening obstacle to return even than the civilian authorities. Outside the cities, police duties are entirely in the hands of gendarmes, the same military units that carried out the original displacements. Many villagers told Human Rights Watch how they were turned back by gendarmes after receiving official permission to return.

Giyasettin G of village K, near Lice in Diyarbakır province, said that he had tried to visit his village in order to tend his land on several occasions, but was repeatedly turned away by the local gendarmerie:

I went there one month ago. At the gendarmerie station they searched me. They kept me half an hour while they interrogated me about what I was going to do. When they realized I had committed no crime they just sent me back. They said “Go back and let us not see you anymore.” Nobody can go to our village, it is a prohibited zone.¹²⁶

In 1995 gendarmes burned the home and fruit trees of Ahmet Hamdi H¹²⁷ at village H, Eruh, Siirt province. His hopes were raised when the local governor arranged a survey for possible return. Soldiers surrounded the village in the early spring of 2001 and the Siirt provincial governor inspected the remains of the settlement and then said that he would consider making provision for reinstating the infrastructure. Ahmet H. told Human Rights Watch:

Nothing came out of his undertakings. Civil servants from Eruh and Siirt took notes, but we did not get a copy of them and as far as I know the headman did not get a copy. After that

¹²⁵ Human Rights Watch interview, Van, June 30, 2001.

¹²⁶ Human Rights Watch interview, Diyarbakır, June 22, 2001.

¹²⁷ Interviewee's real name withheld to protect his safety.

we did not receive any written notification At the moment it would be impossible for me to go back because the most low ranked soldier or village guard can kick me about and there is nothing I can do about it. I went and applied to the gendarmerie for permission to gather fruit. You can see our village from the road. The master sergeant said I could tend the trees but added, “Do not look at your village when you pass, just walk straight on.” It is our custom to visit our parents' graves on festivals, but we have not been able to do this since the village was burned.¹²⁸

Some of the confrontations with gendarmes are extremely tense, particularly for villagers with recent memory of extrajudicial executions and “disappearances” in these areas. Yılmaz Y of village B, Diyarbakır province described what happened when he went with his brother to test the water for possible return:

In the spring of 2001 we were going toward the village. The minibus was stopped and a village guard came up. We knew each other. The village guards got me and my brother out. There is a bridge outside Kulp. We said that we had done nothing wrong. We went back to the gendarmerie. We waited for a long time and the gendarmerie commander came out. He asked my brother where he had been—the gendarme suggested that my brother had been in hiding. He said that he had been ill in Diyarbakır not hiding. He also asked about me—I said I was retired from the Religious Affairs office as an imam. He asked about our children and then he started to swear, anything that came to his mouth. It emerged that he had papers about people from the Y family, but not our family. A different family by the same name. We had to wait for three hours and eventually he said “Fuck off” and a master sergeant said “We have to root out the likes of you from this country. From this moment on, Kulp is forbidden to you. If we see you again here, we will kill you.” I swear to you Kulp is not under the authority of the Turkish government—even the president would be unable to affect the activities of these soldiers. It is a state of its own.¹²⁹

Yılmaz Y filed an official complaint against the gendarmes, but in March 2002, the public prosecutor gave a decision not to prosecute.

In some areas, participation in the village guard system is still a condition of return. In May 2002, the military approached villagers of Çatıkuru and told them that their safety could not be guaranteed unless they put up ten village guards. The village guards would be armed but not paid.¹³⁰

Several villagers told Human Rights Watch that gendarmes permitted villagers to return in return for bribes in kind and cash. An elderly woman from a village in Diyarbakır province, said:

The last couple of years, the population of the neighboring villages have lived in Diyarbakır but go out to sow their fields. The gendarmes collected their flour and other foodstuff and said you are giving this to the PKK. They confiscated it. The thirty families pay bribes to the gendarmerie post. I heard of someone who had to pay fifteen hundred dollars for permission to get back to the village. And I have actually seen people

¹²⁸ Human Rights Watch interview, Siirt, June 27, 2001.

¹²⁹ Human Rights Watch interview, Diyarbakır, June 23, 2001.

¹³⁰ “Köy başına 10 korucu dayatması” (The demand for 10 guards per village), *Özgür Politika* (Free Policy), July 9, 2002.

bringing things to the gendarmerie. The gendarmes have asked us, for example, that we should give them five kilos of paint to let us come and go.¹³¹

Any discrepancy between the civil authorities' undisclosed program for return and the gendarmes' equally undisclosed agenda puts villagers in an extremely precarious position. Details of a confidential military document reported in November 2001 suggest that the villagers' fears of possible consequences of return without military authorization are well justified. Dated September 11, 2001, and signed by General Şevki Aksu of the Land Forces Internal Security Brigade Command No 2, it stated that military operations are constantly in progress in the Hani, Kulp, and Lice districts of Diyarbakır, that difficulties may arise in distinguishing PKK from villagers, and that "Citizens should be warned and informed that [the army] will not be responsible for any misfortunes that may result during the course of operations."¹³² A substantial number of villagers have come to an arrangement with the authorities that permits them to visit their villages daily or seasonally in order to cultivate their crops to produce some income, but not to stay. This gives the villagers a valuable foot in the door for return, but it is a tense and risky venture, particularly since the authorities never provide the villagers with clear written permission to be there. Stray villagers are frequently picked up by patrols and threatened, ill-treated, or worse. For example, Kavaklı village in Hakkari province was forcibly evacuated in 1993. In October 2000 three villagers who had gone back, with permission from Hakkari Provincial Gendarmerie Headquarters, to collect walnuts from their lands were found shot dead with their hands tied behind their backs. The official account, that the three had been killed by the PKK, was partly based on inconsistent accounts by a fourth villager who survived. In his first statement to the prosecutor, he said that the group was accosted by unknown persons in the dark, who fired shots. He was wounded but escaped. In a second statement contained in the gendarmerie's report, the villager said that the group had been captured by PKK militants who tied their hands and then shot them. It appears that the fourth villager may have been pressured to give an account that exculpated the gendarmerie. Relatives who returned to the area to recover the bodies reported that as they entered Kavaklı gendarmes guarding a nearby bridge fired on them.¹³³

Several communities who have resettled their homes have been displaced a second time as a consequence of a divergence of attitude between the civilian and military authorities.

Semsettin S¹³⁴ is headman of village Y, near Lice, Diyarbakır province, which was burned by government commandos from Bolu in 1993. He told Human Rights Watch:

In April or May 2000 we spoke to the local governor of Lice. We said that we could not manage any longer in Diyarbakır and wanted to go home. He agreed so we sowed some vegetables, put up some tents and began to repair our houses. On September 5, 2000 soldiers came and searched the village. A captain was running the operation. He said that it was supposed to be an empty area. They took us to the gendarmerie in Lice and a plain-clothes officer took our statements. We were sent to court and the prosecutor said it was not a village, but a military area. That we had infringed a military area. We protested that we had got permission from the local governor and the local police commander. When we came out of the court, we found that they had burned the village again. In response to our petition of April 2, 2001 we got a response from the local governor saying that there was no such village as Y. But we have deeds for our lands,

¹³¹ Human Rights Watch interview, Diyarbakır, June 24, 2001.

¹³² "İnfazlara davetiye" (Invitation to executions), *Yedinci Gündem* (Seventh Agenda), November 24, 2001.

¹³³ Human Rights Foundation of Turkey, daily bulletin for November 9, 2000.

¹³⁴ Interviewee's real name withheld to protect his safety.

and if there is no such village, how come I am getting a salary for service to the state for being headman? It is as if they had wiped our population off the map.¹³⁵

Villagers from Ünlücü village in the Çatak district of Van province alleged that one week after they had been allowed to return to their village on May 17, 2002, soldiers and village guards forced them to leave again. They reported that soldiers from Büyükagaç Gendarmerie Station had ignored the written permission to return that the villagers had obtained from the governor, and confiscated their construction materials. The village was originally forcibly evacuated in 1999.¹³⁶

For these people village destruction is not something of the distant past but a vivid recent experience. A displaced villager in Istanbul from Tuzkuyu village near Siirt expressed intense anger and fear as he described the aerial bombing of Tuzkuyu in August 1997: “Thanks to Allah, we were in the fields collecting hay. I saw helicopters and counted sixteen jets. Scores of people were killed: Abdülkerim Deli, Şükrü Deli, Abdurrahman Deli, Kasım Yıldız, Halil Karanfil, Emine Yıldız, Kadir Yıldız, a boy about ten years old, Selahattin Özçelik, Nefiye Özçelik, Azize Özçelik, a girl about ten years old, Süheyla Özçelik, Mehmet Ali Ovat, Aziz Ovat, Yalçın Ovat, and many others.”¹³⁷ The attack on the village followed the killing of two soldiers in a PKK attack nearby. An incident resulting in security forces casualties also provoked Turkey’s most recent village destruction. After a gendarme was killed by a landmine in the Beytüşşebap district of Şırnak province in July 2001, gendarmes drove out the inhabitants of the villages of Asat and Ortaklı that were near the scene of the explosion. Villagers detained and interrogated in this operation reported that they were raped with a truncheon and subjected to electric shocks.¹³⁸

Village guards block return

Villagers considering return are even more afraid of village guards than they are of the gendarmerie. The village guard system has been recognized for years as a corrupt and destructive institution. The April 1995 report of the Turkish Parliament’s Commission on Unsolved Political Killings confirmed that village guards were involved in a wide range of lawless activities, including killing and extortion, and called for abolition of the village guard system. There are about 90,000 village guards in southeast Turkey, earning 139,000,000 TL (U.S.\$84) a month.¹³⁹ Villagers are extremely wary of heading back into an unstable countryside where their former neighbors, sometimes from rival tribal groups, are paid and licensed by the government to bear arms. The government armed the village guards and permitted them to acquire considerable de facto power in the region. Human Rights Watch heard accounts from several provinces that village guards had taken over the lands vacated by the displaced, stolen timber, or exploited the land by renting it out to others.

Returning villagers have had considerable difficulties recovering their lands from village guards. In June 2002, inhabitants attempting to return to Kaçan and Evrek villages in the Beytüşşebap district of Şırnak were reportedly turned back by a village guard chief from the nearby town of Mezra. The villagers applied to the local governor but were forced to return to Van where they have been living since they were forcibly displaced in 1994.¹⁴⁰

¹³⁵ Human Rights Watch interview, Diyarbakır, June 23, 2001.

¹³⁶ “Human Rights Report of Turkey, June 2002,” Human Rights Foundation of Turkey.

¹³⁷ Human Rights Watch interview, Istanbul, July 12, 2001.

¹³⁸ Human Rights Foundation of Turkey, daily bulletin for August 1, 2001.

¹³⁹ Figures given by Prof. M. Salih Yıldırım, parliamentary deputy for Şırnak. Reported by Cumhuriyetçi, in “Silahları Çocuklarına Miras Kalmasın” (May their weapons not be their legacy), Bianet news agency, January 24, 2002.

¹⁴⁰ Adil Harmancı “Köylere un ve kaset baskını”(Flour and cassette raids on villages), *Yedinci Gündem* (Seventh Agenda), June 15, 2002.

Security forces drove the Elhan family out of their home in Suluca village, Muş province, in 1998. They went to live in Izmir, but returned in May 2002. On July 28, six local village guards reportedly beat Maşallah Elhan with sticks and then shot out the doors and windows of the Elhan's home, seriously wounding fifteen-year-old Netice Elhan.¹⁴¹

Villagers turned out of Akdoruk village near Kulp, Diyarbakır province, in 1993, returned in the spring of 2002. One of the villagers, Mahmut Coşkun, stated that the community had applied to the local governor in Lice for permission to return, and then to the Lice gendarmerie headquarters, the Interior Ministry, and the state of emergency governor's office, but received no response.¹⁴² The villagers decided to move on their own initiative, and pitched tents so that they could live in the village while repairing their homes and bringing their fields back into cultivation. On July 17, village guards and soldiers attached to the Zeyrek gendarmerie reportedly beat the Akdoruk villagers, and tore down their tents.

The inhabitants of Yolveren village, near Beşiri, Batman province, are members of the Yezidi sect, whose numbers in Turkey are dwindling. They were driven from their homes and seven families sought asylum in Europe. In 1996 twelve village guard families occupied their homes. In 2001, the Yolveren inhabitants decided to return. They opened a case at Batman Primary Court in June 2001 and, rather unusually, received judgments that their homes should be restored to them and the illegal occupants should pay compensation. The village guards initially refused to comply, but finally handed back the village on December 18, 2001 on the understanding that the claim for compensation was waived. Three families returned on December 28, 2001.¹⁴³

Others were not so fortunate. Şahredden Sancar and his wife Newroz Sancar, also Yezidis, were displaced from the village of Harmanlı, near Nusaybin, in the 1990s, and found asylum abroad. In their absence, their lands were taken over by the family of a local village guard chief. Inspired by government assurances concerning village return, the Sancars returned to Turkey, moved back to their village at the beginning of March 2002, and resumed possession of their fields. On March 11, the couple disappeared. The following day, shepherds found the body of Şahredden Sancar in his car, ostensibly the victim of a road accident. But three weeks later, villagers found the body of Newroz Sancar in a dry well, bound hand and foot. The circumstances of their deaths have not been adequately reported.¹⁴⁴

A displaced villager from a settlement near Malazgirt, in Muş province, told Human Rights Watch that the civil authorities have been unwilling to take action regarding land-theft by village guards:

[The village] was burned in 1994 by security forces and village guards. There were four hundred houses before the burning. There are now a hundred houses. All the rest [of the villagers] have migrated. Sixty of the hundred are occupied by village guards. The people who migrated now want to return but the village guards have seized their lands and houses. And they cannot return to the village because they have been threatened by the village guards. The village guards do not let them into the village. They applied to the local governor and he said, "What is to stop you going?" and took no action.¹⁴⁵

Ferdi F of village P, Siirt, described similar official heedlessness:

¹⁴¹ Human Rights Foundation of Turkey, daily bulletin for July 30, 2002.

¹⁴² "Çadırlarını yıktılar" (They burned their tents), *Özgür Politika* (Free Policy), August 8, 2002.

¹⁴³ Göç-Der Haber Bülteni (Göç-Der News Bulletin), January 2002, p. 2.

¹⁴⁴ "Ezidilere ölüm tuzağı" (Death trap for Yezidis), *Yedinci Gündem* (Seventh Agenda), May 18, 2002.

¹⁴⁵ Human Rights Watch interview, Muş, June 28, 2001

I have applied in writing to the gendarmerie complaining about the fact that people were using our lands, but the villagers from the neighboring village come and cut our wood and collect our nuts. And they graze their animals on our land... Even the electricity poles have been ripped down. As far as we know there has been no return in the Erüh district, except we hear that thirty-six households in Çetinkol village, that is partly village guard, have returned. This was a village guard village that was emptied.¹⁴⁶

Veli V of village D near Mardin also reported that village guards had stolen timber and farmed his land:

There was a village guard village three kilometers away at Bağlıca. All the trees were taken away, and the village guards sowed and harvested our lands, for four years I think it was. The gendarmerie says that permission for us to sow has come from Ankara but not for residence. [The gendarmerie commander] told one of our villagers this, but we have nothing in writing.¹⁴⁷

Eight destroyed villages near Siirt (Payamlı, Çimenbaşı, Avanos, Bölüklü, Kasircelo, Sidada, Kuşdalı, and Bilgili) have been rented out by the village guard chief of the neighboring Çizmeli village to nomadic graziers of the Kirivan tribe. A displaced farmer from one of those villages told Human Rights Watch:

Çizmeli village guards last winter gave our lands to rent to nomads. We gathered a delegation from the village and went to the nomads and said, “Please do not graze our village—it would be a sin.” The nomads said, “We have spent the money—we have paid three billion lira [U.S.\$2,400]. Give us back our three billion we will go.” We can still not go to our village. We definitely want to go back there as much as any Muslim wants to go to heaven. The village guards have cut our timber... They have even used the mosque as a stable, according to people who have gone past there.¹⁴⁸

Eleven villagers from Alaca village, near Kulp, “disappeared” after gendarmes marched them onto a helicopter in 1993. The rest of the inhabitants are still displaced, scattered over the cities of eastern Turkey. One told Human Rights Watch:

From that time to this our village has been a prohibited zone.¹⁴⁹ But in 1998 village guards came from nearby Muş and cut down our forests, cut them down and took them away. Then in 2000 villagers from Kizilağaç and other villages came over and cut down whatever was left. We sent out many petitions. In October 2000 we wrote petitions to the provincial governor, the Muş prosecutor, Diyarbakır Forest Directorate, Muş Forest Directorate, the Emergency Region Governor, Diyarbakır Gendarmerie Headquarters, the president, the Ministry of the Interior, Elazığ Forest Directorate, and the undersecretary for forest affairs in Ankara. Some replies came. Our village is used as a summer residence by surrounding villages even though it is a prohibited zone... We complained to everyone but it continued until the snow came. We came and said that they are doing these things but it made no difference. This year there has been no cutting so far. But village guard families and other villages are being permitted to graze over our village even though it is a forbidden area.¹⁵⁰

¹⁴⁶ Human Rights Watch interview, Siirt, June 27, 2001.

¹⁴⁷ Human Rights Watch interview, Diyarbakır, June 22, 2001.

¹⁴⁸ Human Rights Watch interview, Siirt, June 27, 2001.

¹⁴⁹ The gendarmerie restrict access to certain areas they consider sensitive, but such measures are *de facto*. Other than exercise areas and grounds attached to army posts, there are no officially prohibited military zones.

¹⁵⁰ Human Rights Watch interview, Diyarbakır, June 23, 2001.

Another inhabitant from the same village said that a month and a half after the villagers had submitted their petitions, the gendarmes confiscated tractors being used to steal the timber, but then resold the tractors back to the villagers at a low price. He told Human Rights Watch,

A month ago I was passing through Lice to get to Kulp. I was detained and held for eight hours. From 1993 to 2000 I was completely forbidden from even entering Kulp but for the past few months I have been able to go there.... The Kulp village guards and the village guard chief from Muş, Kızılağaç, threatened me because I had complained about the theft of timber. He told me “We are not going to let you do this. How do you dare open a case against us.” A group of nomads from the Silvan area came and settled in Alaca village. None of the 450 people in our village are allowed back, but these pastoralists from Silvan are grazing on our land.¹⁵¹

A farmer displaced from a village near Çınar, in Diyarbakır province described a similar expropriation:

People we don't know from Mazıdağ [Mardin province] were brought to our place as village guards. They put houses up on our sites and are living there now. They came in 1989 and they are still using our fields. I went in 2000 and they threatened to kill me with weapons. I went with my lawyer. He saw the village guards threaten me. They said: “If you come to the village again we will kill you. You have no lands here. You are Armenians. Go back to Armenia.” After that I did not go back to the village. Nobody from our village has gone back to that village. Some of us are here, some in Mersin.... We applied to the court but had no money to push the case through. You have to spend a fair bit of money to run such a case. We have received nothing out of this Return to Village Project.... If I try to move out to the village under the current circumstances the village guards would probably kill me—I dare not try it at the moment.¹⁵²

Village guards do not make idle threats. Şefik Ş,¹⁵³ swathed in bandages, uncovered bullet wounds in his legs and arms as he told Human Rights Watch:

I went back to my village [in Diyarbakır province]. I went to look at the fields.... I could not even talk to the village guards. I got out of the car and approached. They were in front of the village. They went to get their weapons. There were four. I knew them all. Three had kalashnikovs [AK-47 assault rifles] and one had a revolver. There was two meters between us.

The village guards shot Şefik Ş and he fell to the ground. “I really thought I was going to die. One with the kalashnikov was going to shoot, but they said ‘Look, he is going to die anyway, so we won't bother.’ I also assumed I was going to die. As I lay there I thought about my children.” A relative picked him up and drove him to a hospital. Şefik Ş made a formal complaint and one of the village guards was arrested. Following this, Şefik Ş was visited by other village guards who urged him to abandon his complaint. As of June 2001, he had refused to do so. He told Human Rights Watch,

¹⁵¹ Human Rights Watch interview, Diyarbakır, June 23, 2001.

¹⁵² Human Rights Watch interview, Diyarbakır, June 23, 2001.

¹⁵³ Interviewee's real name withheld to protect his safety.

We are not going to go back to our village while there is this serious threat. Not while there are village guards. These people are former neighbors of mine—and some of the village guards I even considered friends.... If the village guard system is abolished we will go home. As soon as there is peace we will return.¹⁵⁴

The Alkan family was forcibly evacuated from Koruklu village, near Tatvan in Bitlis province, in 1996. They returned in spring 2002, but were repeatedly harassed by village guards. Tahir Alkan went to the local gendarmerie to complain but was turned away and made a formal complaint to the public prosecutor in Tatvan. On October 12, a group of seven village guards reportedly attacked Tahir Alkan, stabbing and severely wounding him.¹⁵⁵

On July 9, 2002, three villagers—Yusuf Ünal, Abdurrahim Ünal, and Abdulsamet Ünal—who had recently returned to Nureddin village (Kurdish name: Nordin) in Muş province were killed by village guards. On July 1 they had applied to the local governor and gendarmerie for permission to go to their village and stay temporarily in order to gather their hay crop. According to eyewitness Dilaver Demir:

That morning a lorry came and the village guards come with a group of twenty to twenty-five people telling Yusuf Ünal that he could not sell the grass.... First Yusuf Ünal was punched in his face and the village guards walked on us with their weapons in their hand.... The village guards beat us with their rifles butts and kicked us. We heard a shot and ran away to Konakkuran Gendarmerie Station. We heard more shots and in the end Yusuf, his son, and his brother were killed.¹⁵⁶

Fourteen village guards were arrested in connection with the killings. Courts have been very reluctant to convict serving members of the security forces, including village guards, for criminal offences such as ill-treatment, torture, or murder.¹⁵⁷

The risk from landmines

Southeast Turkey has been a battlefield for fifteen years, during which both sides in the conflict used anti-vehicle and anti-personnel mines. According to press reports, hundreds of people—many of them children—were killed by landmines and unexploded shells or rockets between 1992 and 1998.¹⁵⁸ Villagers considering return therefore understandably seek some level of reassurance from the authorities that at least the immediate vicinity of their homes has been cleared of explosives.

A villager who had returned, with government assistance, to the former village guard community of Beşbudak told Human Rights Watch that soldiers had spent a month checking the area for mines before it was reoccupied. The local governor of Çatak province mentioned that the asphaltting of roads was a priority as a protection against mining,¹⁵⁹ and the deputy provincial governor of Van confirmed that within his area of authority, villages would be cleared of mines before reoccupation by villagers.¹⁶⁰

But several villagers told Human Rights Watch that the authorities had given permission to return while giving no information about mine-clearing. A villager from Yamaç village in Muş province said that his

¹⁵⁴ Human Rights Watch interview, Diyarbakır, June 23, 2001.

¹⁵⁵ Human Rights Foundation of Turkey, daily bulletin for October 14, 2002.

¹⁵⁶ Human Rights Foundation of Turkey, daily bulletin for July 16, 2002.

¹⁵⁷ See, for example, Amnesty International report, *Turkey: The duty to supervise, investigate and prosecute*, April 1, 1999, AI Index: EUR 44/024/1999.

¹⁵⁸ Human Rights Foundation of Turkey, *1998 Human Rights Report*, p. 169.

¹⁵⁹ Human Rights Watch interview, Çatak, July 2, 2001.

¹⁶⁰ Human Rights Watch interview, Van, June 29, 2001.

community had been told that they would receive assistance with building materials from the provincial governor's office once they had brought construction up to damp-proof course level (see above), but said that they were uneasy about setting to work: "We suspect there are mines because there are traces of excavation. The military used it as a base in the winter times and we have seen unexploded ordnance among the ruins. We have received no confirmation that it has been cleared of mines."¹⁶¹

Inhabitants of eleven villages in the Berwar district of Hakkari, evacuated in 1996, applied to the office of the Van provincial governor asking that their villages be cleared of mines and that they be given assistance to return. In early 2002 the governor reportedly called the headmen of the villagers to his office and told them to reapply, saying that in their new applications, they should not mention mine clearance or assistance.¹⁶²

Hülya Kaçar, recently returned to the evacuated village Derebaşı, near Silopi, was killed in April 2002 when she stepped on a landmine while collecting kenger, wild artichoke, with a friend, Teybet Arsu, who was seriously wounded.¹⁶³

That there is a genuine risk of lethal mines is beyond question, but soldiers may also have used stories about mines as a way of keeping the villagers at a distance. A villager from the Kulp district said that when villagers burned out in 1992 had prematurely tried to return in 1993, soldiers had warned them off by saying that the area was mined: "When they did not want us to go back to the mezra, they told us that there were mines there. I do not think there are any mines actually and that they just said this in order to scare us."¹⁶⁴

NO DOMESTIC REMEDY

Principle 7(3)(f) of the U.N. Guiding Principles states that the right of displaced persons "to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected."

Villagers burned out of their homes should be able to seek a remedy under Turkish domestic law. Article 125 of the Constitution provides that "All acts or decisions of the Administration are subject to judicial review.... The Administration shall be liable for damage caused by its own acts and measures." However, Decree with the Force of Law No. 430 exempts the administration of the state of emergency governor from legal action concerning acts in the state of emergency region (and provinces neighboring the state of emergency region) where almost all displacements occurred. An exception is made for acts of destruction "without justification" but given the reluctance of the judiciary to investigate abuses committed by the security forces, identified by the European Court of Human Rights,¹⁶⁵ it would be easy for the state to use this defense, simultaneously branding villagers as "terrorists" and leaving them in a worse position than if they had not gone to court in the first place. In addition, under the Law on the Prosecution of Civil Servants and other Administrative Officials, no prosecution can be opened against an officer of the state unless it has been authorized by the office of the local governor (who is also the security forces' chief within the province).

A further difficulty in opening litigation is that, as indicated above, officials avoid committing administrative acts to paper that might later form the basis of a court action. None of the villagers Human

¹⁶¹ Human Rights Watch interview, Muş, June 28, 2001.

¹⁶² "Geri dönüşü engelleme projesi" (Village return obstruction project), *Özgür Politika* (Free Policy), April 14, 2002.

¹⁶³ Human Rights Foundation of Turkey, *Human Rights Report of Turkey, April 2002*.

¹⁶⁴ Human Rights Watch interview, Diyarbakır, June 24, 2001.

¹⁶⁵ See, *Akdivar and others*, Judgment, September 16, 1996, paras 71, 73.

Rights Watch interviewed had received written documents stating that they could not return to their homes, and the few who had been told that they could return for short periods in order to cultivate their fields had received only verbal permission from the governor and gendarmes. Lawyer Hasip Kaplan told Human Rights Watch that the authorities' efforts to avoid creating a legal trail should not pose an obstacle to litigation: "As for creating the basis for a legal action relating to property rights and establishing the fact that the authorities are not permitting people access to their property, this is simple: it can be done by sending a registered letter.... I am conducting one case over access to property. A family now living in Muş came and I opened a case against the Tatvan gendarmerie. We made the prosecutor carry out a survey. Unfortunately, the case was covered by a recent amnesty, so I have applied to the European Court of Human Rights. If people are stopped from going to their houses by the gendarmes they should open an investigation." But he admitted that this was a course that was going to take nerve and a lot of time: "Of course, this is a difficult thing in the circumstances in which they find themselves. If they do it as a group they draw attention to themselves, but separately the risk is less. It is going to be a seven-year story."¹⁶⁶

Villagers encounter numerous barriers to legal action. Zeki Z¹⁶⁷ said that a combination of low morale, foreboding, and technical difficulties had prevented him from opening a case:

We have not been to our village since 1994. In September of last year [2000] I went and applied verbally to [the local] gendarmerie commander. He said, "I will not allow you to go back to your village. You will take photographs and apply to the ECHR." Actually, we have pictures of the village in a ruined state, but we have not opened a case. People who have tried to complain about the village have found that the more they complain, the less likely that they will be allowed back to their villages. We know we are not going to get anything out of it and also there is a bit of fear. We opened a case concerning timber that was burned. I applied to get a survey from the forestry office. I told [the official] that we had suffered such a loss and asked what we could do. He asked what name we could give as a guilty party. But since we cannot go [to the village] and cannot give a name, we were not able to open a case.¹⁶⁸

The experience of the villagers of mezra S, in Van province, evacuated in 1996, suggests that litigious peasants may be the last to be allowed to return to their homes.

In 1997 we accepted to be village guards and returned to our village. We stayed there until July 1999 and then on the basis of a tip-off the security forces raided the village. They burned the village, arrested all the men, seventeen of us, and took us to [the local] Gendarmerie. We were tortured very badly there for seven days. We then spent six months in jail. We were acquitted of the charges and made a complaint saying that our personal freedom had been infringed. We won compensation for our unjust imprisonment. But we gave a petition about the village destruction, and this is at the local governor's office. We got a note from the prosecutor that a survey of the damage could be carried out. This was a point of dispute, because the village guards and soldiers said that the village had not been destroyed. While we were in prison we got the permission to carry out the survey, but could not do it because we were in prison. While we were in prison, we lost our copy of the case papers, and the local governor would not give us our petition. Now our lawyer has said that the case has run out of time, so we could not open another case. Now all the surrounding villages have been opened to

¹⁶⁶ Human Rights Watch interview, Istanbul, July 11, 2001.

¹⁶⁷ Interviewee's real name withheld to protect his safety.

¹⁶⁸ Human Rights Watch interview, Siirt, June 27, 2001.

grazing and sowing, but we are not allowed. Our headman visited the Gurpinar gendarmerie to try to arrange this. The gendarmes have refused to let us back, but only verbally.¹⁶⁹

When Human Rights Watch asked one group of displaced villagers why they had not opened a case against the military, the question provoked considerable mirth. One woman commented: “When my husband was arrested the other week, the gendarmerie reproved him just for contacting the Human Rights Association. You can imagine what they would do if we opened a case.”¹⁷⁰

Indeed, Human Rights Watch spoke to several villagers who had sought to obtain a remedy through the courts, only to come to regret it. A farmer in Muş province, burned out of his mezra home in 1993, discovered that village guards were using his property: “We want to go back, but they do not let us go. It is the village guards who don't let us back. They are using our land. They have cut down our walnut trees.”¹⁷¹ He complained to the provincial governor, the gendarmerie, and even pressed a petition into the hand of Prime Minister Ecevit when he visited the southeast at election time in 1999. There was no official action. In the spring of 2000 he took livestock up to the village to use it as summer grazing, and planted two hundred saplings. Village guards appeared, beat him up, and forced him off the land at gunpoint. He complained to the public prosecutor, but again there was no action. He opened a case at Muş Property Court, and in September 2000 the court formed a survey delegation. The judge, clerk, and the farmer drove out to the village with a military escort of soldiers in a lorry.

When we arrived, there were ten or fifteen village guards, all men. They were all carrying kalashnikovs, and two of them had automatic pistols. They stopped our car in which there was a judge. They got us all out of the car, including the judge. The judge was a woman—she called out to the soldiers, “Save me.” The village guards opened fire at the ground and swore at us in Kurdish, saying: “We are responsible for this area. Go and never come back.” The soldiers took no action whatsoever. We retreated to a nearby gendarmerie station. The village guards followed us back. By now there were more than a hundred of them. They attacked me with sticks right there at the gendarmerie station. The gendarmes interfered and separated us but did not take our part in any way. As far as we know, the judge made no report on the incident.¹⁷²

Utterly demoralized, the farmer took no further legal action about the beating the village guards had inflicted upon him, or their occupation of his lands.

A displaced person from another village¹⁷³ told Human Rights Watch that a group of village guards had occupied his village after it was burned out in 1994. He alleged that later that year, the village guards had sought out one of the displaced in another province and killed him: “I think they wanted to frighten us so that they could hold on to our property. They have taken all the materials of the houses. These are guards from our own villages, people whom we actually knew as neighbors. There are even school friends among them and they are sowing our lands and property.”¹⁷⁴ He submitted complaints to the Parliamentary Human Rights Commission, the public prosecutor, and the Interior Ministry. In 1997, he brought a prosecution. “I learned that the public prosecutor was calling the village guards one by one and asking them if they had misused their powers. They would reply, according to a friend of mine, that they

¹⁶⁹ Human Rights Watch interview, Van, July 1, 2001.

¹⁷⁰ Human Rights Watch interview, Diyarbakır, June 24, 2001.

¹⁷¹ Human Rights Watch interview, Muş, June 28, 2001.

¹⁷² Human Rights Watch interview, Muş, June 28, 2001. Interviewee's details withheld for his personal safety.

¹⁷³ Name and location of village withheld at the interviewee's request.

¹⁷⁴ Human Rights Watch interview, Van, June 30, 2001. Informant's details withheld for his personal safety.

had not, and as far as I know no action was taken on the case.” But after he brought the complaint, the security forces began to target the villager for arrest and torture: “I have been detained repeatedly and imprisoned five times. The muscles in my abdomen were torn when I was suspended by the arms, and I have kidney damage from beatings.” The villager, in tears, expressed great fear that his testimony might provoke further reprisals if he should be identified.

VILLAGERS FROM KELEKÇI WIN INTERNATIONAL JUSTICE

A small number of displaced peasants have successfully sought international justice as a remedy, through the European Court of Human Rights (ECHR). This has not yet opened their path homeward, but there is no question that the series of shock decisions in the ECHR¹⁷⁵ were key factors in forcing the military to halt its program of destruction. In its 1996 ruling in *Akdivar and Others v Turkey*, the ECHR corroborated the open secret and confirmed that Turkish security forces were indeed guilty of house destruction. From that moment on, gendarmes knew that bullying indigent villagers might not be cost-free.

The case of *Akdivar and others v Turkey*, filed on May 18, 1993, was the first application concerning house destruction to reach judgment, and the case perfectly represents the larger pattern of abuse. The applicants happened to be people whom the government would find it impossible to discredit by applying the label of PKK-sympathizer or terrorist. The applicants were seven former village guards from Kelekçi village in Diyarbakır province, who had lost close relatives in PKK attacks. In July 1992 the village resigned from the village guard system. According to the villagers, on the night of November 1, 1992 the PKK attacked and destroyed the gendarme station at Kelekçi, killing a soldier and wounding eight others. On November 10, 1992 soldiers and special team members entered Kelekçi and instructed the headman to evacuate all the inhabitants. As he tried to gather the people together, the soldiers began firing with heavy weapons from armored cars at houses and villagers, and set fire to nine houses that burned to the ground together with their contents. The soldiers also shot the villagers’ livestock. The villagers fled to nearby towns, and soldiers burned down most of the rest of the village in April the following year.

The government’s account was that the villagers voluntarily evacuated the village following the November attack after which the soldiers searched the village, leaving it undamaged, even though they had found many “terrorist hide-outs” stocked with food, propaganda material, and munitions. The government maintained that on April 6, 1993 the security forces again searched the village, to which three families had returned, and later that night, the PKK came and burned the remaining houses.

The case was declared admissible on October 19, 1994. At that time applications did not go directly to the court, but were first subject to preliminary investigation by the European Commission for Human Rights, which had the right to reject applications on technical grounds or submit preliminary findings to the court.¹⁷⁶ In March and April 1995 a Commission delegation travelled to Turkey and took oral

¹⁷⁵ Turkey signed the European Convention for the Protection of Human Rights and Fundamental Freedoms in 1950 and recognized the right of individual citizens subject to violations of the convention to petition to the Court in 1987. The right of personal petition was initially not well understood in Turkey, and it was several years before petitions began to be prepared in numbers that would reflect the gravity and scope of violations actually being committed there. The London-based Kurdish Human Rights Association (KHRP), working in association with lawyers from the Human Rights Centre of Essex University, played an important role in widening the use of the right of personal petition as a lever for change in Turkey. KHRP and lawyers from Essex assisted in the preparation of many petitions but also held training seminars in Turkey in order to share skills and expertise with domestic lawyers. Now, according to *Cumhuriyet* (Republic) of May 21, 2001, Ministry of Justice figures show there are 1,500 cases filed against Turkey from applicants in the southeast.

¹⁷⁶ The European Commission for Human Rights was abolished in November 1998.

testimony from the applicants and their lawyers, as well as from local gendarmerie and commando officers and the chief prosecutor of Diyarbakır State Security Court. This alone was a landmark event for Turkey. The spectacle of high ranking state officials and soldiers being thoroughly examined by an official commission and called to account for violations against common people was unprecedented. This enterprising move on the part of the Commission came as a powerful shock to institutions unaccustomed to having their acts carefully examined. Police and soldiers called to testify at parliamentary commissions or arraigned in domestic courts on charges of torture, for example, frequently refused to appear for months or years on end, and when they did finally appear, were generally questioned in a deferential rather than probing manner.

The Kelekçi villagers were convincing witnesses. According to the Commission,

The general impression created by the villagers' oral testimony before the delegates is one of simplicity, sincerity, and courage. Most of their statements were well-balanced and in no way one-sided. They unequivocally accused the terrorists of having perpetrated the attack on their village in July 1992. There is no indication that the villagers were in any way hostile to the military or the public authorities. Generally speaking, the commission is therefore satisfied that the villagers who gave evidence told the delegates what they considered to be the true facts of the incident on 10 November 1992.¹⁷⁷

The Commission found Turkish government officials' testimony "generally evasive,"¹⁷⁸ and the government's defence included some glaring contradictions. For example, the Turkish government provided the court with the "expert opinion" of a construction engineer, who viewed the site from a helicopter, accompanied by the state security court chief prosecutor, and concluded that the abandoned houses at Kelekçi village had decayed and collapsed, while the gendarmerie officers told the court that the PKK had burned the village in April 1993.

The applicants also reported that state officials had approached them and intimidated them, apparently with the aim of getting the complaint dropped. The government conceded that it had approached applicants, but claimed that this was just to take their statements. The Commission noted "with concern"¹⁷⁹ that after government representatives had made similar approaches in other cases applicants had abandoned their action.

The Commission referred the Akdivar case to the European Court of Human Rights. The Court ruled that, "there can be no doubt that the deliberate burning of the applicants' home and their contents constitutes at the same time a serious interference with the right to respect for their family lives and homes and with the peaceful enjoyment of their possession. No justification for these interferences having been proffered by the respondent Government—which have confined their response to denying involvement of the security forces in the incident." The Court found that there had been violations of the right to private and family life,¹⁸⁰ and the right to peaceful enjoyment of possessions.¹⁸¹ It also found that

¹⁷⁷ Report of the European Commission of Human Rights on *Akdivar and Others v Turkey*, Application No 21893/93, October 26, 1995, para. 205.

¹⁷⁸ *Ibid*, para 212.

¹⁷⁹ *Ibid*, para 252.

¹⁸⁰ Article 8: Right to respect for private and family life

Everyone has the right to respect for his private and family life, his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

government officials had attempted to pervert the process of justice by calling the applicants for interview.¹⁸² It concluded that “Given the vulnerable position of the applicant villagers and the reality that in South-East Turkey complaints against the authorities might well give rise to a legitimate fear of reprisals, the matters complained of amount to a form of illicit and unacceptable pressure on the applicants to withdraw their application.”¹⁸³

The Court ordered the Turkish government to pay the applicants as a group £20,810 sterling (U.S.\$34,128) in total costs and expenses, and in a later judgment,¹⁸⁴ awarded the villagers pecuniary damages for destruction of the houses, livestock and crops, household property, loss of income, and cost of alternative accommodation, totaling £115,062.76 (U.S.\$188,702). Each applicant also received £8,000 (U.S.\$13,120) in non-pecuniary damages for the emotional trauma they experienced during the destruction of their houses.

The Akdivar judgment validated the Kurdish villagers’ claims that they were being forced out of their homes by the most brutal methods. It put the program of village destruction on the agenda in Turkey as well as abroad. It showed that the poorest displaced peasant could find international justice.

Other judgments followed. The ECHR found that Turkish security forces had destroyed villagers’ homes and/or forcibly evacuated them in *Mentes v Turkey*, *Selçuk and Asker v Turkey*, *Bilgin v Turkey*, *Dulas v Turkey*, and *Orhan v Turkey*.¹⁸⁵ In recent years, the Court has strongly encouraged plaintiffs in similar cases, including *Aydin v Turkey*, *Kemal Guven v Turkey*, *Aygördü and others v Turkey*, *Ince and others v Turkey*, and *Isci v Turkey*,¹⁸⁶ to accept a friendly settlement. Like the Akdivar case, the evidence in these cases shows the authorities unwilling to investigate abuses, but quite ready to try to pressure indigent villagers to abandon their appeal to the ECHR. Several other judgments against Turkey concern extrajudicial executions and “disappearances” perpetrated during village clearances.¹⁸⁷

The applicants in this succession of Turkish house destruction cases claimed that they were excluded from their village as effectively as if they had actually been expropriated. They asked the Court to require the Turkish government to restore the village infrastructure and ensure that they could safely return. In

¹⁸¹ Protocol 1, Article 1: Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

¹⁸² Article 25, paragraph 1: The Commission may receive petitions addressed to the Secretary General of the Council of Europe from any person, non- governmental organization or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in this Convention, provided that the High Contracting Party against which the complaint has been lodged has declared that it recognizes the competence of the Commission to receive such petitions. Those of the High Contracting Parties who have made such a declaration undertake not to hinder in any way the effective exercise of this right.

¹⁸³ *Akdivar and others*, Judgment, September 16, 1996, para 105.

¹⁸⁴ *Akdivar and others v. Turkey (Article 50)*, April 1, 1998.

¹⁸⁵ *Mentes v Turkey*, ECHR, November 28, 1997; *Selçuk and Asker v Turkey*, ECHR, April 24, 1998; *Bilgin v Turkey*, ECHR, November 16, 2000; *Dulas v Turkey*, ECHR, January 30, 2001; *Orhan v Turkey*, ECHR, June 18, 2002.

¹⁸⁶ *Aygördü and others v Turkey*, ECHR, May 22, 2001; *Aydin v Turkey*, ECHR, July 10, 2001; *Kemal Güven v Turkey*, ECHR, May 22, 2001; *Ince and others v Turkey*, ECHR, May 22, 2001; *Isci v Turkey*, ECHR, September 25, 2001.

¹⁸⁷ See for example, *Akdeniz and others v Turkey*, ECHR, *Kurt v Turkey*, ECHR, May 25, 1998; *Çakıcı v Turkey*, ECHR, July 8, 1999; *Ertak v Turkey*, ECHR, May 9, 2000; *Timurtaş v Turkey*, ECHR, June 13, 2000.

the case of Akdivar, for example, the Court agreed that the government had “a legal obligation to put an end to an ongoing breach and make reparation for its consequences in such a way as to restore as far as possible the situation existing before the breach.” The Turkish government claimed that the risk of PKK attack ruled this out, but said that villagers would return “when the local inhabitants feel themselves to be safe from terrorist atrocities.” The Court said that where the government claimed that restoring the situation to that prior to the violation (*restitutio in integrum*) was impossible, it was free to choose how it would comply with the Court’s judgment that a violation had taken place. This could seem to let the Turkish government off the hook, but the Court went on to allocate responsibility for ensuring compliance in this respect to the Council of Europe’s Committee of Ministers. Since the Akdivar decision in 1996, however, the Committee of Ministers has not procured the execution of this element of the judgments, leaving the villagers victims of an ongoing violation. In July 2002 the Committee of Ministers adopted a resolution calling on Turkey to take steps to respond to the succession of judgments at the ECHR concerning killings, torture, disappearances and destruction of property committed by the Turkish security forces.¹⁸⁸ The unresponsiveness of the Turkish government to these periodic reprimands suggests that more methodical and sustained pressure is required—particularly in respect of internal displacement, a uniquely complex and long-term problem.

The European Court is considering how to cope with its growing burden of work. The rapporteur of the Council of Europe Parliamentary Assembly’s Committee on Legal Affairs and Human Rights, Erik Jurgens, has said that responsibility for the increasing burden must be attributed in part to “the Committee of Ministers, which does not exert enough pressure when supervising the execution of judgments.”¹⁸⁹ An evaluation group established by the Committee of Ministers indicated that a substantial factor in creating the overload is the burden of “clone” or “repetitive” cases,¹⁹⁰ like the series of house destruction actions from Turkey. Clearly, ensuring execution of judgments in such cases might cut down the volume of clone violations and so, clone cases. In view of the considerable flow of information from southeast Turkey, it is regrettable that the Committee of Ministers did not identify the systematic pattern of village destruction at an earlier stage and bring pressure on the Turkish government to desist. Meanwhile, applications at the ECHR continue to pile up. In February 2002, the villagers of Alaca, in Diyarbakır province, who won a case¹⁹¹ relating to the 1993 “disappearance” of eleven relatives, filed a personal petition against the local governor’s refusal to permit them to return to their destroyed homes.

The ECHR judgments in the cases of house destruction in Turkey were effective in putting the forced displacement of Kurdish villagers on the national and international agenda. But these cases represent just a small sample of a much wider pattern, and unfortunately, the follow-up mechanisms to halt the continuing violation and tackle that wider pattern are slow and cumbersome. In addressing Turkey concerning the cases of house destruction, the Committee of Ministers asked what steps have been taken to avoid repetition of this serious violation. The Committee’s resolution and the Turkish government’s response only recapitulate the confrontation that took place in the ECHR: Turkey presented an outline of the remedies open to victims of house destruction, while the Committee of Ministers noted that impunity and the lack of effective remedies were continuing problems and encouraged the Turkish authorities “to continue their efforts in order to ensure rapid reparation for the victims of violations of the Convention committed by the security forces.”¹⁹²

¹⁸⁸ Council of Europe, Committee of Ministers, Interim Resolution ResDH(2002)98, Adopted by the Committee of Ministers on July 10, 2002 at the 803rd meeting of the Ministers’ Deputies.

¹⁸⁹ September 2001 issue of *The Europeans*, Council of Europe newsletter.

¹⁹⁰ Report of the Evaluation Group, EG Court(2001)1, September 27, 2001, para 51.

¹⁹¹ *Akdeniz v Turkey*, ECHR, May 31, 2001.

¹⁹² Interim resolution DH (99) 434 of the Committee of Ministers, *Action Of The Security Forces In Turkey: Measures Of A General Character*, adopted June 9, 1999. The resolution referred to three cases of property destruction: *Akdivar and others*, *Mentes and others*, *Selçuk and Asker*.

CIVIL SOCIETY BARRED FROM THE PROCESS

The U.N. Guiding Principles provide that international humanitarian organizations and other appropriate actors have the right to offer their services in support of internally displaced persons, and that such organizations should have unimpeded access to internally displaced persons (Principles 25 and 30).

A genuine project for the return of Turkey's forcibly displaced villagers would be a huge undertaking with enormous financial, planning, and humanitarian implications. Consequently, the government would need to benefit from the experience, expertise, and energy that local and international nongovernmental organizations and intergovernmental organizations have to offer. The representatives of GAP and TSBD spoke enthusiastically of their "participative" approach, and local governors echoed this theme. But in practice, the government has consistently cut non-state agencies out of the whole process. Professional associations have semi-official status, but they have also been kept entirely in the dark about the government's return plans and have never been invited to give their input.

A representative of the Diyarbakır Chamber of Architects (who asked for his name to be withheld for reasons of safety) lamented the potential waste of public funds:

The lack of consultation is leading to the most unfortunate results. For example, we know that İslamköy, near Kulp, currently under construction, is on a fault line. It is also in a place where snow lies until late spring. It is also being made from bricks, which are not particularly appropriate for that area. The government did not consult with us over the construction of İslamköy. The Chamber has not made a visit there. The authorities would not let us go there. We know we would not get permission. They would say we were interfering with politics. When the Chamber had a university rector come to address a meeting here, the governor asked for investigations into whether he had a criminal record. Would such a governor let me visit a village-township project? This process is peculiarly mysterious.¹⁹³

A member of the Diyarbakır Chamber of Engineers (who also asked that his name be withheld) told Human Rights Watch:

Nobody from the government has yet contacted us, though a group of people from a foreign voluntary organization did come to us asking for a detailed project concerning a group of villages. We said that we could not do this because we did not consider it safe to go to such villages and carry out a survey. I do not think the military would permit us to go to such villages, though there may be exceptions. We would be trying to create an alternative to the official path and that would put a question mark in the minds of the authorities.¹⁹⁴

A representative of the Diyarbakır Chamber of Agricultural Engineers (who also requested anonymity) said:

The government has never asked for our information or opinion on this. We find that statistics on the area of land involved are hard to find. We do not know how many villages are emptied and how much of their land is suitable for agriculture. GAP is running a project concerning the emptied villages covering the whole of southeast

¹⁹³ Human Rights Watch interview, Diyarbakır, June 26, 2001.

¹⁹⁴ Human Rights Watch interview, Diyarbakır, June 26, 2001.

Turkey, the Village Return and Rehabilitation Project. But everybody is working on this in a clumsy and amateur way. We think the government should bring together all the relevant professional bodies and the nongovernmental organizations. At the moment there are a few organizations each doing something separately. But it is a really huge task. These organizations should be brought together so that they share the load and do a better job. In order to get the return to villages done properly you have to get a baseline picture of the present situation of the villages. We have no information about how much land is irrigated, or not irrigated, put out to crops or animals—it is just an unknown quantity.¹⁹⁵

When asked if the Prime Minister's Office had consulted with him over the Village Return and Rehabilitation Project, Dr. Necdet İpekyüz of the Diyarbakır Medical Association replied: “No, neither the emergency region governor, nor the Diyarbakır provincial governor, nor the Office of the Prime Minister has consulted with Diyarbakır Medical Association nor with our Ankara headquarters, to my knowledge, or approached us for advice or assistance on the issue.”¹⁹⁶

Far from providing “appropriate actors” access to the internally displaced, the authorities have relentlessly persecuted organizations that take an interest in them. At the moment, access by nongovernmental organizations to the southeast is extremely difficult. The three local organizations most interested in the problems of the internally displaced are the HRA, the Göç-Der, and HADEP. The authorities view all three with great suspicion, and local security forces subject them to constant harassment. Almost every day a branch of HADEP is raided, members detained and often ill-treated. In January 2001 HADEP officials Serdar Tanış and Ebubekir Deniz, who were trying to establish a branch of the party in Şırnak province, “disappeared” after being summoned to a gendarmerie station. The authorities first denied and then admitted that the HADEP officials visited the gendarmerie, but claimed they had left after half an hour. In October 2001 Burhan Koçkar, a HADEP member, was allegedly extrajudicially executed by masked security forces in Ağrı in eastern Turkey.¹⁹⁷

The HRA reports that it is also subject to constant persecution by security forces—particularly when it ventures into more remote areas to investigate abuses in villages. When Osman Baydemir, president of Diyarbakır HRA, travelled with a joint delegation to Şırnak to investigate the forced evacuation of Asat and Ortaklı villages, he was detained together with a villager he had interviewed. The detained villager reported that gendarmes tortured him in order to make him sign a statement alleging that the delegation had bribed him to give them false testimony incriminating the security forces.¹⁹⁸

Göç-Der offices are constantly under police surveillance and have been repeatedly raided. In May 2001 police entered the Istanbul office, confiscated documents, and detained then President Mahmut Özgür and a member of the board, Metin Çelik, who was held incommunicado for two days. It was plain that the authorities were unhappy that Göç-Der was bringing unwelcome information about the Village Return and Rehabilitation Project into the public arena. The police scolded Göç-Der officials saying: “You bring shame upon Turkey by letting victims talk to foreigners, and also you break your statute by having relations with foreign organizations.”¹⁹⁹ On June 22, 2002 police raided Göç-Der branches preparing for

¹⁹⁵ Human Rights Watch interview, Diyarbakır, June 25, 2001.

¹⁹⁶ Human Rights Watch interview, Diyarbakır, June 25, 2001.

¹⁹⁷ Belma Akçura, “Yine ‘çat kapı infaz’”(Another ‘execution after a knock at the door’), *Milliyet*, November 7, 2001.

¹⁹⁸ Joint press statement of delegation members, representatives of HRA, Mazlum-Der, Turkish Chamber of Architects and Engineers (TMMOB), Turkish Human Rights Foundation (TIHV), Turkish Medical Association (TTB), Göç-Der and the Diyarbakır Democracy Platform, Diyarbakır, August 10, 2001.

¹⁹⁹ Human Rights Watch interview with Şefika Gürbüz, Istanbul, June 11, 2001.

a week of public events aiming to draw attention to the difficulties of the internally displaced, confiscated materials, and detained two staff at the Istanbul headquarters. Many of their activities were banned by local governors. The board is also facing a series of ongoing trials for breaking the Law on Associations, “insulting the armed forces,”²⁰⁰ and “separatist propaganda”²⁰¹ in respect of their news bulletin.

When Human Rights Watch asked whether the Migration and Humanitarian Assistance Foundation (GİYAV) had been asked for its input into the government’s return plans, the spokesperson Mehmet Barut laughed and said that in a way it had, since the police came and confiscated their official records and the hard disk from their computer a month previously, saying that they would have to keep them for a year for examination by experts.²⁰² GİYAV is currently under investigation on unspecified allegations by the Adana State Security Court prosecutor.

Professor Erik Siesby and Jonna Dalsgaard of the Danish Helsinki Committee have developed a project for the return and reconstruction of twenty villages, in collaboration with Göç-Der and the professional chambers of Diyarbakır. They hope to obtain funding from the European Union or the World Bank. This is very much an “alternative to the official path” as described by the spokesperson of the Chamber of Engineers, and as he suspected, the official reception has not been warm. Press reports in May 2002 stated that the Turkish government has submitted to E.U. states a list of seventeen Europe-based nongovernmental organizations that it claims “support the PKK,” including the Danish Helsinki Committee.²⁰³

INTERNATIONAL NONGOVERNMENTAL AND INTERGOVERNMENTAL ORGANIZATIONS AT ARM’S LENGTH

Principle 25, paragraphs 2 and 3, of the U.N. Guiding Principles state: “International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or an interference in a State’s internal affairs and shall be considered in good faith. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.”

International nongovernmental organizations such as Amnesty International and Human Rights Watch are able to visit the southeast, though under close surveillance. Human Rights Watch was initially denied access to one returned village in July 2001, but permitted to travel two days later. Humanitarian nongovernmental organizations are more or less absent from the southeast. Attempts by Médecins Sans Frontières to provide medical aid to vulnerable groups in Diyarbakır were blocked by the Turkish government.²⁰⁴

But the picture with regard to access by intergovernmental humanitarian organizations is not much better than for nongovernmental organizations. Human Rights Watch addressed the Turkish government in October 2001 to urge that international expert bodies such as UNHCR, the U.N. Special Representative of the Secretary General on Internally Displaced Persons, the International Committee of the Red Cross

²⁰⁰ Article 159 of the Turkish Criminal Code.

²⁰¹ Article 8 of the Anti-Terror Law.

²⁰² Human Rights Watch interview, Mersin, July 7, 2001.

²⁰³ NTV, May 5, 2002 and Milliyet, May 7, 2002, reported in Infoturk Bulletin of May 8, 2002.

²⁰⁴ *Wall of Denial—Internal Displacement in Turkey*, US Committee for Refugees, 1999, p. 34.

(ICRC), United Nations Development Program (UNDP), International Organization for Migration (IOM), Organization for Security and Co-operation in Europe (OSCE), the Council of Europe, and the World Bank be invited to contribute to the planning and implementation of any projects for the return of displaced people. The Turkish government did not reply.

Turkey, a state party to the 1949 Geneva Conventions, continues to refuse the ICRC access to places of detention or to the displaced populations of the southeast.²⁰⁵

The OSCE has gained considerable experience on forced migration from its work in several Balkan and Caucasus states, but to Human Rights Watch's knowledge, no OSCE body has been asked for advice on the Village Return and Rehabilitation Project, much less become actively involved in the design and implementation of the project.

The overall human rights situation in Turkey is still under a monitoring procedure opened by the Parliamentary Assembly of the Council of Europe (PACE) in 1996, and the Monitoring Committee has been asked to keep a watch on the status of the Kurdish minority. In 1998, the PACE Committee on Migration, Refugees and Demography produced a report that accurately outlined the scale of the displacement in southeast Turkey and made many valuable recommendations including explicit respect for the cultural rights of minorities, lifting the state of emergency, and abolition of the village guard system.²⁰⁶ With respect to the internally displaced, it urged the government of Turkey, "in cooperation with international humanitarian organizations," to develop, "a major programme with a view to encouraging the return of the Kurdish population to their homes; to present reconstruction projects to be financed by the Council of Europe's Social Development Fund, in the framework of return programmes; to adopt measures to integrate those displaced persons of Kurdish origin who wish to settle in other parts of Turkey, and provide them, as well as returnees, with compensation for property damaged by the Turkish armed forces where the case arises."

PACE has maintained its interest in the plight of Turkey's internally displaced. In October 2001, John Connor, the rapporteur of the Committee on Migration, Refugees and Demography, visited Turkey. In the report on his visit, the rapporteur called for the pace of returns to be increased and recommended that the Turkish authorities refrain from further evacuations, abolish the village guard system, and lift the state of emergency. He also urged that the government involve the displaced, as well as international humanitarian organizations and local municipalities in preparing and implementing return projects. He further noted that international finance could help the Turkish government in what promises to be a costly matter, suggesting that the Council of Europe's Development Bank should consider positively projects to finance the return of Turkey's displaced.²⁰⁷

Connor's recommendations are sound, but unfortunately there is no guarantee that they will be implemented. They broadly reflect the Committee's 1998 recommendations, which were largely ignored. But Turkey may respond to demands made by the Committee of Ministers, and the Parliamentary

²⁰⁵ Article 18 of Protocol II to the Geneva Conventions provides for the provision of humanitarian relief during internal armed conflicts by relief organizations such as the ICRC.

²⁰⁶ *Humanitarian situation of the Kurdish refugees and displaced persons in South-East Turkey and North Iraq*, Doc 8131, June 3, 1998. On the basis of the report the Parliamentary Assembly passed a resolution echoing its recommendations: *Humanitarian situation of the Kurdish refugees and displaced persons in south-eastern Turkey and northern Iraq*, Recommendation 1377, June 25, 1998. It also passed Order No. 545 (1998) resolving closer involvement in the issue and asking relevant committees to study the issues more closely.

²⁰⁷ John Connor, Rapporteur, Committee on Migration, Refugees and Demography, Parliamentary Assembly of the Council of Europe, *Humanitarian situation of the displaced Kurdish population in Turkey*, Doc. 9391, March 22, 2002.

Assembly is in a position to keep the issue of village return on the Committee of Ministers' agenda. Human Rights Watch hopes that John Connor's visit will mark the beginning of a closer engagement by the whole Council of Europe in the fate of internally displaced people in Turkey.

Turkey became a candidate for E.U. membership at the Helsinki summit in 1999. In theory, the demand that Turkey fulfill strict political conditions concerning human rights and democracy (the Copenhagen Criteria) should have provided excellent leverage on a wide range of human rights problems, including the treatment of the internally displaced. Progress has been much slower than hoped. At first, the European Union was too easily convinced by rhetoric from the Turkish government. With experience, the Commission has become more shrewd in its evaluations, and the *2001 Regular Report On Turkey's Progress Towards Accession* gave a more realistic assessment of progress.²⁰⁸ But its treatment of the return question (under the heading "Minority rights and the protection of minorities")²⁰⁹ was disappointing. The report merely reproduced government statistics on the rate of return, apparently without checking them against the facts on the ground. The 2002 Regular Report gave a sharper picture, contrasting an estimated figure of 378,000 to one million for the number of displaced, with an official figure of 37,000 for the number of villagers that have returned. The E.U. representation has an unequalled level of access to Turkish government information and also to the region where the displacements occurred. It should use its unique position to uncover the true picture of what is happening in the countryside and also to influence the Turkish government to adopt and implement a more acceptable policy.

In recent years UNHCR has assumed increasing responsibilities with respect to internally displaced persons worldwide and has acted as a lead agency on behalf of internally displaced persons and refugees for the U.N. in Bosnia-Herzegovina and Kosovo.²¹⁰ UNHCR has representation in Turkey with several

²⁰⁸ European Commission, *Regular report on Turkey's progress towards accession*, SEC(2001) 1756, November 13, 2001.

²⁰⁹ Ibid.

²¹⁰ UNHCR's Statute does not entrust the organization with any specific legal obligations toward internally displaced persons, but the agency has had a limited operational involvement with IDPs since the 1970s. An article in UNHCR's Statute states that the High Commissioner for Refugees may "...engage in such activities...as the General Assembly may determine within the limits of the resources placed at [her] disposal" (Article 9). On the basis of this Article, the U.N. General Assembly has, on certain occasions, authorized the High Commissioner to act on behalf of internally displaced persons. The U.N. General Assembly has set the following criteria that UNHCR must meet if it undertakes activities on behalf of internally displaced persons:

- a) obtain a specific request for involvement from the General Assembly, the Secretary General or another principal organ of the United Nations, such as the Economic and Social Council
- b) obtain the consent of the concerned State or relevant entity
- c) have proven expertise and experience to assist, protect and seek solutions for internally displaced persons in the particular situation
- d) have adequate funding and resources for the activities required

In addition, UNHCR has developed its own criteria to guide its activities with IDPs. These include:

- a) staff security
- b) access to affected population
- c) existing UNHCR presence in country.

Finally, UNHCR has developed its own criteria for determining where it will get involved with internally displaced persons. These include:

- a) where IDPs are located in the same areas as refugees or returnees and are affected by the same circumstances
- b) where the same conflict produces both refugees and IDPs, and where assisting IDPs could: i) prevent further cross-border displacement, without adversely affecting the right to seek asylum; ii) encourage neighboring

field offices, and it carries out status determination and resettlement of refugees from non-European countries whom Turkey does not recognize as refugees as a consequence of its geographic limitation to its ratification of the 1951 Convention.²¹¹ UNHCR has not carried out any work with respect to the internally displaced in Turkey. As the U.N. Resident Coordinator with responsibility for coordinating humanitarian assistance in Turkey, UNDP is mandated with the task of “coordinating assistance to the internally displaced, in close cooperation with Governments, local representatives of donor countries, and the United Nations agencies in the field.”²¹² Yet it appears the Turkish government has not involved the UNDP in its plans for the displaced villagers. A UNDP official told Human Rights Watch that it had “no input into the Village Return and Rehabilitation Project.”²¹³

At least one U.N. mechanism has finally been invited to make a contribution. Several years after his first request for a visit, the U.N. Special Representative of the Secretary General on Internally Displaced Persons, Dr. Francis Deng, finally received an invitation from the Turkish Government in 2001.²¹⁴ Dr. Deng visited Turkey from May 26 to June 2, 2002, and his report is currently in preparation. In a public statement on June 5, 2002, Dr. Deng noted the widely shared perception that the Turkish government is refusing to seek international assistance in securing returns because this would necessitate acknowledging its own role in creating the problem, but contrasted this with “surprising openness and transparency” on the part of the government officials and ministers whom he met during his visit to the country. His official contacts were apparently prepared to concede that government forces were implicated in forcible evacuation, to accept a positive responsibility to assist in return, and to welcome input from the international community.

Such openness is certainly unprecedented. It contrasts rather sharply with the official responses that villagers report, and it is to be hoped that the new openness was not merely a display for the U.N. Special Representative’s benefit. At any rate, Dr. Deng gave some clues as to how the government can demonstrate its new attitude. He called on the government to formulate a clear policy on return and to ensure that the policies are fully transparent, and he concluded with a firm expectation that intergovernmental organizations and civil society will now be brought into the process: “What is critically important in the view of the Representative is that an opportunity now exists for the international

countries to provide asylum; iii) help to create conditions conducive to the eventual return of refugees; and iv) promote regional stability

- c) where refugees return home but because of continuing conflict are displaced internally
- d) where effective reintegration of returnees requires extending assistance to IDPs in the same community
- e) where refugees are a minor component of massive internal displacement
- f) where internal conflicts of a secessionist nature have uprooted people within national borders that later become international borders
- g) where IDPs have similar needs to refugees and governments have turned to UNHCR for technical and humanitarian expertise

²¹¹ Turkey retains a geographic limitation to its ratification of the 1951 U.N. Convention on the Status of Refugees (“Refugee Convention”), which means that only those fleeing as a consequence of “events occurring in Europe” can be given refugee status. For many years UNHCR conducted refugee status determination of non-Europeans independent of the government and attempted to resettle in third countries those whom it determined to be refugees. In November 1994, Turkey passed regulations on the treatment of asylum seekers. The regulations give the Turkish government the task of status determination of non-Europeans and lay down procedures to determine this status in accordance with the refugee definition in the Refugee Convention. Those who pass the test are referred to UNHCR for resettlement to a third country. The system as it currently stands is extremely hazardous for non-European refugees and various stages of the process put them at risk of refoulement.

²¹² U.N. General Assembly Resolution 44/136, February 27, 1990.

²¹³ Telephone conversation with Yeşim Oruç, UNDP Ankara, June 27, 2001.

²¹⁴ Report of the Representative of the Secretary General on Internally Displaced Persons, Dr. Francis Deng, submitted pursuant to Commission on Human Rights resolution 2000/53, E/CN.4/2001/5, January 17, 2001.

community to assist the Government of Turkey in the challenging task of facilitating the voluntary return, resettlement and reintegration of the displaced population.²¹⁵

CONCLUSION: THE POTENTIAL REWARDS OF PARTNERSHIP

Our aim is to get the citizen back to where he or she wants to live. We are a developing country and in addition to this we have just passed an unusual and extraordinary period. We cannot get past this in just a short time. For us these international standards are an aim, a goal. We may not have been able to meet these standards in the same way as a wealthier country would. But we are not going to ignore the standards of the international community. We intend to conform with those standards. These are definitely our aims. Irrespective of the village guard system, all these people are our citizens. We are leaving a period of our history behind and we embrace all our citizens without exception.

—Niyazi Tanilir, assistant governor of Van province, June 29, 2001.

As far as fostering return of displaced persons to their homes in the southeast is concerned, the Turkish government has all but wasted the years since the end of widespread armed violence in the southeast. Even if its own figures are to be believed, no more than one in ten of the internally displaced has been able to return. But if the government is prepared to bring its Village Return and Rehabilitation Project into line with the U.N. Guiding Principles and other international human rights and humanitarian standards relating to internally displaced people, it is not too late to make it into an enterprise in which international donors, government agencies, nongovernmental organizations, and the villagers themselves can believe and collaborate. This would not only go some way toward a remedy for the violations of past decades, but also contribute to the regeneration of the eastern provinces, an unfulfilled aim of every administration since the foundation of the republic. Such a project would be fully consistent with the European Union's requirement of Turkey, contained in the Accession Partnership, to "develop a comprehensive approach to reduce regional disparities, and in particular to improve the situation in the South-East, with a view to enhancing economic, social and cultural opportunities for all citizens,"²¹⁶ a goal echoed by the Turkish government as a medium term objective in its National Program for E.U. accession.²¹⁷

The government must remove the obstacles to return. It should direct governors and gendarmerie to permit all villagers to return to their homes and lands, including more remote villages and mezra. The only grounds for withholding such permission would be in a limited number of settlements where there is a genuine threat of attack by armed organizations or where it is believed that there are landmines. In such cases, villagers should be individually notified of the reasons why permission to return has been withheld, and they should receive an appropriate level of financial support, as well as full access to health, education, and employment or other basis for an adequate standard of living while they remain in alternative accommodation until their village is made ready for their return. Special provision should be made for the elderly, the young, and the disabled.²¹⁸

The Turkish government should provide full restitution to internally displaced villagers. PKK and other illegal armed political groups cynically used peasant populations as cover in order to wage war against the state, but state forces equally cynically dispossessed those peasants and drove them off the land as a military counter-strategy. The current peace was achieved at the expense of the peasants of the southeast

²¹⁵ United Nations press release, Ankara/Geneva, June 5, 2002.

²¹⁶ Accession Partnership, article 4.1.

²¹⁷ National Program, article 1.2.10.

²¹⁸ Guiding Principles, Principles 4 and 19.

who are among the most underprivileged citizens of the Turkish republic. The government has a moral duty, but also a duty under Turkish and international law, to return those farmers and stockkeepers and their families at least to their situation prior to displacement. This must include reconstruction of homes and agricultural buildings, replacement of livestock and equipment destroyed during the displacement, and restoration of infrastructure. Where villagers supply the labor element of reconstruction, the government should provide insurance cover and payment.

The government should not attempt to characterize this restitution as aid. The majority of those who were displaced are not victims of some undefined natural disaster but of criminal acts committed by security forces. By treating internally displaced people as supplicants for state charity, the government is manufacturing a pretext to ignore their wishes and impose conditions on assistance, including obliging them to live other than where they would freely choose. Restitution is clearly going to be very expensive. The current government, plagued by financial difficulties, may not be able to meet all its commitments to the internally displaced in the short term, but it should not use this as an excuse to shake off its liability.

In its planning efforts, the government should take steps to ensure broad consultation with internally displaced communities, their representatives, relevant nongovernmental organizations (including, for example, Göç-Der, GİYAV, and the Human Rights Association), and intergovernmental organizations with expertise in the field, including UNHCR, UNDP, ICRC, and the OSCE. Such organizations should be given unfettered access to the region. The rapporteur of the Committee on Migration, Refugees and Demography has additionally recommended that local municipalities be included in the process and provided access.

Turkish civil society organizations are clearly ready to be partners in the return effort. For example, as mentioned above, Göç-Der, in collaboration with professional bodies in Diyarbakır and representatives of the Danish Helsinki Committee, is seeking international funding for a plan for the reconstruction of twenty model villages as a pattern for a more general program of return. The Turkish government should enlist such dynamic and committed organizations, rather than attempting to cut them out of the process by harassing them, denying them information, and refusing to listen to their advice.

The Turkish government should ensure that the planning process is fully transparent. A first step would be the creation of an agency with exclusive responsibility for supervising this very large project. (At the moment, it appears that an undersecretary at the Office of the Prime Minister is in charge of the return plans, but he also has a much wider brief, dealing mainly with public relations.) The government should provide the public (and the internally displaced in particular) with detailed information about the planning process itself, future plans for return, and the progress of returns. Where government officials provide statistics concerning return, they should give the names of those settlements to which the inhabitants have returned, the numbers of families concerned, the amount of government financial support provided, and the intended purpose of that support.

In his report on the situation of the internally displaced in Turkey, John Connor, rapporteur of the Committee on Migration, Refugees and Demography of the Parliamentary Assembly of the Council of Europe, observed that increased transparency on the part of the government would increase the likelihood of attracting international funding. This in turn should assist the government in meeting the heavy cost of reconstruction. The rapporteur not only recommended that the Turkish government present return projects for funding by the Council of Europe Development Bank, but also called on donor organizations participating in GAP, including UNDP, UNICEF, the World Bank, the U.N. Food and Agriculture Organization (FAO), the U.N. International Labour Organization (ILO), the European Union and the International Water Organization to step up their contributions for the purpose of assisting returns. Clearly, the international community can help to shoulder the burden, but it is more likely to do so if the

Turkish government can present plans fully consonant with the U.N. Guiding Principles that have the support of displaced people themselves.

The broader drive for improvement in human rights in Turkey is integral to the return process. The villagers interviewed by Human Rights Watch expressed profound fear of the gendarmerie. Many had at some point experienced incommunicado detention and torture; many had relatives or neighbors who had been “disappeared” or extra-judicially executed by government forces during the displacement. The return program is unlikely to be successful while gendarmes hold unsupervised sway over the countryside and are able to abuse villagers with impunity. Government efforts to combat torture and other abuses by police and gendarmerie have not eradicated the problem in western Turkey; they have been even less successful in the southeast. Human Rights Watch has long held that access to a lawyer from the first moments of detention is the key to ending torture in Turkey. Turkish law permits detainees to be held for two days without access to legal counsel. In the areas where villages were destroyed, it is almost unknown for the gendarmerie to give lawyers access to their clients in custody. A draft law prepared by the Minister of Justice in October would give all detainees access to a lawyer, but it needs to be adopted by parliament and rigorously implemented. The government and judiciary should also exercise much more energetic supervision of security forces during their operations in the countryside and in their places of interrogation.

The government should also abolish the village guard system. Sending peasants back into remote districts where their neighbors are heavily armed and invested with state authority is plainly a recipe for disaster, particularly in a context where bonds of tribal loyalty are strong, and where the blood-feud tradition is still a fact of daily life.

However, simply switching off the funds currently being piped into the village guard community is likely to have negative consequences. Village guards and their representatives are expressing unease at discussion of abolition of the village guard system. In January 2002, Professor Salih Yıldırım, vice-president of the Motherland party and parliamentary deputy for Şırnak, where many of his constituents rely on village guard salaries as their main income, called on the government to provide investment support to village guards in order to help them become a productive sector of society as a recognition of their sacrifices on the state’s behalf.²¹⁹ But any provision that is made to ease the transition for the village guard corps should be part of a broader strategy for economic improvement benefiting all the people of the region, and should not simply prolong a policy that discriminates between “loyal” and “disloyal” villagers.

After the traumatic events they experienced during the initial displacement, displaced communities are unlikely to move in large numbers until they are confident that the government wants them back in the countryside. Most of those displaced are Kurds. A striking number of those who talked to Human Rights Watch emphasized the importance of recognition of language rights as a critical indicator of political will. A displaced villager from Mardin working in Istanbul as a taxi driver said: “If the villagers go back now, what is the guarantee that they won't get turned out again in a year's time—and perhaps with violence. More than help in returning or permission to return, our villagers are looking for guarantees of safety.” Asked what sort of guarantees would convince them, he replied: “A change in the view of Kurdish peasants, the granting of cultural rights, would show that they were no longer seen as an internal enemy ... it makes no sense for [Prime Minister] Bulent Ecevit to announce a return to villages and still deny the existence of Kurdish as a language.”²²⁰ On August 2, 2002 the Turkish parliament passed a reform package that included recognition of the right to broadcast and run courses in minority languages.

²¹⁹ Cumhuriyet Kılıççioğlu, “Silahları Çocuklarına Miras Kalmamın” (May their weapons not be their legacy), Bianet news agency, January 24, 2002.

²²⁰ Human Rights Watch interview, June 11, 2001.

As quoted above, assistant governor Tanılır has described an ideal relationship of trust between a post-conflict state and its most disadvantaged citizens. So far, practice has fallen far short of that ideal. Several villagers expressed to Human Rights Watch their concern that there is a hidden agenda; that the army, the final arbiter in the region, has decided that they should never return. The army has prepared its own Action Plan for the East and Southeast, approved by the National Security Council in May 2000 and signed by the Prime Minister,²²¹ and indeed that plan is secret. There is a widespread fear among the displaced that the ultimate aim is to establish a network of strategic villages,²²² centralized settlements with strong village guard membership and tight military control, while the rest of the countryside remains more or less vacant. In the short term, a depopulated countryside would be easier to police, and in the longer term, would be more convenient to develop if land were aggregated for larger-scale agriculture by those who participated in the village guard scheme and thereby avoided displacement. Displaced Kurds, Assyrians, and Yezidi continue to remain in the cities where they may ultimately lose their distinct identity and assimilate with the majority Turkish population.

If the Turkish government should decide to take a new and positive direction over the return process, it can give a clear signal now. In his public statement of June 5, 2002, the U.N. Special Representative of the Secretary General on Internally Displaced Persons, Dr. Francis Deng, urged the government to convene a joint meeting “in the near future” to formulate programs and strategies for cooperation with the international community. In calling for the meeting, Dr. Deng noted that “an open and constructive partnership involving the Government, civil society, and international agencies would serve to facilitate the timely and effective implementation of the Government's return policy.” When the government is ready to share information and include the displaced, civil society, and expert intergovernmental bodies in reviewing its plans for return, then genuine progress will have begun. But it must happen soon: the situation is urgent, and three years of opportunity have already been wasted.

²²¹ Hasan Cemal, “Güneydoğu'ya 'ekonomi ordusu' ne zaman?” (When will the ‘economic army’ come to the southeast?), *Milliyet* (Nationhood), June 12, 2001.

²²² The practice of displacing populations and creating “strategic villages” has been observed in Kenya, Malaya, Vietnam, Mexico and East Timor. See, for example, Ben Valentino, Paul Huth and Dylan Balch-Lindsay, “Draining the Sea: Mass Killing, Genocide, and Guerrilla Warfare,” paper and presentation delivered at the annual meeting of the American Political Science Association, San Francisco, California, August 31, 2001.

APPENDIX

October 25, 2001

Mr. Selçuk Polat
Undersecretary for Return to Village and Rehabilitation Project
Office of the Prime Minister
Başbakanlık
06573 Ankara

Dear Selçuk Polat,

Human Rights Watch (HRW) is a non-governmental organization that works to protect fundamental human rights around the world, conducting systematic investigations of human rights abuses in some seventy countries. Since its foundation in 1978, HRW has monitored developments in Turkey. The organization documented the forcible displacement of villagers from the southeast in the early 1990s, and in June 1996 published "Turkey's Failed Policy To Aid The Forcibly Displaced In The Southeast," based on field research conducted in the region. In June and July this year a HRW delegate visited Turkey and interviewed many displaced villagers, as well as representatives of governmental and non-governmental organizations with an interest in this issue, in order to assess the progress of return in the light of international human rights standards, including the United Nations Guiding Principles on Internal Displacement (Guiding Principles).

In 1997 the Emergency Region governor reported to the Parliamentary Commission on Internal Migration that 378,335 villagers, 820 villages and 2,345 smaller settlements (*mezra*) had been displaced from the provinces in or bordering the state of emergency region. Inquiries made by Human Rights Watch (HRW) indicate that most of these villagers were forcibly displaced by gendarmes in the early and mid-1990s, apparently because they were suspected of giving logistical support to the PKK. A smaller but still substantial number of villagers who had participated in the village guard system were driven out by repeated attacks by the PKK, or left for their own safety at the recommendation of the security forces.

Many villagers now believe that conditions in the southeast have improved enough to consider returning to their homes. Since the PKK announced a unilateral ceasefire within Turkey in 1999, clashes as well as security operations have continued, but at a much lower level than in earlier years. The inclusion of the Return to Village and Rehabilitation Project (RVRP) in budget documents in 1999 suggests that the government shares the villagers' view. Although these developments give cause for optimism, hundreds of thousands of displaced villagers, deprived of home and income, continue to be displaced, living with considerable hardship in cities throughout the rest of Turkey. Most of the villagers who talked to HRW were keen to return to their homes for personal and economic reasons, but they had encountered various difficulties with state authorities. To summarize their complaints,

- governors either flatly refused permission to return, or refused permission unless the villagers signed prepared petitions indicating that they were not forcibly displaced;
- local gendarmes refused them permission to return;
- village guards who had occupied their lands refused to let them return;
- they received no compensation for their years as displaced persons; and
- they were receiving little or no government assistance in rebuilding their property and re-establishing themselves economically.

Villagers also expressed general concerns about their security. In particular, they fear that if they return and the PKK resumes its attacks within Turkey, they may be subjected to violent raids by security

forces or PKK and even a possible repeat of the trauma and expense of forced displacement. They also expressed discomfort at the prospect of returning to rural areas where their immediate neighbors are village guards, armed by the state and invested with vaguely defined but extensive powers and with a documented history of serious abuse. The dangers presented by anti-personnel mines or abandoned munitions are an added worry.

HRW's interviews raised many questions that villagers, non-governmental organizations, and official representatives were unable to answer. When our delegate asked in June for a meeting with civil servants in the Prime Minister's office responsible for the RVRP in order to resolve some of these questions it was suggested that we should address our questions in writing to you, rather than trying to deal with a multitude of issues in a brief meeting. Grateful for this suggestion, HRW would welcome your response on the questions and requests for documentation detailed below.

1. Statistics and other information relating to the original displacement

The success of the plans for return will require that the original problem be accurately documented and quantified through reliable statistical data. In its 1998 report, the Parliamentary Commission stated that the statistics provided by the Emergency Region Governorate (OHAL) were "problematic." Indeed, the Commission president, parliamentary deputy Haşim Haşimi estimated the number of displaced persons as "in excess of 1,000,000 citizens"—more than double the OHAL's figure. HRW is not aware that a revised figure has been produced.

Equally important as statistics regarding original displacement is a transparent accounting of government efforts and progress made in promoting return. Our efforts to piece together a full and detailed statistical accounting of the RVRP have been frustrated by the various contradictory figures given for numbers of returns and government funding of the return process. For example, a letter dated May 11, 2001 from the General Directorate for Village Services of the Office of the Prime Minister (B.02.1.KHZ.0.11.03/15.g-0798) to the Association for Social and Cultural Solidarity with Migrants (Göç-Der) states that 1 trillion TL had been allocated for the resettlement of twelve villages in four provinces. By contrast, an undated one-page summary concerning the RVRP that was emailed by the GAP administration to Göç-Der in May 2001 reported that 220 settlements were being resettled by 26,433 returnees. The Emergency Rule (OHAL) Governor Gökhan Aydın speaking at a ceremony at Şaklat village, Diyarbakır province on August 7, 2001 offered another apparently contradictory account, stating that 3.2 trillion TL was earmarked for return and that 18,600 villagers had returned. But the U.S. State Department had been told by the Turkish government that 26,481 people had returned by the end of 1999 (Report on Human Rights Developments, 2000). A clear example of how partial information can be confusing or misleading is a letter written by the governor of Bingöl to Istanbul Göç-Der, dated May 27, 2001, which states that 713 billion TL had been spent on the RVRP in that province alone—but the expenditure seems to have been mainly on reconstruction of roads, and HRW's impression is that very few villagers have returned in Bingöl province.

HRW would greatly appreciate your assistance in clarifying and reconciling these statements and in obtaining a detailed comprehensive statistical picture of the return process, enabling analysis in comparison to the situation on the ground from province to province and from year to year. Specific information we request includes:

- a. What is the government's current estimate of the number of people internally displaced since 1984?
- b. What is the government's current estimate of the number of people who remain internally displaced?
- c. How many villages and *mezra* were wholly evacuated?
- d. How many of these evacuations were officially recommended or required on security grounds?
- e. How many of these evacuations were carried out with the informed consent of the villagers?

- f. How many of these evacuations were carried out by security forces?
- g. How many of these evacuations were made by villagers on their own initiative, prompted by fears for their security or other reasons?
- h. How and when was this information collected?
- i. Has any government department kept or compiled a full record of evacuations?
- j. Are the names of displaced persons and settlements and their current status/whereabouts kept on record? If so, which department holds these records?
- k. How many villagers have officially applied to return?
- l. How many villagers have been granted permission to return?
- m. How many villagers have been refused permission to return?
- n. How many villagers have received compensation for the original evacuation?
- o. How many villagers have received compensation for their loss of livelihood and income?

2. Procedural guarantees relating to displacement and return

The Guiding Principles state that decisions to relocate villagers must be taken by a State authority empowered by law to order such measures and that displaced people must be given full information on the reasons and procedures for their displacement.

None of the forcibly evacuated villagers interviewed by HRW had any official documents indicating who was responsible for the decision to evacuate them, under what powers the decision had been carried out, or how long the displacement would continue. Most of those who had been told by the authorities that they would not yet be permitted to return said that such information was given verbally by provincial governors, town governors or gendarmerie officers who refused to put their decision in writing. The villagers believed that the officials were trying to avoid creating an administrative act that could form the basis of a subsequent legal challenge or action for compensation. A small number of villagers had received notification that the Provincial Security Commission had ruled that their village was “not among those villages considered appropriate for priority return.” Even where permission was given, governors showed the same reluctance to commit administrative decisions to paper: many of those interviewed by HRW who had been told that their village was now open to resettlement had no documents confirming this decision.

HRW has received parts of a list of villages in Diyarbakır province entitled “dönüşü uygun görülen köy ve mezralar.” The muhtar who gave this partial list to HRW suggested that it was prepared by the Diyarbakır Provincial Governorate or the Emergency Region Governorate. HRW was unable to obtain an official and complete copy of this list, since our requests to speak to both these authorities were rejected. We would therefore be grateful to receive the full text of this list, and any other list showing villages that are currently considered unsuitable for resettlement. In addition, we would appreciate information regarding the following aspects of procedures governing displacement and return:

- a. What written notification should a Turkish citizen have received when they were displaced from their home for security reasons?
- b. Which authorities are responsible for informing a Turkish citizen of the reasons for their displacement, and steps that will be taken to rehouse, compensate and support them?
- c. What written notification should a householder expect to receive confirming that they are able to return to their home?
- d. On the basis of which laws or regulations were evacuations on security grounds carried out?
- e. Were surveys of any evacuated properties (including extant buildings, orchards and crops) carried out at the time of evacuation, and if so, where are the records of the surveys?
- f. Are any steps being taken to set the internal displacement of Turkish citizens on a documentary and legal basis, and if so, what steps?

3. Humanitarian assistance

The UN Guiding Principles state that all internally displaced persons have the right to an adequate standard of living, and that at the minimum, competent authorities shall provide them with essential food and potable water; basic shelter and housing; appropriate clothing; and essential medical services and sanitation. The principles require that special attention should be paid to the needs of vulnerable groups, including women, children and disabled persons (Principles 4, 18 and 19).

HRW is aware that some initiatives were taken to provide housing in cities for displaced villagers, particularly those that had been forced to leave because they had participated in the village guard system and were targeted for attacks by the PKK. Our delegate visited one of these developments—the Yalım Erez Konutları outside Van. This was a major central government investment, which was generally appreciated by residents, who came from the border regions of Hakkari. As a rather ad hoc and temporary arrangement, however, it suffered a number of shortcomings. Funding ran out before the sewage disposal system was completed and residents said that more than one child had drowned in cesspools flooded during the winter months. Most of the villagers are stockkeepers by profession, unskilled in other trades, and therefore find difficulty in maintaining themselves economically in an overcrowded city with a high rate of unemployment. They told HRW that they would prefer to return to their original homes. Moreover, provision of this kind was rare, and even in Van HRW spoke to other villagers from the same area who had left their homes under the same circumstances but had been unable to find accommodation in the Yalım Erez Konutları or elsewhere, and were therefore living in agricultural buildings.

HRW spoke to women with young families and disabled people who underwent great hardships during and after their evacuation, who said that they were not aware of any government initiatives to provide them with special support and assistance.

We would appreciate information from the government that would confirm or correct this impression we had of the humanitarian conditions for the displaced. Specifically, we are interested in your response to the following questions:

- a. What provisions were made by successive governments throughout the 1980s and 1990s to provide basic needs to displaced persons?
 - i. What provision was made to find employment for villagers who had lost their livelihood?
 - ii. What provision was made to house displaced persons?
 - iii. What provision was made of health services for displaced persons?
 - iv. What provision was made of food and fuel for displaced persons?
- b. What special provisions were made to meet the needs of women, children, and the disabled?

4. Current security risks

The initiation of the RVRP suggests that the government believes the general security situation in the southeast has improved sufficiently to permit villagers to return to their homes in safety.

- a. Does the government consider that armed attacks by the PKK and other armed groups have diminished sufficiently to permit resettlement in all parts of the east and southeast without exception?
- b. If not, which villages in which districts are considered to be too dangerous for resettlement?
- c. Have the inhabitants of these villages been informed in writing that their village is not yet sufficiently safe to permit return?

- d. Is there any public source of information indicating which areas the government does consider safe and those it does not?

One of the possible risks facing returned villagers is unexploded mines and other munitions.

- e. What arrangements are being made to ensure that villages opened for return are thoroughly de-mined?
- f. Has Turkey sought the assistance of international organizations with expertise on de-mining?
- g. Are returning villagers offered any guarantees of safety from mines or information about de-mining operations?

5. Consultation

The Guiding Principles require that displaced persons should participate in the planning and management of their return or resettlement (Principle 28).

HRW's inquiries gave the strong impression that villagers had not been given any opportunity to participate in the planning of their return. Although some had been summoned for meetings with provincial or town governors, the opportunity for dialogue was extremely limited. Some villagers were turned out of such meetings by governors when they complained that they had been forcibly displaced by security forces. At any rate, none of the villagers HRW interviewed had received any written record of the proceedings of these meetings.

- a. To what extent have displaced villagers participated in the planning and management of their return or resettlement?
- b. How does the government communicate with the very widely dispersed villagers to ensure that they are fully informed of developments and that their views are integrated at the planning stage?
- c. What public or community meetings have the authorities conducted with communities?
- d. Can the government supply HRW with the minutes of any such meetings, and an indication of how villagers' views were incorporated into the planning process?

6. Government initiatives for village return

Various government authorities are making efforts to address the problem of internally displaced people, but the variety of initiatives is confusing for displaced people themselves and non-governmental organizations working on their behalf. In fact, even some government representatives interviewed by HRW did not seem quite sure how the RVRP, the RVRP sub-regional Development Plan, Central Village, Villagetown and Attraction Center projects fit together.

HRW would therefore be grateful to receive copies of legislation and regulations concerning Central Village, Village Town and Attraction Center projects. In addition, Human Rights Watch would appreciate thorough clarification of the plans for return and resettlement throughout the southeast, in the form of answers to the following questions:

- a. According to the columnist Hasan Cemal writing in *Milliyet* of June 12, 2001, an Action Plan for the East and Southeast was approved in May 2000 by the National Security Council. Is this document publicly available?
 - i. If it is publicly available, HRW would be grateful to receive a copy of it.
 - ii. If it is not publicly available, what are the reasons for this?
 - iii. Is the section dealing with resettlement, or a summary of that section, publicly available?

- b. What is the distinction between the Attraction Center Project (Cazibe Merkezi Projesi) reportedly run by the governor of Tunceli, the Central Village project, and the Village Town (Koykent) project?
- c. How do the above projects interlock with the RVRP and what will they offer displaced people?
- d. Which villages in the southeast have been designated as Central Village projects?
 - i. Who designed, coordinated, and funded Central Villages?
 - ii. What is the legal or regulatory basis for Central Villages?
- e. Which villages in the southeast have been designated as Village Town projects?
 - i. Who designed, coordinated, and funded the Village Town project?
 - ii. What is the legal or regulation basis for the Village Town project?
- f. Which villages in the southeast have been designated as Attraction Centers?
 - i. Who designed, coordinated, and funded the Attraction Centers project?
 - ii. What is the legal or regulation basis for the Attraction Centers project?
- g. Where the construction of residential units (konut) are planned, will full ownership of those units pass to the villagers in all cases?
- h. If not, in which cases and under what conditions, if any, will full ownership rights accrue to returnee occupants of the units?
- i. For any who do not obtain ownership rights, under what terms will they occupy the houses—as rent payers or non-paying tenants?
- j. According to what building standards are the konutlar designed and constructed?
- k. Are villagers who have agreed to live in Central Villages and accepted the benefits (such as the gift of sheep) free to leave at any time without penalty?
- l. Will villagers be required to pay any deposit in order to take up a place in these villages?
- m. Will villagers living in Central Villages or Village Towns retain ownership of their former homes and land?
- n. If villagers living in Central Villages or Village Towns choose to rebuild and live, temporarily or permanently, in their former homes, will they be permitted to do so?

7. Return to Village and Rehabilitation Project (RVRP)

During his visit to Turkey, HRW's delegate was unable to obtain any substantial text describing the aims, methods, legal basis, scope and resources of the RVRP. If such a text exists, HRW would be grateful to receive it. If detailed progress reports on the RVRP are available, HRW would be grateful to receive copies of these as well. In addition, we would greatly appreciate answers to the following questions:

- a. Is the RVRP an extension of the Return to Village program of 1995 or an entirely separate project?
- b. When was the RVRP established?
- c. What are the aims and scope of the RVRP?
- d. Which government body has overall responsibility for the RVRP?
- e. Which government bodies have responsibility for implementation of the RVRP at the local level?
- f. What laws or regulations regulate the implementation of the RVRP?
- g. Have displaced persons been invited to contribute to the planning of the RVRP?
 - i. If so, how were such people invited to contribute?
 - ii. How were they selected in order to ensure a representative cross section of the internally displaced community?
 - iii. How were their contributions integrated into the RVRP?
 - iv. If displaced persons were not invited, what were the reasons for this decision?
- h. What is the overall budget for the RVRP since its inception and for the foreseeable future?
 - i. How was this budget calculated?
 - ii. What are the sources for these funds?
 - iii. What are the budget lines for allocation of these funds?

- i. Has funding for the RVRP or other schemes for resettlement of internally displaced persons been invited or obtained from foreign sources.
 - i. If so, from which sources, and how much was applied for or obtained?
- j. Does the RVRP safeguard villagers' right to the enjoyment of their own property?
- k. Does the RVRP provide for re-establishment of community infrastructure, such as schools, health-care, piped running water and proper sanitation, to the status quo prior to displacement?
- l. Does the RVRP provide for bringing community infrastructure up to a minimum standard level of provision?
 - i. If so, what are those levels and from what standards were they drawn?
- m. Do all displaced villagers qualify for assistance under RVRP?
- n. If any displaced villagers do not qualify, who are they and why do they not qualify?

HRW is concerned at the very extended schedule for the RVRP implied by such limited information as has emerged about arrangements currently under way. If the Toplumsal Bilimler Derneği (Social Sciences Association - TBD) finishes its initial field study in January 2002 (see below), it will provide proposals as to how the resettlement process might be carried out in one hundred villages—no more than 12% of the OHAL's estimate of evacuated villages (820), or 3% of the figure for all evacuated settlements including *mezra* (2345). The relevant ministries will then presumably begin deliberating about implementation of the program as a whole. Until the ministries produce a comprehensive and fully funded plan, villagers will remain cut off from their homes and livelihoods in very difficult circumstances of aggravated uncertainty about their future. In a letter received by Göç-Der headquarters from the Parliamentary Human Rights Commission (December 5, 2000; no: 00737) it is stated that Interior Ministry informed the Commission that the RVRP goal for 1999 was to secure the return of 1017 families. However, the Göç-Der has submitted petitions from 10,539 families seeking to return. If the families who have submitted petitions through Göç-Der were to be rehoused under the RVRP at the rate implied by the Interior Ministry's letter, some of them might expect to wait for a decade, unless, as is widely feared, the RVRP will be limited to only a small number of selected settlements.

- o. What target dates does the RVRP set for returns and reconstruction for all evacuated settlements?

Quite reasonably, government authorities have introduced stop-gap measures pending the results of preliminary RVRP field studies. Some villages have benefited from these schemes, but others have not. Since the temporary schemes are even less transparent than the major plans, they added further confusion and in some cases, disquiet.

On July 23 Anatolia Agency reported that deputy prime minister Mesut Yılmaz had referred to an Immediate Implementation Project providing for 2,850 families in Diyarbakır, Bingöl, Şırnak, Batman, Hakkari, Tunceli, Bitlis, Van, Muş, Siirt, and Kars. HRW spoke to villagers living in, or displaced from, seven of those provinces and none of them reported any involvement with the Immediate Implementation Project. Provincial governors have set up provisional systems for supplying building materials for returning villagers, but these appeared to be extremely variable in their implementation and some involved highly questionable practices. HRW received a copy of a "Return to village project specification" (Köye dönüş projesine ait şartname). This document, issued by the Muş provincial governorate for signature by villagers applying for assistance, states that a provincial Return to Village and Rehabilitation Commission will decide whether or not to supply reinforcing steel, cement and bricks to villagers who have brought their homes up to the damp proof course level. This means that indigent villagers have to make a substantial investment in excavating and pouring the foundations of houses (and presumably laying water, electric and sewage services) before they will learn whether or not they can receive assistance with materials for the rest of the building. The specification contains no provision for supply of doors, windows, stairs, bathroom and plumbing materials, or roofing materials.

The specification also contains alarming provisions which seem to suggest that the house can be confiscated: Article 8 of the specification states that the houses will be built and inhabited by those who will occupy the house, and that if the property is put to any other use (presumably rental or temporary residence), the provincial governorate will take possession of the house, and the villager will be required to repay the cost of materials supplied with interest.

Where governors are supplying bricks and cement, or in other cases, windows and doors, villagers are in all cases expected to supply the labor for reconstruction. HRW was informed that in some villages, such as Şaklat, Diyarbakır province, materials were only supplied to some villagers or that villagers were required to sign blank pieces of paper on receipt of the materials. In other villages, materials were promised but did not arrive.

- p. Is the supply of only limited materials with no funding of the labor element a stop-gap measure or will it be adopted for the RVRP as a whole?
- q. If villagers are expected to supply labor, will this element be costed and set off against, for example, tax liabilities?
- r. Will RVRP assistance be given to all those villagers whose property has been destroyed irrespective of where the villagers choose to live or other factors? If not, which factors will determine eligibility?
- s. How will municipalities, which are well placed to seek further support from foreign funding agencies, be involved in the RVRP?
- t. At the village of Beşbudak, HRW noticed a slogan hung from the houses which read: “The army and villager hand in hand.” There appeared to be a substantial military presence in the village. What is the role of the military within the RVRP?

Our research indicated that the application procedures adopted by local governors for the RVRP have caused anxiety among villagers. Joint applications and applications submitted through the initiative of third parties such as political parties and non-governmental organizations have been ignored or refused. In particular, governors have insisted that villagers submit their applications using a printed form that asks the applicant to mark the reason for their original migration. The alternatives range from “employment” and “health” to “terror” but do not include any space for those villagers who were forcibly evacuated by the security forces.

Recently, the reverse side of the petition form has included a printed declaration that the head of the applicant family must sign. It states: “I left my village as a consequence of the pressure of terror. I am going to return. Since there is no pressure of terror in my village, I want to return to my village without making any material demand upon the State.” Forcibly displaced villagers fear that by signing this official document, they will not only put their name to an official lie, but also relinquish their legal claim in respect of state abuses and compensation for loss of livelihood and loss of enjoyment of their property. On the other hand, they are unlikely to be able to return at all unless they do sign.

- u. Is the Prime Minister’s Office aware of this practice?
- v. Have steps been taken to revoke the offending form and replace it with a form that will gather accurate information about the pattern of displacement and permit all villagers to benefit from the RVRP irrespective of whether they were forced from their homes by the PKK or the security forces?

8. Compensation for displaced persons

The UN Guiding Principles on Internal Displacement state that where recovery of property and possessions is not possible, competent authorities have the duty and responsibility to provide or assist people to obtaining appropriate compensation or another form of just reparation. (Principles 7 and 29)

Some villagers were forced out by repeated armed attacks by the PKK, others may have been instructed to leave by armed forces who were unable to defend distant settlements.

- a. What provisions exist in Turkish law and regulations to compensate villagers displaced by illegal armed organizations such as the PKK?
- b. How many villagers received such compensation and what sums were paid?
- c. On what basis were such compensation payments calculated?
- d. Were villagers obliged to take legal or other administrative action to obtain such payments? If so, please describe the requirements.
- e. Can you provide descriptive examples of villagers who received such compensation?

Many other villagers report that they were summarily displaced by gendarmes, and sometimes by village guards, who destroyed their property with fire or explosives.

- a. What provisions exist in Turkish law and regulations to compensate villagers summarily displaced by security forces or village guards?
- b. How many villagers received such compensation and what sums were paid?
- c. Did the compensation cover loss of livelihood as well as loss of property?
- d. On what basis were such compensation payments calculated?
- e. Were villagers obliged to take legal or other administrative action to obtain such payments? If so, please describe these requirements.
- f. Can you provide descriptive examples of villagers who received such compensation payments, other than those who received damages payments following judgments against Turkey at the European Court of Human Rights?

Under the state of emergency law, the emergency region governor has powers to move populations for security reasons.

- a. Were these powers exercised at any time since 1984?
 - i. If so, in respect of which communities were these powers used?
 - ii. Were the moved populations served with any papers documenting that these powers were to be invoked?
 - iii. Were they compensated?
 - iv. How many villagers received such compensation and what sums were paid?
 - v. On what basis was compensation in such cases calculated?
 - vi. Were villagers obliged to take legal or other administrative action to obtain such payments?

9. The village guard system

During the past decade civil defense measures provoked considerable discord in rural communities. Communities that joined the village guard system were highly suspicious of those that refused to participate. Relatives and colleagues of village guards, and in particular, village guard casualties suspected that neighbors who refused arms may have been sheltering PKK or providing them with intelligence. Conversely, communities that refused arms feared their newly armed neighbors who controlled checkpoints on roads, searched their homes, and often participated in the forced evacuations. Abuses by village guards ranging from theft to murder were documented by the April 1995 Parliamentary Commission Report on Unsolved Political Killings, which recommended abolition of the village guard corps. Some villagers interviewed by HRW said that village guards had occupied their lands and/or homes, rented out their grazing land to third parties, cut their timber, and threatened them when they returned to inspect their property. The UN Guiding Principles state that government authorities have a

responsibility to facilitate the reintegration of returned or resettled internally displaced persons (Principle 29). Reintegration of displaced villagers will inevitably mean addressing problems arising from the village guard system.

- a. How many village guards are currently employed and armed?
- b. When does the government plan to disarm the corps of village guards?
- c. Is the government aware of the problems arising from occupations of land and theft of timber, fruit and crops by village guards?
- d. What measures are being taken to ensure that village guards do not infringe property rights?
- e. What mechanisms are planned for resolving competing property claims?
- f. What measures are there or will there be to ensure compensation for property lost by displaced persons as a result of village guard activities?

Many of the villagers and non-governmental organizations interviewed by HRW suggested that most of the villages that had been reoccupied were villages that had formerly participated in the village guard system, and that Village Towns were largely populated by village guards or members of villages that had participated in the village guard system. Visits to Konalga village town and resettled villages suggested that there may be some truth in this claim. Although village guards were not in the majority, they were a large minority of the male population. In many of the villages that have not yet returned, there are no village guards among the population.

- a. Does the Turkish government have a policy of developing different return plans for villages or villagers associated with the Village Guard system than those who are not? If so, what are the differences in policy toward these two populations and what is the official justification for this differentiated approach
- b. What proportion of resettled persons have served or are serving in the Village Guard system?

10. The future of *mezra* and villages in border zones

Official bodies interviewed by HRW in June and July indicated that the government was not encouraging villagers to return to distant *mezra* because they are often uneconomical and inconvenient for the provision of services.

- a. Is there now a clear government policy to avoid repopulation of *mezra*?
- b. Are there any publicly available policy documents concerning resettlement of *mezra*?
- c. If villagers insist on returning to their original homes in *mezra*, will they be permitted to do so in all cases?
- d. If they are permitted to return to *mezra*, what assistance will they receive?
- e. If they are not permitted to return to *mezra*, on what legal basis will this be refused?

HRW spoke to former village guards displaced by PKK violence from Uzundere, Cukurca in the border area of Hakkari. It was their view that the Turkish government intends to prevent resettlements on the borders with Iran and Northern Iraq in order to create a permanent buffer zone.

- f. Does the Turkish government plan to resettle all villages in border areas?
- g. If some villages or *mezra* close to borders are not to be settled, which are they?
- h. What information has the government provided to displaced people from these areas about its plans for the region, whether they will be prevented from enjoying their property indefinitely, and what compensation will be available to them for the temporary or permanent denial of their right to enjoyment of property?

11. Access and assistance by NGOs and IGOs

The UN Guiding Principles state that international humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced, and that such organizations should have unimpeded access to internally displaced persons (Principles 25 and 30).

- a. Were international expert bodies such as UNHCR, UN Special Representative on IDPs, ICRC, UNDP, OSCE, COE, IOM or the World Bank invited to contribute to the planning and implementation of projects for return?
- b. Have these organizations' expertise been offered or solicited?
- c. Are any such international expert bodies currently involved in the RVRP or any other initiatives for resettlement of displaced villagers?
- d. If they were not invited to participate, what were the reasons for this decision?

Other appropriate actors in this context are domestic organizations with a mandate for humanitarian work and domestic and international human rights organizations. The UN Declaration on Human Rights Defenders also underlines states' responsibilities to enable such organizations to investigate allegations of human rights abuses.

To HRW's knowledge domestic organizations with a particular interest in this issue, such as Göç-Der, Migration and Humanitarian Assistance Foundation (GIYAV), the Association for Solidarity with Asylum Seekers and Migrants (ASAM), the Turkish Human Rights Association (HRA) or the People's Democracy Party (HADEP) were not invited to contribute to the planning and implementation of projects for return. Semi-official bodies such as local chambers of architects, engineers and medical practitioners might also provide local expertise and information, but to HRW's knowledge, such bodies have not been contacted or consulted.

- e. Has the government sought to use the expertise and contacts of such non-governmental organizations and semi-official bodies?
- f. If so, which organizations have been involved and what has been their contribution? Why have other organizations been excluded?
- g. If no such consultations have taken place, why not?

It is important, in the interests of transparency, that the process of return should be monitored by non-governmental organizations. Domestic NGOs have had difficulties in gaining access to resettled villages. Representatives have been turned back, detained, and had their notes or photographs confiscated. In July, gendarmes turned HRW's own delegate back from visiting a resettled village. After notifying the governor's office, access was permitted three days later.

- h. Do non-governmental organizations have an unrestricted right to travel in all parts of Turkey, and to visit such settlements?
- i. If not, on what basis are such rights restricted?
- j. Does the government recognize the necessity for access by interested non-governmental organizations?
- k. What measures will the government take to ensure that such access is permitted and encouraged?

HRW understands that the Toplumsal Bilimler Derneği (Social Sciences Association - TBD) has been hired to carry out research into the problem of displaced villagers, and that they were given this task after a competitive tender procedure. HRW would be grateful to receive the specification (şartname) supplied to bidders for the competitive tender.

HRW welcomes the fact that civil society has been incorporated into the process in this way. However, we are concerned that the TBD may be researching a group of communities that is not a true cross section of unresettled villages, and that this may result in the development of inappropriate plans. Among other potential problems, many villagers report that local governors would not accept their petitions unless they completed them in such a way as to indicate that they left as a result of PKK rather than gendarmerie activity. Therefore, the group of returnees presented to TBD as a focus for their field study may be a self-selecting and unrepresentative group, which would skew any findings.

- l. Have any significant changes been made to the research project since it was allocated to the TBD?
- m. HRW understands that the TBD has carried out a number of visits, working from petitions to return held at governors' offices, and it has selected one hundred settlements for which plans will be developed.
 - i. What measures have been taken to ensure that the sample taken by TBD includes a representative proportion of villages that did not accept village guard service, and that were displaced by security forces rather than by PKK attacks?
 - ii. When and how will the findings and methods of the TBD's work be made public?
- n. What is the role of Anadolu Kalkındırma Vakfı (Anatolia Development Foundation) in the RVRP or other projects for return? HRW has written separately to this organization to ask for copies of any projects they may have relating to village returns.

Thank you very much for the opportunity to put these questions to you and to learn more about the government's return plans. We look forward to your response and to constructive dialogue regarding these issues. Do not hesitate to contact my office—telephone, 1-202-612-4326—should you determine that an in-person discussion or other method of response to our questions would be preferable to a written exchange.

Sincerely,

S/
Elizabeth Andersen
Executive Director, Europe and Central Asia Division
Human Rights Watch

Attachments:

1. Guiding Principles on Internal Displacement
2. Guiding Principles on Internal Displacement (Turkish)

cc: Mr Hüseyin Akgül, President of the Parliamentary Human Rights Commission , Ankara
Mr Rüştü Kazım Yücelen, Interior Minister, Ankara
Mr Gökhan Aydinler, Emergency Region Governor, Diyarbakır
Dr Hüsnü Yusuf Gökçalp, Minister for Agriculture and Village Affairs, Ankara
Dr İ. H. Olcay Ünver, President, Southeast Anatolia Project, Ankara
Prof Oğuz Oyan, President of Social Sciences Association, Ankara
Prof Ahmet Akyürek, President of the Anatolia Development Foundation, Ankara
Av Hüsnü Öndül, President of the Turkish Human Rights Association, Ankara
Ms Şefika Gürbüz, President of the Association for Social and Cultural Solidarity with Migrants, Istanbul
Mr Chris Patten, European Commissioner for External Relations, European Commission, Brussels

Mr Günther Verheugen, European Commissioner responsible for Enlargement, Brussels
Mrs Karen Fogg, European Union Ambassador, Ankara
Mr. Adriaan van der Meer, Turkey Unit, European Commission, Brussels
Mr Francis Deng, United Nations Special representative on Internally Displaced Persons, Geneva
Mr Mirza Hussein Khan, United Nations High Commission for Refugees, Ankara
Mr Finn Ruda, International Committee of the Red Cross, Geneva
Alfredo WITSCHI-CESTARI, UN Resident Coordinator & UNDP Resident Representative, Ankara
Mr Hasan Kalkan, International Organization for Migrants, Istanbul
Ms Nedret Durutan, World Bank, Ankara

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*Human Rights Watch
Europe and Central Asia Division*

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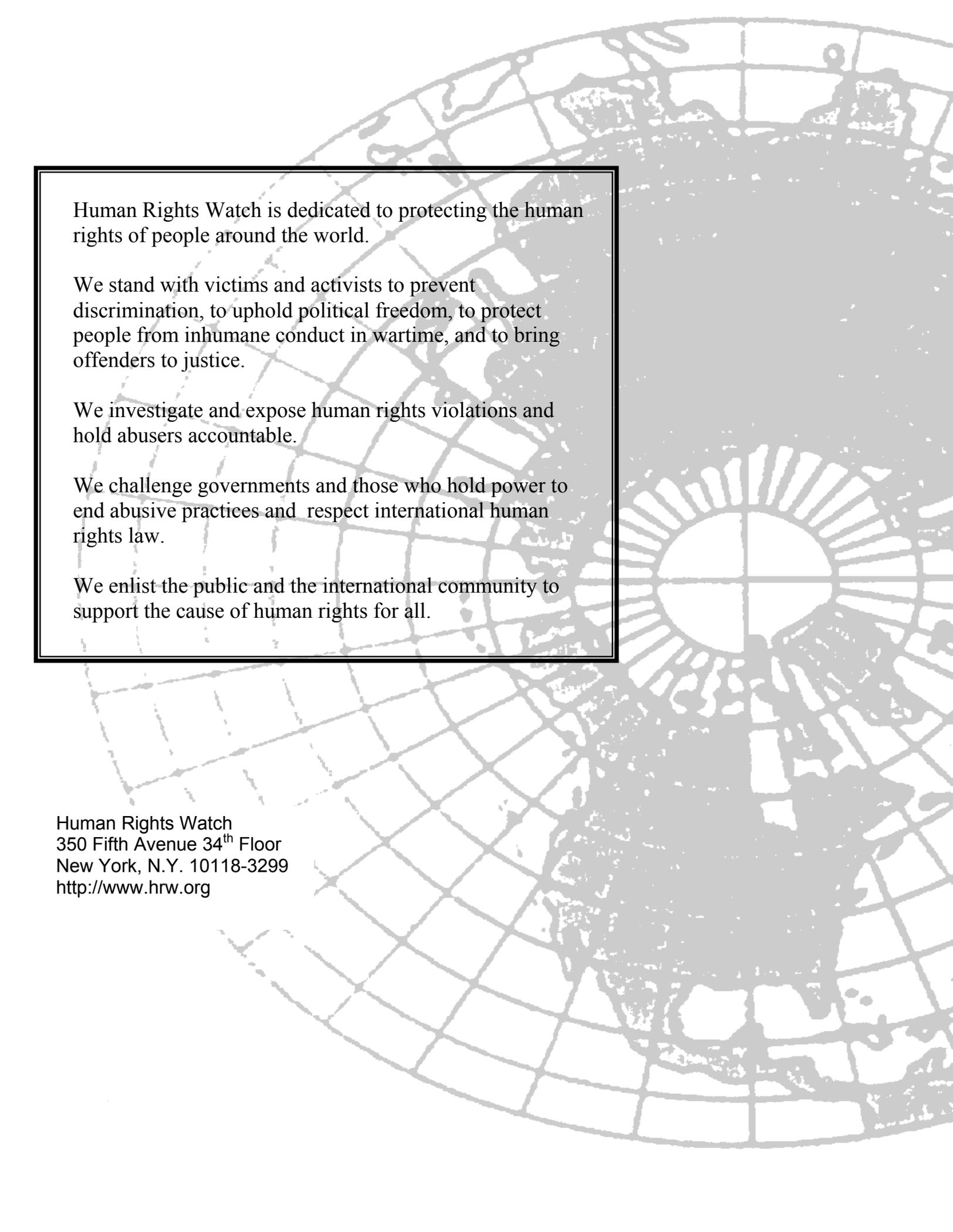
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