

# TURKEY

## Small Group Isolation in F-type Prisons and the Violent Transfers of Prisoners to Sincan, Kandira, and Edirne Prisons on December 19, 2000

*"The de facto isolation system currently in operation is not acceptable and must be ended quickly. .. the introduction of smaller living units for prisoners must under no circumstances be allowed to lead to a generalised system of small group isolation."*

Preliminary observations of the European Committee for the Prevention of Torture (CPT) on its December 2000/January 2001 visit to Turkey.

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## INTRODUCTION

On December 19, 2000, thirty prisoners and two gendarmes were killed when some ten thousand armed soldiers went into twenty Turkish prisons to break up a nonviolent protest by inmates and transfer them to the newly constructed F-type prisons. Accounts received by Human Rights Watch from released prisoners and prisoners' relatives suggest that disproportionate force may have been used during the operation, and that in some cases prisoners may have been deliberately killed. Information from the same sources, corroborated by medical evidence, indicates that hundreds of prisoners were ill-treated and tortured during and after the transfer to the new prisons.

At the four F-type prisons which are currently in operation—at Edirne, Kandıra, Sincan, and Tekirdag<sup>1</sup>—prisoners are being held either in single-person or three-person cells that include a small yard exclusive to those units. These new facilities are a stark contrast to the large ward-based system that is typical in older Turkish prisons. Prisoners may leave their cells once a week if a member of their immediate family visits. Otherwise, they are held permanently in the unit in what has been termed “small group isolation.”

A wide range of medical studies indicate that confinement in solitary or small group isolation can be physically and mentally damaging. Impaired vision and hearing, hallucinations, tinnitus, weakening of the immune system, amenorrhea, premature menopause, depression, anxiety, and aggressive behavior are among the effects documented in studies of prisoners, volunteers, and animals.

In the Turkish context, concerns about the direct effects of isolation are augmented by a suspicion that the closed environment of an isolation unit may facilitate torture, ill-treatment, and other cruel, inhuman or degrading abuses. Torture is a long-standing problem in Turkish police stations and gendarmeries. Most observers, including the U.N. special rapporteur on torture and the U.N. Committee for the Prevention of Torture agree that incommunicado detention—the lack of access to family, independent medical care, and legal counsel—is the single most important factor in the persistence of torture. Turkish prisons do not have a good reputation, but it is nevertheless true that detainees blindfolded and tortured under police interrogation are frequently relieved when a court formally commits them to prison—because only then will they be able to reestablish contact with the outside world. Families, well aware of the history of death and “disappearance” in Turkish police stations, are often similarly relieved when their relative arrives safely in prison.

To prisoners and families with such experiences, the introduction of isolation units in prisons looks very much like an indefinite extension of the system of incommunicado detention which has facilitated abuse in police lock-ups. Indeed, accounts by prisoners and their families suggest that, as in police custody, guards in F-type prisons have taken advantage of the closed environment to beat and abuse their charges. Legal and medical institutions that could document, challenge, and prevent such abuses have had only limited access.

## Background

Human Rights Watch first addressed the Turkish government about the F-type prisons in July 1999, pointing out that although the F-type prison building program was by then quite advanced, no information had been made public as to how these prisons were going to be managed. Human Rights Watch raised two primary concerns regarding the cell-based system, which is at the center of the current controversy in Turkey:

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

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<sup>1</sup> Tekirdag F-type Prison opened on February 23, 2001.

HUMAN RIGHTS WATCH pointed out that if the Justice Ministry did not make clear its intentions vis-à-vis the new prisons, it was likely that prisoners would resort to forms of protest such as hunger strikes, which in turn could trigger violent and fatal interventions, as had frequently occurred in the past. Human Rights Watch urged the ministry to give detailed information about prisoners' access to education, exercise and library facilities, and about daily out-of-cell time. In September 1999, the Justice Ministry's Director of Prisons wrote in a letter to Human Rights Watch that "the regime in these new prisons will not be different from others and will be subject to the same regulations governing other correctional institutions in Turkey," but provided no details.

In fact, some clues as to the planned management of the F-type prisons could be gathered from the regime that was already in place at Kartal Special Type Prison, near Istanbul, which is physically similar to the F-type prisons. Since 1999, prisoners held under the Anti-Terror Law<sup>2</sup> at Kartal were locked down in their units twenty-four hours a day, seven days a week, only emerging for family visits. When the Justice Ministry was challenged by the European Committee for the Prevention of Torture (CPT) on its management of Kartal, the ministry replied "Kartal Special Type Prison...was brought into service for reasons of urgency before its facilities for social, cultural and sports activities could be completed.... the prison does have a few facilities for activities. However, both for security reasons and because under the relevant legislation remand prisoners cannot be forced to take part in activities if they do not want to, for this reason the required rate of use has not yet been achieved." Evidence from prisoners released from Kartal and interviews with prisoners' families suggest that the Turkish government's response was disingenuous—that inmates are in fact desperate to get out of their isolation units. Far from having to be "forced to take part in activities," they would gladly participate and associate, but have never been offered the opportunity.

In May 2000, Human Rights Watch met with the director of prisons of the Ministry of Justice to discuss our concerns about the isolation regime imposed at Kartal Special Type Prison and our alarm that the authorities might attempt to extend this same regime to the F-type prisons. Director Ali Suat Ertosun made no commitment to allow prisoners to leave their units for a reasonable part of the day, and appeared not to have given serious thought to the potentially damaging nature of the isolation implicit in the new cell system. Ministry officials did not accept that the term "small group isolation" was applicable to the permanent and unrelieved confinement of three people, and said that such treatment was appropriate for prisoners held under the Anti-Terror Law.

Over the summer, tension grew among prisoners held under the Anti-Terror Law, who feared a possible transfer to F-type prisons, and the risk of prison protests increased. Past prisoner protests—hunger-strikes and ward occupations—had fatal consequences. In 1996 twelve prisoners died in a death fast staged against threatened transfers into isolation and in September 1999 ten prisoners occupying a ward at Ankara Central Closed Prison were shot dead or beaten to death by gendarmes. On May 24, 2000, Human Rights Watch expressed its foreboding in a report entitled "Small Group Isolation in Turkish Prisons: An Avoidable Disaster." The report recommended that the Justice Ministry lift isolation at Kartal Prison, give unambiguous undertakings that isolation would not be applied in the new F-type prisons, and introduce monitoring systems that would include access and inspection by impartial bodies such as bar associations, independent medical practitioners, nongovernmental human rights organizations, or a board of prison visitors who would visit prisons, talk to prisoners and staff, and report on their findings.

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<sup>2</sup> The Anti-Terror Law passed in April 1991 defines "terrorism" in extremely wide terms, and imposes prison sentences for some nonviolent political activities as well as offenses of violence and conspiracy to commit violence. Article 16 states "The sentences of those convicted under the provisions of this Law will be executed in special penal institutions built on a system of rooms for one or three people. In these institutions, open visits shall not be permitted. Contact and communication between convicted prisoners will be prevented. The provisions... shall also apply to remanded prisoners."

<sup>3</sup> RESPONSE OF THE TURKISH GOVERNMENT TO THE PRELIMINARY OBSERVATIONS OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE ON THEIR VISIT TO TURKEY 16-24 JULY 2000 (CPT/INF (2000) 19 [EN]), DECEMBER 7, 2000.

In July 2000, the European Committee for the Prevention of Torture (CPT) of the Council of Europe visited the F-type prison at Sincan, which was at that time in the final stages of construction. The Turkish authorities have not yet authorized the publication of the CPT's report on the July 16-24 visit, but did permit release of the preliminary observations. Concerning the F-type prisons, the CPT stated that "there is no objection in principle towards smaller living units, always provided that inmates have an opportunity to spend a reasonable part of each day outside their living units, engaged in useful activities."<sup>4</sup> The CPT has taken a close interest in the planned move from ward-based to cell-based prisons in Turkey. The committee visited ward-based prisons in December 2000 and newly opened F-type prisons in January 2001. The Turkish government has not yet authorized publication of the report on the December 2000/January 2001 visit, but the preliminary observations for that visit were published on March 16, 2001. Human Rights Watch urges the Turkish government to authorize the publication of all outstanding CPT reports.

In August the Justice Ministry produced two draft laws. The first would amend article 16 of the Anti-Terror Law to provide a legal basis for prisoners to exit their isolation units, and the second would provide for the establishment of local boards of prison visitors who would visit. Human Rights Watch welcomed this new and positive approach, while urging that both drafts be further developed. Unfortunately, the drafts have not yet been adopted by the Turkish parliament, and were apparently completely forgotten when the F-type prisons were later pressed into service.

In October, some groups of Anti-Terror Law prisoners went on hunger strike. They had a broad range of demands, but the central issue was their opposition to F-type prisons.

Efforts to resolve the hunger strike before lives were lost reached a high point on December 9, after a group of well-respected journalists and writers, as well as representatives of the Human Rights Commission of the Turkish parliament, met Justice Minister Hikmet Sami Turk. After this meeting, the justice minister held a press conference in which he said that his ministry was considering instituting a review of the F-type prison program, with the participation of nongovernmental organizations and experts, so as to achieve a social consensus on the new prisons. The minister also made public commitments that the new prisons would not open until three laws had been passed: an amendment to article 16 providing for prisoners to emerge from their units during the day, a law providing for access by boards of visitors, and a regulation that would provide the framework for the management of the prisons. The minister indicated that this might take six months or more.

The prisoners, however, continued their hunger strike because the minister refused to put his undertakings in writing. The lawyer Husnu Ondul, president of the Turkish Human Rights Association (HRA), expressed the view that behind the mutual intransigence lay the government's long-standing failure to engage in any kind of communication or dialogue concerning its F-type project: "The government refused to talk to the HRA and other civil society organizations about these prisons until the fifty-fifth day of the hunger-strike. By then the government was only interested in solving the particular issue of the hunger-strike, and had put itself in the position of talking to the most extreme and radical groups—that narrow sector of the prison population which was ready to use death as a solution and a weapon. Two years before this crisis blew up, they should have been talking to the bar, and the HRA and organizations like yours."<sup>5</sup>

At 4:30 a.m. on December 19, 2000, ten thousand gendarmes broke into wards in twenty prisons throughout Turkey. In some prisons inmates offered little resistance, or were overcome within a few minutes. In others, pitched battles lasted for more than a day. At Istanbul's Umraniye E-type Closed Prison, fighting continued until December 23.

The intervention was named "Operation Return to Life" and presented to the media as an intervention to save the lives of 205 prisoners on death fast. But by early January, thirty-two people—including two gendarmes—were dead, and more than 2,000 prisoners

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<sup>4</sup> Preliminary observations of the European Committee for the Prevention of Torture on their visit to Turkey 16-24 July 2000 (CPT/INF (2000) 19 [EN]), December 7, 2000.

<sup>5</sup> Human Rights Watch interview, Husnu Ondul, Ankara, January 4, 2001.

WERE ON HUNGER STRIKE. ONE THOUSAND AND FORTY PRISONERS HAD BEEN TRANSFERRED TO EDİRNE, KANDIRA, AND SİNCAN F-TYPE PRISONS. PRISONERS REPORTED BEING SUBJECTED TO BEATINGS, TORTURE, AND RITUAL HUMILIATION DURING TRANSFER AND ON ARRIVAL AT THE NEW PRISONS. THERE WERE ALSO ALLEGATIONS THAT UNWARRANTED FORCE WAS USED DURING THE INTERVENTION, AND THAT PRISONERS WERE ARBITRARILY KILLED. FINALLY IT WAS CLEAR THAT, AS HAD BEEN FEARED ALL ALONG, A REGIME OF INTENSE SOLITARY OR SMALL GROUP ISOLATION WAS BEING IMPOSED IN THE F-TYPE PRISONS. THE TURKISH GOVERNMENT, HAVING REFUSING TO RESPOND TO CALLS FROM PRISONERS' FAMILIES, LAWYERS, HUMAN RIGHTS ORGANIZATIONS, AND INTERGOVERNMENTAL BODIES, FAILED TO AVERT THE AVOIDABLE DISASTER.

## SMALL GROUP ISOLATION IN PRACTICE

*When I visited Sincan F-type Prison, I went into the room of one young prisoner. He seemed to have difficulty orientating himself and it was some time before he realized who I was. When I asked if he had any complaint he said "Loneliness—save me from this loneliness."*

Mehmet Bekaroglu, member of the Turkish Parliamentary Human Rights Commission, interviewed January 5, 2001.

As noted above, prisoners who were to be transferred to F-type prisons resisted such transfer, at least in part because they feared the mental and physical consequences of being held in small group isolation. As Human Rights Watch learned from its research, many of their fears turned out to have been justified.

During a joint mission in January 2001, Human Rights Watch and Amnesty International conducted interviews with three prisoners who were transferred from ward-based to F-type prisons during the December prison operation, as well as with twenty-four relatives of such prisoners. Most of those interviewed emphasized one primary point: the Turkish government is using F-type prisons to impose unconditional solitary and small group isolation on inmates. Every single prisoner, relative, and lawyer confirmed that prisoners are being locked down in solitary or three-person isolation units twenty-four hours a day, seven days a week. Justice Minister Hikmet Sami Turk, touring a German prison in early February, spoke in positive terms of what F-type prisons had to offer: "In F-type prisons there are workshops, closed and open sports fields, a library and reading room. What is important in a prison is the opportunity a person has to get in touch with themselves, and also to be with their friends."<sup>6</sup> However, to Human Rights Watch's knowledge, by February 5, no prisoners had been given access to the library, canteen, or sports facilities advertised by the Justice Ministry prior to the opening of the prisons. Similarly, no prisoners had been permitted out-of-cell time.<sup>7</sup>

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<sup>6</sup> *Milliyet* (Nationhood), February 8, 2001.

<sup>7</sup> Out-of-cell time has been recommended by the Committee for the Prevention of Torture, which warned that "In the absence of a significant improvement in activities for prisoners, the introduction of smaller living units will almost certainly cause more problems than it solves." Committee for the Prevention of Torture/Inf (99) 2 [EN]; February 23, 1999.

Mehmet Ozturk,<sup>8</sup> imprisoned for supporting an illegal armed organization, was released under the December 20 partial amnesty after having spent only four days at Sincan F-type Prison. During his time at the prison, he had initially been held in solitary confinement, and then shared a cell with two other prisoners. He told Human Rights Watch: “The only way of summoning the guards is to bang on the door, and still they do not come. It was very cold indeed, and dark because there was no electricity for most of the time.”<sup>9</sup> Mehmet Ozturk stated that he was not given any opportunity for out-of-cell activities—and in common with all prisoners at that stage was not even permitted into the yard annexed to the unit.

Parts of the regime in the F-style prisons also seem intended to disorient prisoners. Mehmet Ozturk reported, for example, that he was not permitted a watch or writing implements. He also reported that very loud music was played in the outer corridor. Sami Yilmaz, who had been transferred to Sincan F-type prison from Bartın prison, described the same agonizingly loud music and the same unresponsiveness from the guards: “Suddenly this noise comes blaring in from the corridor. We banged on the cell door for forty-five minutes to get it turned off. But they did not turn it off.”<sup>10</sup>

Contrasting with unpredictable bursts of sound which prisoners are unable to control were also extended periods of absolute silence, exacerbated by the lack of social interaction. Sami Yilmaz stated, “The silence started to echo in our heads. At times all you can hear is far off booms and shouts. Even after a few days, three people in the same room run out of things to talk about.”<sup>11</sup>

Each unit in the F-type prison opens onto its own small and separate yard.<sup>12</sup> In May Justice Ministry representatives told Human Rights Watch that prisoners would have unrestricted daytime access to these exclusive yards. By the first week in January, most prisoners had not been permitted access into the cell yard, but by the end of the month more prisoners were reporting that they were being allowed into the yard, at least for a few hours a day.<sup>13</sup>

Prison staff seemed well aware of the disturbing effects of the regime they were administering. Sami Yilmaz reported that as he was admitted to the prison, a high-ranking warden told him “You will go into a single cell and come

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<sup>8</sup> The names of all prisoners, with the exception of those who have died, and their relatives, have been withheld and replaced with pseudonyms for fear of possible reprisal.

<sup>9</sup> Human Rights Watch interview with Mehmet Ozturk, Istanbul, January 2, 2001.

<sup>10</sup> Sami Yilmaz described other “games” apparently intended to torment the prisoners: “Suddenly there would be a rap on the door in the middle of the night. We would jump up, wondering what was going on and then hear someone say ‘We have some lovely soup here—do you want some?’—but they know full well that we are on hunger-strike.”

<sup>11</sup> Human Rights Watch interview with Sami Yilmaz, Ankara, January 5, 2001.

<sup>12</sup> The three person units have an upper dormitory, a dayroom measuring 25 m<sup>2</sup> and a 30 m<sup>2</sup> yard according to the *Turkish Medical Association Report on F-type Prisons* based on a visit of June 16, 2000 ([www.ttb.org.tr/rapor/f\\_tipi.html](http://www.ttb.org.tr/rapor/f_tipi.html)). The yard is 50 m<sup>2</sup> in area according to the Justice Ministry's press release of February 13, 2001.

<sup>13</sup> The preliminary observations of the European Committee for the Prevention of Torture (CPT) on their December 2000/January 2001 visit to Turkey states that by the time of their visit in the second week in January, prisoners had access to the yards adjoining their cells throughout the day.

out mad,” and a gendarme officer added: “... and in a few months we will come to take you to Bakirkoy [Istanbul’s well-known mental institution].”

As Human Rights Watch noted in its May 2000 report, “Many prisoners also believe that they face a greater risk of ill-treatment by prison staff if they are transferred to a cell-based system, where there is only limited communication with other prisoners or with the outside world.” The prisoners were right. Human Rights Watch received several direct and indirect reports that prisoners in F-type prisons are beaten if they fail to present themselves for roll call at the door of the cell, and sometimes if they fail to stand at attention in the guards’ presence. For example, Hatice Isikli stated that her son Alpaslan Isikli, who was held in Sincan Prison, had told her that he had been repeatedly beaten for refusing to stand at attention for roll call.<sup>14</sup> Ali Dogan said that his daughter Deniz Dogan had described to him how the guards ordered her to sing military marches and shout military slogans.<sup>15</sup> Reports of beatings at roll call continued throughout January 2001. Istanbul lawyer Several Demir told Human Rights Watch that when she went to see her client Salih Yesilirmak at Kandira F-type Prison in early January, she saw new wounds above his eyes and bruises.<sup>16</sup> Salih Yesilirmak, who is held in a one-person cell and has a heart condition, told his lawyer that he had been severely punched and kicked by a group of guards because he had refused to stand in the prison director’s presence. A formal complaint was made about the assault and Salih Yesilirmak was interviewed by Kandira public prosecutor, but to date no proceedings have been taken against prison staff in respect of the attack. Two other clients informed her that they had been beaten by guards who entered their cells at Kandira Prison on January 13, 2001. In its preliminary observations on its December 2000/January 2001 visit, the CPT stated that it had received many allegations that prisoners were ill-treated in the process of being moved to the cell door for roll call. The committee recommended that the rule that prisoners should present themselves for roll call at the cell door should not be rigidly applied to hunger striking prisoners who might be in poor physical condition. “If, exceptionally, force has to be used to bring a prisoner downstairs for the headcount, then recognized control and restraint techniques should be employed; it goes without saying that physical assault is not one of those techniques.”<sup>17</sup>

Many critics of the F-type prisons have also expressed concern that the switches controlling electricity, hot and cold water, and heating are located outside the individual cells, pointing out that such an arrangement not only denies prisoners a sense of control over their living environment, it also makes prisoners feel particularly vulnerable to abuse. Lutfi Demirkapi, president of the Ankara branch of the HRA explained why this conventional and apparently sensible arrangement was so alarming in the context of a Turkish prison: “Imagine a guard who wants, for example, sexual favors from an inmate. Because there is no supervision, he can just cut off light and heat and water until the prisoner gives in. There’s no oversight in our prisons, none at all. It is an invitation to abuse.”<sup>18</sup>

It is often difficult for prisoners to get health care in Turkish prisons, but the isolation imposed in F-type prisons leaves sick prisoners completely without recourse. Sema Karatas recounted to Human Rights Watch the experiences of Fevzi Durmaz, who is fifty-seven years of age and has a heart condition that requires constant medication. She knows him through eight years of prison visiting in company with his relatives. Sema Karatas applied to the prosecutor at Edirne F-type Prison for Fevzi Durmaz to get the necessary medicine, but she was told, “Prisoners are rejecting treatment because they are on hunger strike.” However, according to Ms. Alatas, Fevzi Durmaz had not refused medication and was not on hunger strike. On February 13, Sema Karatas was a member of a delegation which met the justice minister and raised the lack of medical provision for prisoners. Later that month, Fevzi Durmaz’s family were permitted to pay money into the administration department of Edirne F-type Prison so that the necessary medicines could be purchased. Fevzi Durmaz has since been transferred to Tekirdag F-type Prison. A number of prisoners injured in the December intervention have reportedly still not received treatment, including Ismail Korkmaz at Tekirdag F-type

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<sup>14</sup> Human Rights Watch interview with Hatice Isikli, Istanbul, January 3, 2001.

<sup>15</sup> Interview, Istanbul, January 2, 2001.

<sup>16</sup> Human Rights Watch telephone interview with Several Demir, January 23, 2001.

<sup>17</sup> Committee for the Prevention of Torture, Press Release/Observations on Visit 12/2000 - 01/2001, published 16/03/2001.

<sup>18</sup> Human Rights Watch interview with Lutfi Demirkapi, Ankara, January 6, 2001.

Prison, who has broken ribs, and Bulent Agac and Halil Karabulut, who have broken ribs after being beaten in the December operation and again beaten in their cells for not presenting themselves for roll call.<sup>19</sup>

Prisoners who have been beaten are also particularly vulnerable to denial of medical attention. For example, Salih Yesilirmak told his lawyer that after he had been beaten by guards (see above), he passed out on the floor of his cell. When he recovered consciousness, he found that he had lost a good deal of blood. Already in a weakened state because he was on hunger strike, he had insufficient strength to summon the guards by shouting and banging on the door—the only form of communication. He was later taken to the prison sick bay. He has since been transferred to Tekirdag F-type Prison.

In summary, the isolation regime in F-type prisons grinds inmates down mentally with sheer physical, psychological, and social monotony and a range of measures that disorient the prisoners and intensify their sense of helplessness: unpredictable and loud noises, disturbed sleep, services frequently but unpredictably turned off, and difficulty in accessing medical care. What is more, it provides an opportunity for prison staff to ill-treat prisoners, who have little or no recourse when abused.

All these abuses are made possible because the F-type prison is a closed and unsupervised world. In its May 2000 report on small group isolation in Turkish prisons, Human Rights Watch emphasized the importance of contact with the outside world, and in particular arrangements for monitoring by impartial bodies not under Justice Ministry authority. Prisons have, exceptionally, been visited by representatives of bar associations and the Turkish Medical Association but there are currently no arrangements for such bodies to visit prisoners or conduct regular independent inspection of prisons. Sami Yilmaz gave a dramatic example of the transforming potential of outside scrutiny: he described the newly opened Sincan F-type Prison as a cold and dark institution in which staff paid almost no attention to prisoners, except to beat them at morning and evening roll calls.

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<sup>19</sup> Telephone interview with Umit Efe of the Prisons Commission of the Istanbul branch of the HRA, March 28, 2001, based on information supplied to her by lawyers and family members.



One day there was hot water. We were very surprised. The guards came to the door and said "Is there anything you need?" We thought at first they were mocking us, but they gave us nail clippers and a waste bin. That evening we heard that Mehmet Bekaroglu [of the Parliamentary Human Rights Commission] had visited.<sup>20</sup>

In two draft laws published in August 2000, the Justice Ministry openly acknowledged the potentially damaging nature of isolation and committed itself to ensuring a program of out-of-cell activities, and establishing boards of visitors. The Justice Minister himself promised to make "those changes necessary to bring the prison to such a state that isolation would be impossible." At the time, Human Rights Watch welcomed the draft laws and the Justice Minister's commitments as an important change of direction. Unfortunately, however, as of February 2001 none of the legislative changes had been enacted.

At the time of writing, more than four hundred prisoners are on hunger-strike in protest against the F-type prison regimes—some for more than 160 days. Hunger strikers are showing symptoms such as dizziness, numbing of the extremities, sight loss, hearing problems, vomiting, diarrhea, and at least six prisoners have been diagnosed with Wernicke-Korsakoff syndrome (permanent damage to the brain resulting in loss of memory).<sup>21</sup> On March 22 twenty-nine-year-old hunger striker Cengiz Soydas, a university student detained in 1995 and sentenced to fifteen years' imprisonment for membership of a violent left wing organization, died. He had been transferred on December 19, 1999 from Bartın Prison to Sincan F-type Prison. On March 23, Secretary General of the Council of Europe Walter Schwimmer made a public statement urging the Turkish government to comply with the recommendations of the CPT, which include measures to end small group isolation.

The justice minister, Hikmet Sami Türk has said: "Nobody will reach their goal through hunger strikes and death fasts."<sup>22</sup> As Human Rights Watch has repeatedly affirmed, it would be quite wrong for the Justice Ministry to be diverted from the proper management of its prisons by the threat of hunger strike or any other prisoner actions. However it was very frustrating to hear the minister, as reported by Anatolia Agency and *Cumhuriyet* (Republic) of March 26, state that efforts to change the regime in F-type prisons in line with concerns expressed by civil society organizations and the Turkish Parliamentary Human Rights Commission would only begin once the hunger strikes had been abandoned.

Revision of the regime of the F-type prisons to bring them into line with international standards must be disconnected from the issue of the hunger strikes. As the justice minister has expressed an intention to lift the isolation regime, this should be done immediately. It is merely an added argument for urgency that this step may encourage the hunger-strikers to drop their protest and so save lives.

## International Standards

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<sup>20</sup> Human Rights Watch interview with Sami Yılmaz, Ankara, January 5, 2001.

<sup>21</sup> Ankara Medical Association, press release of March 24, 2001.

<sup>22</sup> Anatolia Agency, March 26, 2001.

The unconditional imposition of solitary or small group isolation contravenes international standards for the treatment of prisoners, and a number of international bodies have expressed concern about its damaging impact. The U.N. Standard Minimum Rules for the Treatment of Prisoners emphasize the importance of contact with the outside world, the rehabilitative potential of imprisonment, and access to constructive work, education, and recreation: "Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation."<sup>23</sup> Recommendation No. R (82) 17 of the Committee of Ministers of the Council of Europe (September 24, 1982), urges member governments, which include Turkey, to apply ordinary prison regulations as far as possible to dangerous prisoners, to apply security measures in a way respectful of human dignity, to counteract, to the extent feasible, the possible adverse effects of reinforced security conditions, and "to provide education, vocational training, work and leisure-time occupations, and other activities to the extent that security permits."

The European Commission for Human Rights, an organ of the Council of Europe later absorbed into the European Court of Human Rights, stated that "the international literature on criminology and psychology indicate that isolation can be sufficient in itself gravely to impair physical and mental health. The following conditions may be diagnosed: chronic apathy, fatigue, emotional instability, difficulties of concentration, and diminution of mental faculties."<sup>24</sup> The CPT has also recommended that prisoners be permitted to spend "a reasonable part of the day (eight hours or more) outside their cells, engaged in purposeful activity of a varied nature."<sup>25</sup>

Human Rights Watch urges the Justice Ministry to take immediate steps to lift the isolation regime in F-type prisons. By doing so, it will fulfill its clear and public undertakings not to implement an isolation regime, will take an important step to bring the F-type prisons in line with international standards, and make a constructive gesture to encourage prisoners to abandon their hunger strike. A comprehensive solution, which might involve legislation and possibly even architectural alterations to the prisons will take time. Therefore, as an interim measure, the justice minister can ensure that during daylight hours, cell doors are kept open to permit association within clusters of six three-person units and three single-person cells. It must be emphasized, however, that this would be no substitute for the program of activities repeatedly recommended by the CPT and provided for in the draft law of August 2000.

In order to restore confidence among the prison population, and as a safeguard against ill-treatment and other abuses that have been reported in the F-type prisons, the Justice Ministry should grant local bar associations, medical associations, and human rights organizations the broadest possible access to the F-type prisons. Meanwhile, the August 2000 draft bill to establish boards of visitors envisaged should be strengthened so that the boards are convincingly independent of the state, and passed as law.

## **THE DECEMBER PRISON TRANSFERS**

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<sup>23</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners, Rule 57. See also Rules 21, 37, 39, 40, 46, 58, 59, 60, 63, 65, 71-80.

<sup>24</sup> European Commission of Human Rights, in its ruling on Applications 7572/76, 7586/76 and 7587/76 by Gudrun Ensslin, Andreas Baader, and Jan Raspe, 8 July 1978.

<sup>25</sup> See Committee for the Prevention of Torture report to the Swedish government (CPT/Inf (92) 4 [EN]; March 12, 1992, Para 160).

## Excessive and Indiscriminate Force During the Prison Transfers

THE DECEMBER PRISON INCURSIONS DRAMATICALLY REVERSED EXPLICIT GOVERNMENT POLICY—PROVOKING SPECULATION THAT THE MILITARY WAS BEHIND THE DECISION TO RUSH THE F-TYPE PRISONS INTO SERVICE.<sup>26</sup> JUSTICE MINISTER HİKMET SAMİ TÜRK HAD MADE AN EXPLICIT COMMITMENT ON DECEMBER 8: "IT IS CLEAR THAT THE F-TYPE PRISONS WILL NOT BE OPENED FOR SERVICE FOR AT LEAST SIX MONTHS. DURING THIS PERIOD WE ARE READY TO TAKE INTO CONSIDERATION THE SENSITIVITIES OF PUBLIC OPINION, THE CRITICISMS OF THE F-TYPE PRISONS AND THE CONSTRUCTIVE SUGGESTIONS OF PROFESSIONAL ORGANIZATIONS.... OUR AIM IS TO OPEN THE F-TYPE PRISONS ONLY AFTER ENSURING THAT THEY ARE BROUGHT TO A STATE IN CONFORMITY WITH HUMAN RIGHTS IN EVERY WAY."<sup>27</sup> IT IS DIFFICULT TO SQUARE THIS UNDERTAKING WITH THE CORNAGE THAT FOLLOWED ONLY ELEVEN DAYS LATER AND THE HASTE WITH WHICH PRISONERS WERE TRANSFERRED TO F-TYPE PRISONS THAT WERE NOT PREPARED TO RECEIVE THEM. FOR EXAMPLE, AT SINCAN F-TYPE PRISON, THERE WAS NOT A PROPER WATER SUPPLY, AND PRISONERS WERE OBLIGED TO DRINK WATER WITH CLAY PARTICLES IN IT. EVEN AS OF THIS WRITING, THERE IS NO REGULATION IN PLACE TO PROVIDE FOR THE ADMINISTRATION OF THE PRISONS.

ON DECEMBER 19, DESPITE PUBLIC PRONOUNCEMENTS THAT THE TRANSFERS TO F-TYPE PRISONS WOULD NOT HAPPEN FOR SIX MONTHS OR MORE, GENDARMES ENTERED TWENTY PRISONS WITH DEMOLITION EQUIPMENT AND AUTOMATIC WEAPONS AND TRANSFERRED MORE THAN A THOUSAND PRISONERS TO F-TYPE PRISONS. THE TRANSFER OPERATION RESULTED IN HEAVY LOSS OF LIFE: IT APPEARS THAT THIRTY PRISONERS IN SEVEN OF THE TWENTY PRISONS WERE KILLED OR SUBSEQUENTLY DIED FROM INJURIES THEY SUSTAINED DURING THE TRANSFER. TWO GENDARMES DIED: ONE WAS KILLED BY A GUNSHOT AT CANAKKALE PRISON, THE OTHER APPARENTLY FROM SMOKE INHALATION AT UMRANIYE.

The exact circumstances in which so many deaths occurred have not yet been clarified. No detailed account of the fatalities has been provided either by the Justice or Interior Ministry. Official statements have presented the operation, in general terms, as one in which every effort was taken to preserve life in the face of gunfire from resisting prisoners. For example, in a press statement on December 24, Justice Minister Hikmet Sami Turk stated, "This operation, which was well planned by the gendarmes and the security forces, is above praise, because it was carried out with care and concern based on high respect for human life."<sup>28</sup> Most prisoners died, the government claims, because they burned themselves in protest, while others were unavoidably killed because they were presenting an armed threat to the gendarmerie.<sup>29</sup>

Lawyers and prisoners' relatives interviewed by Human Rights Watch relayed accounts that differ significantly from the government's description of events. They describe an unprovoked attack by heavily armed soldiers who used unwarranted violence, firing on prisoners indiscriminately with lethal ammunition and apparently targeting and killing some unarmed prisoners. Some accounts (see below) suggest that gendarmes may have caused some of the fires by pouring flammable liquids or powders in areas where the prisoners were gathered, and igniting them.

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<sup>26</sup> THE OPERATION WAS CARRIED OUT BY GENDARMERİE, A MILITARY FORCE WHICH CARRIES OUT POLICE DUTIES UNDER THE AUTHORITY OF THE INTERIOR MINISTRY. THE GENDARMERİE ARE COMMANDED BY GENERALS WHO ARE PART OF MILITARY GENERAL STAFF, AND THE GENDARMERİE SUPREME COMMANDER IS A MEMBER OF THE NATIONAL SECURITY COUNCIL. ITS DUTIES INCLUDE POLICING RURAL AREAS, GUARDING FRONTIERS AND PERIMETER SECURITY FOR PRISONS. IN SUCH DUTIES, THE GENDARMERİE IS UNDER THE AUTHORITY OF THE INTERIOR MINISTRY. GENDARMERİE PERSONNEL CONSISTS LARGELY OF YOUNG MEN CARRYING OUT THEIR MILITARY SERVICE.

<sup>27</sup> *Anatolia Agency*, December 8, 2000.

<sup>28</sup> *Hurriyet* (Liberation) December 25, 2000.

<sup>29</sup> *Anatolia Agency*, December 20, 2001.

The cause of death is not known in all cases, because the prosecution service has not yet released the full autopsy reports. An Interior Ministry briefing given on December 23 (before the final death toll emerged) stated that sixteen prisoners immolated themselves and security forces killed ten prisoners who were resisting with arms.<sup>30</sup> According to a briefing prepared by the Istanbul branch of the Human Rights Association, the largest number of deaths among prisoners was from gunshot wounds, followed by burning. Blows with blunt instruments may have been a factor in some deaths.<sup>31</sup> Two prisoners appear to have died as a result of inhaling smoke or gas.<sup>32</sup>

The U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provides a guide for how firearms and other weapons should be used during such operations. The principles require that officials resort to force or firearms only when they have no other choice, that they should exercise restraint and act in proportion to their legitimate objective. Officers must, under all circumstances, "minimize damage and injury, and respect and preserve human life." (Principle 5).

In response to a nonviolent prisoner protest—that is, widespread hunger strikes—the authorities decided to send troops into the prisons in order to transfer the prisoners. Once the decision had been made to intervene using force, the authorities should have called on law enforcement professionals with experience in handling such a potentially hazardous situation with due regard for law and respect for human life. Due to the gendarmerie's well-established and very bad track record in dealing with prisoner unrest—having killed twenty-seven prisoners in similar incursions between 1995 and 1999<sup>33</sup>—Human Rights Watch has urged on

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<sup>30</sup> *Radikal*, December 24, 2000.

<sup>31</sup> Istanbul Human Rights Association, *19 Aralık Katliam Raporu* (December 19 Massacre Report), January 6, 2001.

<sup>32</sup> The CPT stated that "information gathered during the [December 2000/January 2001] visit suggest that the methods employed by the security forces were not in all cases proportional to the difficulties faced. In particular, the delegation has grave doubts regarding the manner in which the intervention took place vis-a-vis the female dormitory C1 at Istanbul Prison and Detention House (Bayrampasa). Six of the 27 women in that dormitory died and many of the others suffered burns and/or other injuries. The delegation interviewed several of the women who were held in dormitory C1 as well as other prisoners who witnessed parts of the intervention against that dormitory. According to the accounts received, the occupants of dormitory C1 did not offer violent resistance, but merely shut themselves in their dormitory; it is alleged that the women were nevertheless bombarded with gas grenades and other devices for several hours and shot at from time to time and that, at around 12.00 am, the top floor of the dormitory was set on fire as a result of the action being taken by the security forces. It is also alleged that the security forces were immediately told that prisoners were being burned on the top floor but failed to take prompt action to put out the fire, despite having the means (water hoses) to do so."

<sup>33</sup> Human Rights Watch, "Small Group Isolation in Turkish Prisons: An Avoidable Disaster," *A Human Rights Watch Report*,

more than one occasion that the Justice Ministry not use gendarmes to intervene in prison crises or for transfers. The Human Rights Commission of the Turkish Parliament, which investigated the killing of ten prisoners at Ankara Closed Prison in September 1999, also expressed the view that “gendarmes, in view of their training, and the psychological and social dimension of the task in question, are clearly unsuitable for intervention in such situations.”<sup>34</sup> Similarly, the European Committee for the Prevention of Torture has urged the Turkish government to use gendarmerie only as a last resort. In such cases, “The CPT recommends that ... the intervention take place in the presence of an authority which is fully independent of both the gendarmerie and the prison and charged with observing and subsequently reporting upon the carrying out of the intervention. The presence of such an authority will both have a dissuasive effect on anyone minded to ill treat prisoners and enable unfounded allegations of ill-treatment to be refuted in a convincing manner.”<sup>35</sup>

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vol. 12 no. 8 (D), May 2000; Human Rights Watch, “Turkey: Human Rights and the European Union Accession Partnership,” *A Human Rights Watch Report*, vol. 12, no. 10 (D), September 2000.

<sup>34</sup> Turkish Parliament Human Rights Commission, *26 Eylül 1999 Ulucanlar Cezaevi Raporu* (26 September 1999 Ulucanlar Prison Report), June 2000.

<sup>35</sup> Report to the Turkish Government on the visit to Turkey from 5 to 17 October 1997 (CPT/Inf (99) 2 [EN] - Publication Date: February 23, 1999).

Unfortunately, no such independent authority was present during the December 2000 intervention, in spite of the fact that, according to the Interior Minister, these operations had been planned for more than a year.<sup>36</sup> On the contrary, even those authorities that had a clear duty to supervise the operation appear to have been kept well away from the scene. The prison prosecutor is the representative of the judiciary inside the prison and is responsible for all issues of legal process. Eren Keskin, a lawyer and president of the Istanbul branch of the HRA, told Human Rights Watch that she was in the office of the Istanbul Public Prosecutor during telephone conversations between the prosecutor and the prosecutors of Umraniye and Bayrampasa Prisons on December 20. From these telephone calls, she said she learned that neither prosecutor was granted access to the scene of the prison operation and therefore that they had no direct information on developments at the prisons. The media also reported, apparently based on official sources, that the prosecutor at Bayrampasa did not arrive at the gates of the prison until four hours after the operation had begun,<sup>37</sup> and that the operation was being run by the gendarmerie, rather than judicial or prison, authorities.<sup>38</sup>

U.N. Principle 10 on the Use of Force and Firearms requires that security forces should give “clear warning of their intent to use firearms.” The pre-dawn timing of the intervention suggests that it was planned as a raid relying on the element of surprise. Far from being warned of the use of force, some prisoners at Bayrampasa and Umraniye Prisons describe being awakened by explosions, though prisoners in other prisons did describe warnings in the form of calls to surrender.

When Sema Karatas visited her husband Mustafa Karatas at Edirne F-type prison, he told her that he woke up to gendarmes shouting “This is an operation, surrender!” He described how the prisoners offered to surrender to the prosecutor, but the soldiers responded with, “There’s no more prosecutor now, we are the prosecutor.” When the prisoners asked to talk to the governor, the gendarmes jeered that they were the governor, and even the Justice Minister.<sup>39</sup>

The U.N. Principles on the Use of Force and Firearms encourage the deployment of a range of “non-lethal incapacitating weapons for use in appropriate situations.”<sup>40</sup> “Their use should be carefully evaluated in order to minimize the risk of endangering uninvolved persons,” and the use of such weapons should be carefully controlled.<sup>41</sup> During the operation, ostensibly non-lethal methods were used, including what prisoners reported as concussion, tear gas, and pepper gas grenades, and a grenade containing some form of gas that incapacitated by making muscles tense uncontrollably. Although tear gas and pepper gas are generally not lethal when used in certain circumstances (such as for street riots), they can be fatal when used in enclosed spaces.<sup>42</sup> The Istanbul HRA cited gas as a possible cause of the deaths of Nilufer Alcan at Bayrampasa Closed Prison and Unsal Gedik at Umraniye Prison.<sup>43</sup>

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<sup>36</sup> *Hurriyet* (Liberation), December 20, 2000.

<sup>37</sup> *Milliyet* (Nationhood), December 20, 2000.

<sup>38</sup> *Radikal*, December 20, 2000.

<sup>39</sup> Human Rights Watch interview with Sema Karatas, Istanbul, January 2, 2001.

<sup>40</sup> U.N. Principles on the Use of Force and Firearm, Principle 2.

<sup>41</sup> *Ibid.*, Principle 3.

<sup>42</sup> Howard Hu, MD, MPH; Jonathan Fine, MD; Paul Epstein, MD, MPH; Karl Kelsey, MD, MOH; Preston Reynolds, MD, PhD; Bailus Walker, PhD, MPH, “Tear Gas: Harassing Agent or Toxic Chemical Weapon?,” *Journal of the American Medical*

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*Association*, August 4, 1989, vol. 262, no. 5.

<sup>43</sup> Istanbul Human Rights Association, *19 Aralik Katliam Raporu* (December 19 Massacre Report), January 6, 2001.

Lethal weapons were also widely used during the prison operation. According to the Istanbul HRA report, bullet wounds were the cause of death of at least eight prisoners. Prisoners' accounts suggest that a large amount of lethal ammunition was used in apparently indiscriminate shootings, even in the early stages of the operation. Such accounts were particularly common from Bayrampasa Closed Prison where most of the deaths by gunshot wounds occurred. According to Bilal and Fevziye Kaya, their son Mustafa Kaya reported being woken up at Bayrampasa by shooting. He told them that his ward was "raked" with gunfire.<sup>44</sup> According to Ali Dogan, his daughter Deniz Dogan, held at Umraniye Prison, stated that she awoke to explosions and bullets "like rain."<sup>45</sup> According to Ali Esmer, his brother Suha Esmer said that gendarmes entered his ward at Bayrampasa prison from the roof and began to shoot right and left without warning.<sup>46</sup>

An Istanbul lawyer relayed to Human Rights Watch an account given by his client, transferred from Bayrampasa Prison, who said that the operation began with sudden gunfire and grenades from the corridor running alongside the ward, and that the gunshots wounds were sustained in the first minutes of the operation.

Murat Ordekci, who was shot dead at Bayrampasa Prison, may have been the victim of a deliberate killing. Mustafa Karatas's account, according to his wife Sema Karatas, was that prisoners driven from Bayrampasa's C-12 ward by gas, smoke, and flames, fled into an exercise yard where gendarmes shot at them. It was his impression that gendarmes were mainly aiming for prisoners' legs, but nevertheless he saw Murat Ordekci, who was unarmed, shot through the head.

The circumstances of the death of Ahmet Ibili at Umraniye Closed Prison suggest that this may also have been a deliberate killing. Justice Minister Hikmet Sami Turk stated that a prisoner, later identified as Ahmet Ibili, had immolated himself and that gendarmes had then shot him as he walked towards them.<sup>47</sup>

The Commentary on article 3 of the Code of Conduct for Law Enforcement Officials (on which the Basic Principles are based) states: "The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities." *THE CRITICAL ISSUE IS TO WHAT EXTENT THE PRISONERS PRESENTED A THREAT TO THE GENDARMES. A GENDARMERIE COLONEL, SPEAKING AT AN INTERIOR MINISTRY BRIEFING ON DECEMBER 23, 2000 STATED THAT "ALTHOUGH WEAPONS WERE NOT BEING USED [BY THE SECURITY FORCES], CONVICTED AND REMANDED PRISONERS USED KALASHNIKOVs, SHOTGUNS, PISTOLS, GRENADES, AND HOME-MADE PIPE-BOMBS AGAINST THE SECURITY FORCES."* ONE GENDARME, NURETTIN KURT, DIED OF A HIGH VELOCITY GUNSHOT WOUND AT UMRANIYE PRISON. HUMAN RIGHTS WATCH IS NOT AWARE THAT ANY FURTHER INFORMATION HAS EMERGED CONCERNING THE WEAPON WHICH KILLED HIM AND WHETHER HE WAS KILLED BY PRISONERS' OR GENDARMES' GUNFIRE.

ONE OF THE PRISONERS WITH WHOM HUMAN RIGHTS WATCH SPOKE DID NOT DENY THAT PRISONERS HAD RESISTED THE SECURITY FORCES, BUT SAID THAT THE WEAPONS USED WERE DARTS AND SLINGSHOTS, NOT FIREARMS. THERE WERE NEWSPAPER REPORTS THAT A KALASHNIKOV (AK-47) AUTOMATIC WEAPON WAS USED BY PRISONERS AT BAYRAMPASA AND RECOVERED AFTER THE OPERATION. HOWEVER, NO GENDARMES WERE REPORTED TO HAVE BEEN WOUNDED BY SUCH A WEAPON, AND A DISPLAY OF RECOVERED WEAPONS ON DECEMBER 21 INCLUDED PISTOLS BUT NO AUTOMATIC WEAPONS.<sup>48</sup> THE PARLIAMENTARY HUMAN RIGHTS COMMISSION HAD BEEN SKEPTICAL ABOUT A SIMILAR CLAIM MADE AFTER THE OPERATION AT ANKARA CLOSED PRISON IN SEPTEMBER 1999.<sup>49</sup>

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<sup>44</sup> Human Rights Watch interview with Bilal and Fevziye Kaya, Istanbul, January 3, 2001.

<sup>45</sup> Human Rights Watch interview with Ali Dogan, Istanbul, January 2, 2001.

<sup>46</sup> Human Rights Watch interview with Ali Esmer, Istanbul, January 3, 2001.

<sup>47</sup> *Radikal*, December 20, 2000.

<sup>48</sup> See *Radikal*, December 22, 2000.

<sup>49</sup> "The commanders who directed the operation [at Ulucanlar Prison] stated that intense gunfire had been directed from inside [the ward] and that they had opened fire in response to this. Also, it was stated that three prisoners had been killed by their fellow prisoners who had fired on them with a shotgun. Searches subsequent to the operation uncovered 1 Kalashnikov type



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automatic weapon (AK-47), 7 pistols, 1 shotgun. However, there are some doubts concerning the shotgun and automatic weapon. Firstly, the automatic weapon was not found in the first search...; if the said automatic weapon had been used by the prisoners, security force members would surely have been wounded with this weapon. Whereas wounded security force members were shot with pistol ammunition. Again, if a shotgun was used and a prisoner shot his three friends with this weapon, why did they not fire on the security forces with the shotgun?" 26 September 1999 Ulucanlar Prison Report, Turkish Grand National Assembly Human Rights Commission, June 2000.

SEVERAL PRISONERS DIED OF BURNS DURING THE DECEMBER PRISON OPERATION. TWO BODIES WERE BURNED BEYOND RECOGNITION, AND ONE OF THESE WAS BURIED WITHOUT HAVING BEEN CONCLUSIVELY IDENTIFIED. PRISONERS' OWN ACCOUNTS INDICATE THAT SOME OF THEIR FELLOW PRISONERS DID IN FACT SET THEMSELVES ON FIRE AS A PROTEST AGAINST THE OPERATION, AND THIS IS CORROBORATED BY VIDEO FOOTAGE CIRCULATED BY THE INTERIOR MINISTRY ON DECEMBER 21. BUT SEVERAL PRISONERS ALSO REPORTED TO THEIR FAMILIES THAT GENDARMES POURED FLAMMABLE POWDERS OR LIQUIDS INTO THE WARDS. ACCORDING TO GÜLNÂZ BAYRAM, HER DAUGHTER NAZLI BAYRAM, WHO WAS IN BAYRAMPAŞA PRISON, TOLD HER THAT "A WHITE POWDER CAME IN, AND THEN THERE WAS A BIG EXPLOSION BEHIND US. THIS LIT THE POWDER. THERE WAS NOTHING YOU COULD DO—JUST RUN THIS WAY AND THAT."<sup>50</sup> ACCORDING TO HASAN ÇELİK, HIS SON SEYHAN ÇELİK, WHO WAS IN BAYRAMPAŞA PRISON, REPORTED, "THEY SPRAYED A CHEMICAL MATERIAL, A LIQUID, WHICH CAUGHT FIRE AFTER THEY TIPPED IT IN."<sup>51</sup> ACCORDING TO BİLAL AND FEVZİYE KAYA, THEIR SON MUSTAFA KAYA WHO WAS TRANSFERRED FROM BAYRAMPAŞA TO EDİRNE F-TYPE PRISON, TOLD THEM, "THE GENDARMES OPENED A HOLE IN THE ROOF AND THREW IN GAS GRENADES, AND POURED SOME CHEMICAL LIQUID THROUGH AND SET LIGHT TO IT."<sup>52</sup>

U.N. PRINCIPLE 22 ON THE USE OF FORCE AND FIREARMS PROVIDES THAT OFFICERS PREPARE A DETAILED REPORT WHENEVER THEY USE FIREARMS. IF THERE ARE FATALITIES, THEY MUST SUBMIT THE REPORT TO ADMINISTRATIVE AND JUDICIAL BODIES SO THAT THEY CAN PROCEED TO A THOROUGH INVESTIGATION. SCRUPULOUS RECORD KEEPING WOULD BE OF VITAL IMPORTANCE IN CLARIFYING WHY SO MANY LIVES WERE LOST IN THOSE SEVEN PRISONS ON DECEMBER 19. FULL REPORTING FOLLOWED UP BY METICULOUS FORENSIC INVESTIGATION COULD CONFIRM OR REBUT THE ALLEGATIONS OF DISPROPORTIONATE AND INDISCRIMINATE USE OF LETHAL VIOLENCE. BUT THERE IS NO PRECEDENT FOR THIS. THERE WERE FOUR PREVIOUS FATAL INCURSIONS, MAINLY BY GENDARMES, BETWEEN 1995 AND 1999.<sup>53</sup> HUMAN RIGHTS WATCH IS NOT AWARE THAT THE GENDARMERİE PRODUCED ANY DETAILED ACCOUNT OF HOW AMMUNITION WAS USED, OR HOW FATALITIES OCCURRED IN ANY OF THOSE INCIDENTS.

PAST EXPERIENCE OF DELAY, PERFUNCTORY INVESTIGATION, CORRUPTION OR LOSS OF EVIDENCE, AND EXTREME DIFFICULTY IN OPENING LEGAL PROCEEDINGS RELATED TO THE KILLING OF PRISONERS FOLLOWING PREVIOUS INCURSIONS INSPIRE LITTLE CONFIDENCE THAT INTERNAL GENDARMERİE REPORTS ON THE OPERATION WILL EVEN BE MADE PUBLIC OR THAT INDEPENDENT INQUIRIES WILL BE INITIATED BY OR ALLOWED BY THE GOVERNMENT. TO DATE, NO GENDARME OR OFFICIAL HAS BEEN PUNISHED FOR THE KILLINGS AND INJURIES IN THOSE OPERATIONS. FOR EXAMPLE, IN ITS INVESTIGATION INTO THE DEATHS OF TEN PRISONERS AT ANKARA'S ULUCANLAR CLOSED PRISON ON SEPTEMBER 26, 1999, THE PARLIAMENTARY HUMAN RIGHTS COMMISSION REPORTED THAT SOME OFFICIALS HAD BEEN RELUCTANT TO COOPERATE OR EVEN REFUSED TO COOPERATE WITH ITS INVESTIGATION OR TO SUPPLY EVIDENCE, THAT JUSTICE AND INTERIOR MINISTRY OFFICIALS HAD NOT BEEN FRANK IN THEIR DISCLOSURES, THAT AUTOPSIES HAD NOT BEEN PROPERLY CARRIED OUT, AND THAT EVIDENCE HAD DISAPPEARED AND, IN THE CASE OF THE "RECOVERED" KALASHNIKOV AUTOMATIC WEAPON, POSSIBLY CREATED. THE COMMISSION CONCLUDED THAT EXCESSIVE FORCE HAD BEEN USED AND ALSO NOTED INJURIES THAT INDICATED THAT THE PRISONERS WERE BEATEN AFTER CAPTURE. LAWYERS WHO ATTEMPTED TO BRING LEGAL ACTION AGAINST PRISON STAFF FOR THEIR PART IN THE DEATHS AND INJURIES OF PRISONERS WERE BLOCKED BY THE OFFICE OF THE ANKARA GOVERNOR. THE ANKARA GOVERNOR'S OFFICE ALSO TRIED TO BLOCK THE PROSECUTION OF GENDARMES, BUT THIS WAS SUCCESSFULLY CHALLENGED IN THE COURTS. HOWEVER, IN THE CURIOUS INDICTMENT FINALLY PRODUCED IN DECEMBER 2000, THE PROSECUTOR CHARGED GENDARMERİE OFFICERS WITH UNLAWFUL KILLING, BUT URGED THEIR ACQUITTAL ON THE GROUNDS THAT THEY WERE ACTING IN SELF-DEFENSE AND THE PURSUIT OF THEIR DUTY.<sup>54</sup>

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<sup>50</sup> Human Rights Watch interview with Gülnaz Bayram Istanbul, January 3, 2001.

<sup>51</sup> Human Rights Watch interview with Hasan Celik, Istanbul, January 3, 2001.

<sup>52</sup> Human Rights Watch interview with Bilal and Fevziye Kaya, Istanbul, January 3, 2001.

<sup>53</sup> Three prisoners were beaten to death by security forces at Buca Prison, near Izmir, in September 1995; four prisoners died of beatings at Umraniye Prison in Istanbul in January 1996; ten prisoners were beaten to death during an incursion into Diyarbakir Prison in September 1996; ten prisoners were killed at Ankara Closed Prison in September 1999.

<sup>54</sup> Indictment, Ankara Public Prosecutor's Office, Investigation No: 2000/5435, December 25, 2000.

It is imperative that all evidence that may assist in the reconstruction of events in Turkish prisons on December 19, 2000 be preserved untainted. Human Rights Watch was concerned to learn from the lawyer Selcuk Kozdagac that prisoners' clothing, which would provide much information about the direction and range of gunshots, as well as the use of flammable materials, has disappeared. In view of the history of corrupt or missing evidence in parallel cases, and the difficulty in securing prosecutions, much less convictions, in similar violent interventions by gendarmes, it may not be possible to rely on the state prosecution service to carry out an effective investigation and, where appropriate, prosecute members of the security forces. Human Rights Watch therefore calls on the Turkish government to establish an independent commission of investigation into the deaths that occurred during the December intervention, along the lines recommended by the U.N. Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (Principle 11). The commission should be composed of persons recognized for their expertise, impartiality, and independence. It should be fully resourced, with powers to summon and protect witnesses, and demand information from official bodies. Where the commission uncovers evidence indicating that individuals are responsible for killing or wounding through the negligent or careless use of force or firearms, or for carrying out deliberate killings, or where superior officers have given orders that resulted in such conduct, such evidence must be submitted to the prosecution service in order that those individuals or superior officers can be brought to justice. The findings of the Commission should be made public without delay.

### **Allegations of Ill-treatment, Torture, and Sexual Assault During the Prison Transfers**

Prisoners who were transferred to F-type prisons during the December operation reported widespread beatings by gendarmes and, in some cases, torture. The CPT stated<sup>55</sup> that it had received "numerous and consistent allegations" that prisoners had been beaten by gendarmes after removal from the prison wards, and stated that in some cases the committee had gathered medical evidence consistent with the allegations.<sup>56</sup>

Sami Yilmaz, who was transferred from Bartın to Sincan F-type prison, described what happened after he was captured by gendarmes:

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<sup>55</sup> CPT, preliminary observations on its December 2000/January 2001 visit to Turkey ([www.cpt.coe.int/en/press/20010316en.htm](http://www.cpt.coe.int/en/press/20010316en.htm), March 30, 2001).

<sup>56</sup> The bulletin of the Human Rights Foundation of February 1, 2001, states that the Ministry of Justice responded to the Ankara Medical Association's report. According to the Ministry's reply, all 346 prisoners who were injured during transfer to Sincan F-type Prison were treated, with seventeen in the hospital and thirty-five in the prison infirmary. Fifteen prisoners refused treatment and a transfer to the hospital in protest against body-searches carried out by the gendarmerie. All prisoners on hunger strike had been provided with sugar, salt, and vitamin B1. Initial problems with the water supply and heating had been resolved. The prisoners who, according to Article 16 of the Anti-Terror Law had to be held in single or three-person cells did not suffer from isolation. Each day they could go out into the fresh air between 8 a.m. to 5 p.m. On four days of the week they could see their lawyers after 3.30 p.m. and on Fridays they could meet for the whole day. Relatives could visit once a week. The cells were above European and U.N. standards. The counts of the prisoners had to be carried out on the ground floor of the cell. Those prisoners who refused to come down were warned, and then physically brought downstairs, but were not ill-treated. The Ministry's statement concluded with the observation that the Ankara Medical Association's report employed expressions in their statement "similar to those of the terrorist organizations."

They took us into the prison garden, stripped us of our clothes and valuables, including rings, and hit us on the head and back with truncheons. While this was happening we saw the other prisoners, still face down in the mud, even though six hours had passed since the operation began. Because my head was bloody, they put me in an ambulance. They also brought two other prisoners. The doctor tried to stop the bleeding but the gendarmes traveling with us intervened saying "Don't foul your hands with the blood of these people." When the doctor said that he must carry on with treating us, the gendarmes started to beat us there in the ambulance. They continued to beat us as we arrived at the hospital. Because I could stand I was walked to the special lock-up ward. My hands were handcuffed behind my back and the gendarmes pushed me down a flight of stairs. At the bottom there were two others waiting. One of them hit me in the face with his fist. They both kicked me. My eyes were so swollen that I could only see out of the corner of one of them. There were fellow prisoners unconscious on the floor. I sat down next to them and the gendarmes struck my head against the wall, and I lost consciousness.<sup>57</sup>

Because the gendarme had lost the key, Bulbul was left for the night in tight handcuffs that caused his hands to swell and turn blue.<sup>58</sup>

The beating and humiliation continued the next day, on the journey to Sincan F-type prison. Sami Yılmaz and the other prisoners were still sick from the effects of the gas used in the operations and one of Sami Yılmaz's companions said that he needed to vomit. "We asked for water, and for him to be allowed out to vomit. We even offered to get them money. The gendarmes refused, and when [the prisoner] finally vomited, they shouted 'Don't filthy up the floor or we will make you lick it up.'" Sami Yılmaz stated that uniformed gendarmes and a plain-clothes officer interrogated him after arrival at Sincan F-type prison. While interrogating him about the political structures within Bartin prison, they stripped him and beat him on the buttocks with a truncheon. Human Rights Watch spoke to relatives of seventeen prisoners who separately reported being beaten during transit and/or on arrival at F-type prisons. Several prisoners, male and female, also told their families that they were sexually assaulted. One female prisoner told her brother that gendarmes had beaten her with a truncheon, kicked her between the legs, and squeezed her breast. At one point, according to his account, gendarmes attempted to remove her trousers while their colleagues stood around jeering and shouting at other prisoners and taunted them to intervene.

One prisoner informed his lawyer, Gulizar Tuncer, that after being removed from Istanbul's Umraniye prison he was taken to Kandira F-type prison. On arrival on 20 December he was taken to a room where he was stripped naked and interrogated for approximately 45 minutes by gendarmes who subjected him to falaka (beating on the soles of the feet), beatings, and anal rape with a truncheon. He was put in a cell with two other prisoners, one of whom had broken ribs. When a doctor came to examine this prisoner during the night, the prisoner told the doctor what had happened and asked to be examined. The doctor dismissed his request, saying, "We will see." The prisoner told his lawyer that he wrote two separate petitions to the prison administration requesting a medical examination. His lawyer also made an application on her client's behalf. Forensic Medicine Institute doctors only examined the prisoner twenty-five days after the alleged assault, and the lawyer has not received the report.<sup>59</sup> Seven other male prisoners also made a formal complaint that they had been anally raped by gendarmes with truncheons during the transfer.<sup>60</sup>

Prison staff appear to have neglected their own standard prison procedures for conducting thorough medical examinations of all new prisoners, and thus did not document medical evidence of ill-treatment that had occurred during the transfer. Some prisoners

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<sup>57</sup> Human Rights Watch interview with Sami Yılmaz, Ankara, January 5, 2001.

<sup>58</sup> The CPT reported, in its preliminary observations on its December 2000/January 2001 visit to Turkey, that "Many complaints were heard about the manner in which prisoners were transferred and, in particular, that they were very tightly handcuffed throughout the journey.... Further, despite the fact that several weeks had elapsed since the interventions, many prisoners were found to bear marks on their wrists fully consistent with the allegations made of excessively tight handcuffing."

<sup>59</sup> Telephone interview with lawyer Gulizar Tuncer, March 28, 2001.

<sup>60</sup> Human Rights Foundation of Turkey, *Information Note-17: Death Fast in Prisons*, January 8, 2001.

REPORTED HAVING RECEIVED NO MEDICAL EXAMINATION UPON ARRIVAL AT THE NEW PRISON; OTHERS DESCRIBED MEDICAL EXAMINATIONS THAT WERE PERFUNCTORY AT BEST. MEHMET BEKAROĞLU, A MEMBER OF THE TURKISH PARLIAMENT FOR RİZE AND A FORMER PRISON PSYCHIATRIST, SERVES ON THE PARLIAMENTARY HUMAN RIGHTS COMMISSION. HE HAS TAKEN AN ENERGETIC INTEREST IN THE CURRENT CRISIS AND, AS A MEMBER OF THE TURKISH MEDICAL ASSOCIATION, WAS PARTICULARLY VIGILANT IN INVESTIGATING THE MEDICAL PROBLEMS OF THE PRISONERS:

AS FAR AS I CAN TELL, THERE ARE ABSOLUTELY NO PRISONERS WITHOUT BURNS, BRUISES, AND CUTS, WHICH THEY SAY THAT THEY GOT ON THE WAY TO AND ON ADMITTANCE INTO THE F-TYPE PRISONS. BUT NO FORENSIC MEDICAL EXAMINATION WAS CARRIED OUT, EVEN THOUGH I URGED THIS REPEATEDLY. I SPOKE TO THE DOCTOR AT SINCAN F-TYPE PRISON WHEN I VISITED AND SAID, "IT IS YOUR RESPONSIBILITY TO RECORD ALL THE INJURIES OF ADMITTED PRISONERS. HAVE YOU DONE THIS?" HE CONFESSED THAT THIS HAD NOT BEEN DONE.

THE JUSTICE MINISTRY WAS SLOW TO RESPOND TO ALLEGATIONS OF ILL-TREATMENT AND DID NOT APPOINT HIS OWN INSPECTORS TO LOOK INTO ALLEGATIONS OF ILL-TREATMENT UNTIL JANUARY 2, ALMOST TWO WEEKS AFTER THE VIOLENCE TOOK PLACE. TO DATE, NO INFORMATION HAD EMERGED CONCERNING THEIR FINDINGS.

IN FACT, DURING THE FIRST MONTH FOLLOWING THE TRANSFER, ALMOST THE ONLY MEDICAL INFORMATION TO REACH THE PUBLIC REGARDING THE CONDITION OF PRISONERS TRANSFERRED TO THE F-TYPE PRISONS WAS THE LONG LISTS OF INJURIES PIECED TOGETHER BY THE HUMAN RIGHTS ASSOCIATION FROM INTERVIEW NOTES PROVIDED BY LAWYERS AND RELATIVES, AND THE FEW RELEASED PRISONERS. THE FOLLOWING HANDWRITTEN NOTES OF DECEMBER 25, 2000, WHICH THE ANKARA BRANCH OF THE HRA PASSED TO HUMAN RIGHTS WATCH, AND WHAT POLICE CONFISCATED FROM THEIR OFFICES ARE A TYPICAL EXAMPLE. IT CONCERNS PRISONERS AT ANKARA'S SINCAN PRISON:

**AHMET BAKIR (ACCORDING TO THE ACCOUNT GIVEN BY HIS MOTHER SEVGİ BAKIR)**

IN THREE PERSON CELL. BRUISES ON FACE. BROKEN ARM. STITCHES ON LEG. CANNOT STAND. TORTURED CONSTANTLY. ON 65TH DAY OF DEATH FAST. (BROUGHT FROM CEYHAN PRISON).

**FARUK DERE (ACCORDING TO THE ACCOUNT GIVEN BY HIS FATHER ZEKİ DERE)**

IN THREE PERSON CELL WITH MEHMET KAYNAK AND HAKAN ELMA. LUNG PROBLEMS ARISING FROM INTENSE GAS EXPOSURE. DIFFICULTY TALKING. WOUNDS ON HIS MOUTH. BRUISES ON JAW AND EYEBROW. ON 16TH DAY OF UNLIMITED HUNGER-STRIKE. OTHER FRIENDS ALSO ON HUNGER-STRIKE. BEATEN TWICE A DAY, MORNING AND EVENING. SOMETIMES STRIPPED AND BEATEN. NO ACCESS TO YARD. NO HEATING. CANNOT GET OUT OF BED. BEATEN BY SPECIALLY TRAINED GENDARMES. IF THEY USE TOO MUCH ELECTRICITY THEY WILL BE CHARGED FOR IT. BEATEN FOR 40 MINUTES ON ARRIVAL AT PRISON.

**YAKUP İNAN (ACCORDING TO THE ACCOUNT GIVEN BY HIS ELDER BROTHER SERDAR İNAN)**

IN THREE PERSON CELL WITH HAYDAR AYCİCEK AND HASAN DAĞLI. ON THE 57TH DAY OF DEATH FAST. HAS LOST 20-25 KILOGRAMS. MOUTH AND LIPS SMASHED. 9 STITCHES IN SITE OF BLOW ON FOREHEAD. WOUND ON LEFT SIDE OF BACK, RIGHT SIDE BRUISED BLACK WHERE HE WAS BEATEN WITH A CHAIN. RIBS MAY BE BROKEN. HAS DIFFICULTY DRAWING BREATH. LOSS OF MEMORY. (WAS BROUGHT FROM CEYHAN PRISON). WANTS A DOCTOR FROM TURKISH MEDICAL ASSOCIATION. DETERIORATING. ...

**ARİF BADEMLİ AND HASAN BADEMLİ (FROM THEIR FATHER MUSTAFA BADEMLİ)**

THEY CAME FROM CEYHAN PRISON. THEY ARE BOTH STAYING IN THE SAME THREE PERSON CELL. ARİF'S ARM IS BROKEN, HIS EYE BRUISED. STITCHES IN HIS HEAD. WOUNDS ALL OVER HIS BODY. HE CAME TO THE VISIT IN HIS HOSPITAL GOWN. ARİF HAS JUST BEGUN A DEATH FAST, HASAN IS ON THE 61ST DAY. STITCHES IN HIS HEAD. ARİF'S CONDITION IS BAD. NOT EVEN BANDAGED. EVERY DAY THEY ARE BROUGHT DOWN FOR ROLL CALL AND BEATEN.

WHEN POLICE FOUND THIS LIST DURING A SEARCH AT THE ANKARA BRANCH OF THE HRA, IT WAS NOT USED AS THE BASIS FOR AN OFFICIAL INVESTIGATION INTO ILL-TREATMENT, BUT USED INSTEAD AS THE BASIS FOR CHARGES AGAINST OFFICIALS OF THE BRANCH FOR "SUPPORTING AN ARMED ORGANIZATION." THEY ARE CURRENTLY ON TRIAL AT ANKARA STATE SECURITY COURT. (SEE BELOW FOR ADDITIONAL DETAILS ON GOVERNMENT EFFORTS TO SILENCE NGO MONITORING OF THE PRISON CRISIS.)

THE ANKARA MEDICAL ASSOCIATION WAS PERMITTED TO EXAMINE PRISONERS IN THE SINCAN F-TYPE PRISON ON THREE OCCASIONS BETWEEN

JANUARY 3 AND JANUARY 17. ITS REPORT ON THESE EXAMINATIONS<sup>61</sup> IS CONSISTENT WITH THE ACCOUNTS GIVEN BY PRISONERS:

ALMOST ALL [PRISONERS AT SINCAN F-TYPE PRISON] HAD CUTS, PARTICULARLY IN THE HEAD AREA AND ABOVE THE HAIR-LINE, A LARGE PERCENTAGE OF WHICH HAD NOT BEEN SUTURED BUT WHICH HAD BEGUN TO HEAL OR TURN INTO SCAR TISSUE; BRUISES AND ABRASIONS ON EXTREMITIES AND TRUNK, SOFT TISSUE DAMAGE AND ASSOCIATED PAIN; ALSO LESIONS ON THE WRIST AND NUMBNESS OF THE HANDS ASSOCIATED WITH PROLONGED TIGHT HANDCUFFING; A LARGE NUMBER ALSO HAD EYE INJURIES RESULTING FROM TRAUMA, INCLUDING SCLEROTIC HEMORRHAGE WHICH WAS BEGINNING TO BE REABSORBED ... EXAMINATIONS SHOWED THAT 25 CONVICTED AND REMAND PRISONERS HAD UNTREATED FRACTURES OF RIBS AND EXTREMITIES (PARTICULARLY FINGERS), WHILE ELEVEN HAD BURNS IN VARIOUS PARTS OF THEIR BODIES... ONE CONVICTED PRISONER WHO WAS INTERVIEWED SAID THAT HE HAD BEEN ANALLY RAPED WITH A TRUNCHEON.

ACCESS TO PRISONS BY THE TURKISH MEDICAL ASSOCIATION BRANCHES WAS WITHDRAWN FOLLOWING THE PUBLICATION OF THEIR CRITICAL FINDINGS.

## THE GOVERNMENT'S REACTION

### Government Attempts to Silence Prison and Human Rights Activists

THE TURKISH GOVERNMENT HAS CRACKED DOWN ON THOSE SEEKING TO EXPOSE TORTURE, BEATINGS, AND OTHER POLICE ABUSES RELATED SPECIFICALLY TO THE DECEMBER PRISON OPERATIONS AND TO THE CONDITIONS IN F-TYPE PRISONS MORE GENERALLY. THE FAMILIES' ASSOCIATION FOR SOLIDARITY WITH PRISONERS (TAYAD) HAS BEEN RAIDED NUMEROUS TIMES SINCE OCTOBER WHEN THE HUNGER STRIKES BEGAN AND HAS BEEN SHUT DOWN ON THE ORDERS OF THE ISTANBUL GOVERNOR. FIVE BRANCHES OF THE TURKISH HUMAN RIGHTS ASSOCIATION (HRA) HAVE BEEN CLOSED SINCE NOVEMBER BECAUSE OF THEIR WORK ON THE F-TYPE PRISONS. HRA BRANCHES HAVE BEEN REPEATEDLY RAIDED AND MEMBERS DETAINED DURING THIS PERIOD. THE ISTANBUL AND ANKARA BRANCHES OF THE HRA ARE CURRENTLY FACING PROSECUTIONS FOR THEIR LEGITIMATE PROTESTS ABOUT ISOLATION AND THE F-TYPE PRISONS.

NİMET TÂNRIKULU, FORMER PRESIDENT OF THE ISTANBUL BRANCH OF HRA, WAS FORMALLY ARRESTED ON JANUARY 6 FOR PARTICIPATING IN A NONVIOLENT DEMONSTRATION AGAINST ISOLATION IN F-TYPE PRISONS AND RELEASED PENDING TRIAL ON FEBRUARY 6, 2001. HRA MEMBERS HAVE ALSO BEEN ILL-TREATED: ON JANUARY 6, LUTFI DEMİRKAPI, PRESIDENT OF THE ANKARA BRANCH OF THE HRA, WAS DETAINED WHILE ATTEMPTING TO MAKE A PRESS STATEMENT NEXT TO THE HUMAN RIGHTS MONUMENT IN THE CITY CENTER. HE TOLD HUMAN RIGHTS WATCH:

I WAS GRABBED BY POLICE OFFICERS AND PUT IN A POLICE VAN WITH RELATIVES OF PRISONERS HELD AT ANKARA'S SINCAN F-TYPE PRISON. THE POLICE KICKED AND BEAT THE OTHERS. WE WERE ALL TAKEN TO ANKARA POLICE HEADQUARTERS AND MADE TO STAND FOR FIVE HOURS LEANING AGAINST A WALL. THERE WERE TWO WOMEN OVER FIFTY YEARS OF AGE AND THEY WERE TREATED JUST THE SAME.<sup>62</sup>

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<sup>61</sup> Available on the website of the Ankara Medical Association, [www.ato.org.tr/guncel/25012001.html](http://www.ato.org.tr/guncel/25012001.html), published January 25, 2001.

<sup>62</sup> Human Rights Watch interview, Lutfi Demirkapi, Ankara, January 8, 2001.

HRA MEMBERS ARE ALSO BEING SUBJECTED TO TELEPHONE THREATS. THE ISTANBUL BRANCH ALONE HAS RECEIVED MORE THAN TWENTY SUCH CALLS SINCE THE DECEMBER OPERATION. LUTFI DEMIRKAPI OF THE ANKARA BRANCH TOLD HUMAN RIGHTS WATCH ABOUT A THREATENING PHONE CALL HE RECEIVED ON JANUARY 5, WHEN AN UNKNOWN CALLER ASKED, "ARE YOU STILL ALIVE THEN? THEY ARE GETTING YOUR SHROUD READY?"<sup>63</sup> SUCH THREATS ARE TAKEN SERIOUSLY BY THE HRA, WHICH HAS LOST TEN MEMBERS IN POLITICALLY MOTIVATED ARMED ATTACKS OVER THE PAST DECADE.

TWENTY-FOUR PEOPLE, INCLUDING RELATIVES OF PRISONERS HELD IN F-TYPE PRISONS, SEVENTEEN OF WHOM WERE REMANDED IN CUSTODY, APPEARED IN ANKARA STATE SECURITY COURT ON FEBRUARY 27 CHARGED WITH MEMBERSHIP OR SUPPORT OF ILLEGAL ARMED ORGANIZATIONS, BECAUSE THEY HAD PARTICIPATED IN DEMONSTRATIONS AGAINST F-TYPE PRISONS. THE PROSECUTOR IS DEMANDING IMPRISONMENT FOR TERMS UP TO TWENTY-TWO YEARS.

THE INTENSE PRESSURE ON THE HRA IS UNRELENTING. ON MARCH 19, 2001, SIXTY-SEVEN MEMBERS OF THE ISTANBUL BRANCH OF THE HRA WERE DETAINED WHEN THEY ATTEMPTED A SIT-DOWN PROTEST AGAINST THE F-TYPE PRISONS IN SULTANAHMET PARK. AS THE BRANCH PRESIDENT EREN KESKIN WAS EXPLAINING TO POLICE OFFICERS THAT THE PROTEST WOULD LAST NO MORE THAN FIVE MINUTES, SHE AND THE OTHERS WERE ROUGHLY DETAINED. AFET ALACA,<sup>64</sup> WHO WAS BEATEN WITH A TRUNCHEON AND KICKED, WAS EXAMINED AND RECEIVED A MEDICAL CERTIFICATE UPON RELEASE INDICATING THAT INJURIES TO HER BACK WOULD RENDER HER UNFIT FOR WORK FOR FORTY-THREE DAYS.

## Government Attempts to Silence the Press

THE TURKISH AUTHORITIES HAVE OPENLY TRIED TO MANIPULATE PRESS COVERAGE OF THE CRISIS. MEDIA REPORTS THAT WERE CRITICAL OF THE GOVERNMENT'S HANDLING OF THE PRISON CRISIS HAVE LED TO PROSECUTIONS, CLOSURE OF MEDIA OUTLETS, OR THE CONFISCATION OF OFFENDING EDITIONS. FOUR DAYS BEFORE THE DECEMBER 19 OPERATION, ISTANBUL STATE SECURITY COURT ISSUED A JUDGMENT THAT ANY NEWSPAPER CONVEYING ANY NEWS THAT MIGHT BE CONSTRUED AS SUPPORTING OR ENCOURAGING THE HUNGER-STRIKES WOULD BE PROSECUTED WITH RISK OF POSSIBLE CLOSURE AND A PRISON SENTENCE OF UP TO SEVEN AND A HALF YEARS.<sup>65</sup> A SIMILAR WARNING WAS GIVEN BY THE COUNCIL FOR RADIO AND TELEVISION. CONSEQUENTLY, NATIONAL PRESS, RADIO, AND TELEVISION REPORTING HAS EITHER PARROTTED THE GOVERNMENT LINE ON THE CRISIS, OR BEEN VERY RESTRAINED.

THE JUSTICE MINISTER ALSO WARNED THAT STATEMENTS ABOUT THE HUNGER STRIKE MAY ALSO BE PROSECUTED UNDER ARTICLE 454 OF THE TURKISH CRIMINAL CODE AS INCITEMENT TO SUICIDE.<sup>66</sup>

TWENTY-TWO PUBLICATIONS HAVE HAD ISSUES CONFISCATED BECAUSE OF THEIR REPORTING ON F-TYPE PRISONS. THE DAILY NEWSPAPER EVRENSEL (UNIVERSAL), FOR EXAMPLE, HAS HAD THREE ISSUES CONFISCATED FOR ITS COVERAGE OF THE PRISON CRISIS. FEVZI ARGUN, ANKARA REPRESENTATIVE OF EVRENSEL, TOLD HUMAN RIGHTS WATCH:

THE LARGE MEDIA GROUPS WHICH DOMINATE THE DAILY PRESS AND TELEVISION—NEWSPAPERS SUCH AS *HURRIYET*, CHANNELS SUCH AS ATV, DO NOT REPORT DEVELOPMENTS OR THEY EVEN REPORT IN SUCH A WAY THAT WILL WORSEN THE SITUATION. THEY ARE SILENT ON THE WRETCHED STATE OF THE FAMILIES.<sup>67</sup>

SIMILARLY, ON JANUARY 21, CAGDAS (CONTEMPORARY) RADIO IN ANKARA WAS ALSO SHUT DOWN FOR SEVEN DAYS BECAUSE IT HAD BROADCAST NEWS OF THE HUNGER STRIKES.

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<sup>63</sup> Ibid.

<sup>64</sup> Real name withheld.

<sup>65</sup> According to a circular issued on December 22, 2000 by the Security Directorate of the Office of the Ankara Governor, prosecutions would be made under article 169 of the Turkish Criminal Code (supporting an illegal armed organization), and article 526 (disobedience to orders made by authorized bodies in the interests of public health and order).

<sup>66</sup> *Zaman* (Time), March 27, 2001.

<sup>67</sup> Human Rights Watch telephone interview with Fevzi Argun, January 24, 2001.

## Punishing the Relatives

WE WERE NOT ABLE TO SEE ANY PRISONERS FOR A MONTH BEFORE THE OPERATION BECAUSE THEY WERE ON HUNGER-STRIKE. WHEN THE OPERATION HAPPENED WE WENT TO MALATYA PRISON AND WERE KEPT IN THE RAIN FOR AN HOUR BEFORE WE SAW THE PROSECUTOR WHO PROMISED THAT NO HARM HAD BEEN DONE. WHEN I FINALLY GOT TO SEE MY CHILD A WEEK AGO, I DID NOT RECOGNIZE HIM. HE COULD BARELY STAND. FAHRIYE GOK, SPEAKING OF HER SON MEHMET ALI GOK, TRANSFERRED FROM MALATYA PRISON TO SINCAN F-TYPE PRISON.<sup>68</sup>

THE RELATIVES OF THE PRISONERS HAVE CERTAINLY SUFFERED HEARTBREAKING MISERY SINCE DECEMBER 19, WHEN MANY OF THEM WATCHED THE PRISON OPERATIONS FROM A DISTANCE. FAMILIES STOOD AS CLOSE AS THE GENDARMERIE WOULD PERMIT—PERHAPS A KILOMETER AWAY—WHERE THEY WERE ABLE TO HEAR THE GUNSHOTS, SEE THE SMOKE, AND SMELL THE TEAR AND PEPPER GAS. ALI DOGAN SAID THAT RELATIVES WAITING FOR FOUR DAYS OUTSIDE UMRANIYE PRISON WERE GIVEN NO INFORMATION ABOUT THE DEVELOPMENT OF THE OPERATIONS INSIDE. “WE WERE BEATEN AND INSULTED IN A REALLY VILE WAY BY THE GENDARMES. BUT OF COURSE WE HAD TO BE THERE. WE WERE WORRIED SICK ABOUT OUR CHILDREN. WE DID NOT BELIEVE THAT THEY WOULD COME OUT ALIVE.”<sup>69</sup>

SOME PRISONERS DISAPPEARED FROM VIEW FOR TWO WEEKS OR MORE, REDUCING WHOLE FAMILIES TO A STATE OF PANIC. Aysel Kuru told Human Rights Watch that she had not yet been able to see her husband, GRAVELY INJURED DURING THE OPERATION AT CANAKKALE PRISON TWO WEEKS EARLIER. FOR MORE THAN A WEEK SHE HAD BEEN ABLE TO GET NO INFORMATION ABOUT HIS CONDITION FROM THE PRISON PROSECUTOR OR FROM THE DIRECTORS AT THE MEDICAL WING OF BAYRAMPASA PRISON WHERE SHE FINALLY ESTABLISHED THAT HE WAS BEING HELD. ON JANUARY 2, SHE WAS INFORMED THAT THE TOP OF HER HUSBAND’S CRANIUM HAD BEEN CRUSHED AND THAT SURGERY HAD BEEN CARRIED OUT TO REMOVE THE DAMAGED BONE, BUT SHE WAS NOT TOLD HOW THIS INJURY HAD OCCURRED. WHEN SHE SPOKE TO HUMAN RIGHTS WATCH, SHE HAD JUST LABORED ACROSS THE CITY TO GET PERMISSION TO SEE HER HUSBAND FROM THE SULTANAHMET PUBLIC PROSECUTOR, ONLY TO BE TOLD, WHEN SHE ARRIVED AT BAYRAMPASA, THAT IT WAS A MALE RELATIVES’ VISITING DAY AND THAT SHE WOULD THEREFORE NOT BE PERMITTED A VISIT. SHE MADE A STRONG APPEAL AGAINST THE OFFICIAL LACK OF CONCERN SHE HAD ENCOUNTERED: “I JUST WANT EVERYONE TO SHOW SOME SENSITIVITY AND CARING. I WANT YOU TO CALL ON THE STATE TO BE SENSITIVE. WE ARE AT THE END OF OUR STRENGTH.”<sup>70</sup>

INDEED, THE AUTHORITIES’ DISREGARD FOR THE FEELINGS OF THE RELATIVES IS STARTLING. THE LAWYER KELES OZTURK OF THE ISTANBUL BAR TOLD HUMAN RIGHTS WATCH THAT THE PARENTS OF MUHARREM BULDUKOGLU, MISSING IN THE OPERATION AT UMRANIYE PRISON, SEARCHED FOR TWO WEEKS FOR NEWS OF THEIR SON, INQUIRING AT HOSPITAL AFTER HOSPITAL, AND REPEATEDLY CONTACTING THE ISTANBUL PUBLIC PROSECUTOR UNTIL THEY WERE FINALLY CONFRONTED WITH TWO BODIES, BOTH BURNED BEYOND RECOGNITION, AT THE MORGUE OF THE ISTANBUL FORENSIC MEDICINE INSTITUTE. THEY WERE INFORMED THAT DNA TESTS COULD BE CARRIED OUT TO ESTABLISH WHETHER EITHER OF THE BODIES BELONGED TO THEIR SON, BUT THEY WOULD HAVE TO PAY FOR THE TEST. THE FAMILY ASKED FOR THE TEST TO BE CARRIED OUT, AND ONE OF THE BODIES WAS ESTABLISHED TO BE THAT OF MUHARREM BULDUKOGLU. THEY WERE DULY PRESENTED AN INVOICE FOR 600 MILLION TL (APPROXIMATELY \$900).

SEMA KARATAS TOLD HUMAN RIGHTS WATCH, “WE TALK A LOT ABOUT THE PRISONERS BUT THE FAMILIES ARE SUFFERING TERRIBLY. MY RIGHTS ARE BEING SUSPENDED TOO.” THIS IS PARTICULARLY TRUE WITH RESPECT TO VISITS. FAMILIES ARE OBLIGED TO WAIT FOR HOURS IN ALL WEATHER OUTSIDE THE WALLS OF THE PRISON, EXCLUDED FROM THE EXISTING WAITING ROOM FOR REASONS THAT REMAIN UNCLEAR. THEY HAVE COMPLAINED OF REPEATED SEARCHES THAT SEEM DESIGNED NOT SO MUCH TO MAINTAIN PRISON SECURITY AS TO HUMILIATE AND OFFEND THE VISITOR. SEMA KARATAS SAID THAT THE SEARCH ON THE FIRST DAY SHE VISITED HER HUSBAND AT EDIRNE F-TYPE PRISON WAS “RIDICULOUS. PEOPLE WERE EVEN REQUIRED TO TAKE THEIR UNDERWEAR OFF. IT WAS A SORT OF RAPE.” RELATIVES WHO BROUGHT WARM CLOTHING AND FOOD FOUND THAT THESE FAILED TO REACH THE PRISONERS, WHO ARE SUPPLIED BY THE PRISON SHOP REPORTEDLY AT VERY HIGH PRICES.

WHEN FAMILY MEMBERS FINALLY GOT INTO THE VISITING ROOMS IN THE LAST DAYS OF DECEMBER, THE PRISONERS WHO CAME TO THE TELEPHONE ON THE OTHER SIDE OF THE THICK GLASS WERE VISIBLY INJURED, HALF NAKED, OR WITHOUT SHOES, IN ADDITION TO BEING IN THE LATE STAGES OF A HUNGER-STRIKE. VISITS ARE GENERALLY NO LONGER THAN HALF AN HOUR, AND SOMETIMES AS SHORT AS FIVE MINUTES. THE RELATIVES HAD THE IMPRESSION THAT THE PRISON AUTHORITIES DELIBERATELY INTERFERE WITH THE TELEPHONE CONNECTION IN THE VISITING BOOTHS BY TURNING THE VOLUME VERY LOW SO THAT THE INTERLOCUTORS ARE OBLIGED TO SHOUT, OR BY CUTTING THE CONNECTION OFF ALTOGETHER.

<sup>68</sup> Human Rights Watch interview with Fahriye Gok, Istanbul, January 3, 2001.

<sup>69</sup> Human Rights Watch interview with Ali Dogan, January 2, 2001.

<sup>70</sup> Human Rights Watch interview with Aysel Kuru, Istanbul, January 3, 2001.



WHEN GROUPS OF RELATIVES HAVE GATHERED TO DRAW ATTENTION TO THE ONGOING ABUSES IN THE F-TYPE PRISONS THEY HAVE BEEN REPEATEDLY CLEARED FROM THE STREETS, AND FREQUENTLY ILL-TREATED. EIGHTY-THREE RELATIVES OF PRISONERS WHO HAD STAGED A PROTEST AT FREEDOM SQUARE IN THE BAKIRKÖY DISTRICT OF ISTANBUL WERE BEATEN AND DETAINED ON JANUARY 14, 2001. FEVZIYE KAYA, AGED FIFTY-ONE, REPORTED,

OFFICERS [AT BAKIRKÖY POLICE HEADQUARTERS] HAD LINED UP ON BOTH SIDES OF THE CORRIDOR THROUGH WHICH WE HAD TO PASS. WE WERE HEAVILY BEATEN ON OUR HEADS WITH THEIR TRUNCHEONS. ONE OF THEIR COMMANDERS SAID, "KILL THEM." THEY WERE ALL CURSING AT US. SOME OF US FELL DOWN AND WERE KICKED. MANY OF US WERE INJURED. I WAS BLEEDING FROM MY HEAD AND FAINTED. THEY TOOK ME TO THE HOSPITAL.<sup>71</sup>

FEVZIYE KAYA STATED THAT SHE HAD A MEDICAL REPORT DOCUMENTING HER INJURIES AND WOULD FILE AN OFFICIAL COMPLAINT.

## RECOMMENDATIONS

### Human Rights Watch Recommendations to the Turkish Authorities

1. ABOLISH SOLITARY AND SMALL-GROUP ISOLATION THROUGHOUT THE TURKISH PRISON SYSTEM.
2. AS AN INTERIM MEASURE AT EDİRNE, KANDIRA, AND SİNCAN F-TYPE PRISONS, OPEN THE DOORS TO CELLS WITHIN EACH SEPARATE GROUP OF SIX THREE-PERSON UNITS AND IN EACH SEPARATE GROUP OF THREE SOLITARY UNITS DURING DAYLIGHT HOURS. THIS WILL PERMIT SOME RELIEF TO GROUPS OF EIGHTEEN AND THREE PRISONERS BY PERMITTING THEM TO ASSOCIATE WITH ONE ANOTHER. STEPS SHOULD ALSO BE TAKEN QUICKLY TO LIFT THE ISOLATION REGIME AND TO IMPLEMENT A PROPER PROGRAM OF OUT-OF-CELL ACTIVITIES.
3. ENSURE THAT PRISONERS ARE NOT SUBJECTED TO ILL-TREATMENT BY GUARDS. ENSURE THAT ALL ALLEGATIONS OF ILL-TREATMENT OF PRISONERS ARE PROMPTLY INVESTIGATED AND THAT THOSE FOUND RESPONSIBLE ARE PROMPTLY BROUGHT TO JUSTICE.
4. ESTABLISH REGULATIONS FOR THE OPERATION OF THE NEW PRISONS WHICH ARE CONSISTENT WITH THE U.N. STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS. THE RULES EMPHASIZE THE IMPORTANCE OF CONTACT WITH THE OUTSIDE WORLD, THE REHABILITATIVE POTENTIAL OF IMPRISONMENT, AND THE NEED FOR ACCESS TO CONSTRUCTIVE WORK, EDUCATION, AND RECREATION. THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE (CPT) HAS RECOMMENDED THAT PRISONERS MUST BE PERMITTED TO SPEND "A REASONABLE PART OF THE DAY (EIGHT HOURS OR MORE) OUTSIDE THEIR CELLS, ENGAGED IN PURPOSEFUL ACTIVITY OF A VARIED NATURE." (SEE CPT REPORT TO THE SWEDISH GOVERNMENT (CPT/INF (92) 4 [EN]; MARCH 12, 1992, PARA 160).
5. LOCAL BAR ASSOCIATIONS, MEDICAL CHAMBERS, AND HUMAN RIGHTS ORGANIZATIONS MUST BE AFFORDED THE BROADEST POSSIBLE ACCESS TO THE NEW PRISONS TO ENSURE THAT PRISONERS ARE NOT SUBJECT TO ILL-TREATMENT OR OTHER ABUSES, AND TO ENSURE THAT ARRANGEMENTS FOR OUT OF CELL TIME ARE NOT ERODED.
6. ESTABLISH PRISON VISITING BOARDS TO INSPECT AND REPORT ON CONDITIONS IN PRISONS. THE BOARDS MUST BE CONVINCINGLY INDEPENDENT FROM THE AUTHORITIES THAT RUN THE PRISONS.
7. ENSURE THAT ALL PRISONERS, IRRESPECTIVE OF WHETHER THEY ARE ON HUNGER-STRIKE, ARE GIVEN NECESSARY MEDICAL CARE UPON REQUEST.
8. ENSURE THAT FAMILIES AND LAWYERS VISITING PRISONERS ARE NOT SUBJECTED TO UNNECESSARILY GRUELING OR HUMILIATING SECURITY CHECKS, AND THAT THEY ARE PROTECTED FROM THE WEATHER WHILE WAITING OUTSIDE AND INSIDE THE PRISON.
9. INVESTIGATE ALLEGATIONS THAT GENDARMES WHO ENTERED PRISONS ON DECEMBER 19, 2000 COMMITTED ARBITRARY KILLINGS AND USED EXCESSIVE AND INDISCRIMINATE FORCE DURING THEIR INTERVENTION, AND THAT THEY TORTURED AND BEAT PRISONERS AFTER CAPTURE, DURING TRANSFER, AND ON ARRIVAL AT THE F-TYPE PRISONS. IN VIEW OF THE IMPORTANCE OF THE CASE, THE DIFFICULTY IN SECURING AND PROTECTING EVIDENCE, AND PAST DIFFICULTIES IN OPENING PROSECUTIONS INTO OTHER KILLINGS OF INMATES DURING PRISON INCURSIONS, THIS INVESTIGATION SHOULD BE CONDUCTED BY A COMMISSION

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<sup>71</sup> Human Rights Foundation of Turkey, Information Note 25, January 17, 2001.

COMPOSED OF PERSONS RECOGNIZED FOR THEIR EXPERTISE, IMPARTIALITY, AND INDEPENDENCE. THE COMMISSION SHOULD BE FULLY RESOURCED, WITH POWERS TO SUMMON AND PROTECT WITNESS, AND DEMAND INFORMATION FROM OFFICIAL BODIES. WHERE THE COMMISSION OBTAINS EVIDENCE WHICH INDICATES THAT INDIVIDUALS ARE RESPONSIBLE FOR KILLING OR WOUNDING THROUGH THE NEGLIGENT OR CARELESS USE OF FORCE OR FIREARMS, OR FOR CARRYING OUT DELIBERATE KILLINGS, OR WHERE SUPERIOR OFFICERS HAVE GIVEN ORDERS WHICH RESULTED IN SUCH CONDUCT, THAT EVIDENCE MUST BE SUBMITTED TO THE PUBLIC PROSECUTION SERVICE IN ORDER THAT THOSE INDIVIDUALS OR SUPERIOR OFFICERS CAN BE BROUGHT TO JUSTICE.

10. AUTHORIZE PUBLICATION OF THE SEVEN OUTSTANDING CPT REPORTS RELATING TO VISITS DATING BACK MORE THAN A DECADE. CIRCUMSTANCES SUGGEST THAT THE REPORTS MOST RELEVANT TO THE CURRENT PRISON CRISIS ARE THOSE RELATING TO THE JULY 2000 AND DECEMBER 2000/JANUARY 2001 VISITS.

#### **HUMAN RIGHTS WATCH RECOMMENDATIONS TO THE COUNCIL OF EUROPE**

1. THE COMMITTEE OF MINISTERS SHOULD URGE THE TURKISH GOVERNMENT, IN THE STRONGEST TERMS, TO AUTHORIZE PUBLICATION OF THE SEVEN OUTSTANDING REPORTS ON VISITS BY THE CPT, AND IN PARTICULAR THOSE RELATING TO THE JULY 2000 AND THE DECEMBER 2000/JANUARY 2001 VISITS.
2. THE COMMITTEE OF MINISTERS SHOULD ALSO CLOSELY MONITOR THE TURKISH GOVERNMENT'S IMPLEMENTATION OF THE CPT'S RECOMMENDATIONS CONCERNING THE F-TYPE PRISONS, INCLUDING THE REPEATED EMPHASIS ON A PROGRAM OF OUT-OF-CELL ACTIVITIES.
3. COUNCIL OF EUROPE MEMBERS SHOULD RAISE TURKEY'S ONGOING PRISON CRISIS IN THE WEEKLY MEETINGS OF THE COMMITTEE OF MINISTERS.

## ACKNOWLEDGMENTS

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Most of all, we wish to express our gratitude to the prisoners and their loved ones who agreed to share their stories with us, despite their fears of possible consequences. We hope that this report will contribute to ending the abuses faced by them and their loved ones, and bringing those responsible for ill-treatment, torture, sexual assault, and other abuses to justice.

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We investigate and expose human rights violations and hold abusers accountable.

We challenge governments and those holding power to end abusive practices and respect international human rights law.

We enlist the public and the international community to support the cause of human rights for all.

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